

## ATTACHMENT 9

Redlined Expedited Interconnection Facilities Agreement pages 9 and Appendix J, Second Revised Service Agreement No. 7, SDG&E FERC Electric Tariff, First Revised Volume No. 6, between Wildflower Energy LP and SDG&E, and conformed Second Revised Service Agreement No. 7, SDG&E FERC Electric Tariff, First Revised Volume No. 6, reflecting proposed O&M Fixed Charge Rate

Facilities based on final, actual Costs incurred and paid. SDG&E shall refund to Wildflower, without interest, any amount received by SDG&E from Wildflower, which exceed the actual Cost related to the Interconnection Facilities.

## 6.2 Operation and Maintenance Charge

In accordance with the billing and payment procedures in Section 9, SDG&E shall bill annually during each January, and Wildflower shall pay over the Term of this EIFA, a separate operation and maintenance charge to compensate SDG&E for the operation, maintenance, and applicable taxes associated with the Interconnection Facilities in an amount equal to ~~0.0051417~~the currently effective Generation Interconnection O&M Fixed Charge Rate set forth in Appendix XI of SDG&E's Transmission Owner Tariff (as such rate may be modified from time to time) times the installed Cost of the Interconnection Facilities. An example calculation of the formula is attached as Appendix J. Provided, however, in the event that after the In-Service Date compliance with the conditions described in Section 5.1.6.1, or compliance with new conditions to protect the natural environment are imposed on SDG&E in connection with its operation and maintenance of the Interconnection Facilities, then the Parties agree that SDG&E may file with the FERC to revise the operation and maintenance charge set forth in Section 6.2 to permit recovery of (i) recurring compliance costs and (ii) nonrecurring compliance costs over a reasonable amortization period, provided such costs are just and reasonable and reasonably allocated on a pro rata basis to the Interconnection Facilities.

## 6.3 Other Charges

[Reserved.]

## 7. EFFECTIVE DATE AND TERMINATION

### 7.1 Effective Date and Termination of EIFA

7.1.1 This EIFA shall become effective on the date it is executed by both Parties ("Effective Date"), subject to acceptance of this EIFA for filing by FERC without the addition of any material condition that is unacceptable to either Party. In the event FERC (i) fails to accept this EIFA without suspension or (ii) finds that this EIFA is not just and reasonable or imposes conditions that are not acceptable to either Party, the Parties will use commercially reasonable efforts to agree upon amendments or modifications of this EIFA that would eliminate any such conditions or result in a just and reasonable finding. The term of this EIFA shall continue in full force and effect until the earlier date on which the Interconnection Agreement with respect to the Interconnection Facilities terminates or the date on which a Party provides notice of termination based on reasons specified in Section 7.1.2 of this EIFA.

7.1.2 In addition to termination rights provided to the Parties by applicable law, this EIFA may be terminated in accordance with Section 7.1.3 hereof for any of the following reasons:

- (i) by SDG&E if the Generating Facility permanently ceases operation for any reason;
- (ii) by Wildflower for any reason;
- (iii) [Reserved];
- (iv) by either Party, in accordance with the terms of Section 10.8.2 of this EIFA subject to Section 5.3.3 regarding Milestone extensions; or

## Appendix J

### Sample Calculation of Monthly O&M Charge

When the Interconnection Facilities are placed In-Service, Section 6.2 of the EIFA provides for a monthly O&M charge equal to ~~“0.0051417 times the following amount: the installed Cost of the Interconnection Facilities~~the currently effective Generation Interconnection O&M Fixed Charge Rate set forth in Appendix XI of SDG&E’s Transmission Owner Tariff (as such rate may be modified from time to time) times the installed Cost of the Interconnection Facilities.”

The following example using hypothetical costs illustrates how the formula would work. Assume the following:

|  |              |
|--|--------------|
| Cost of the Interconnection Facilities | \$ 1,000,000 |
|--|--------------|

The resulting monthly O&M charge would be calculated as follows:

~~0.0051417~~the currently effective Generation Interconnection O&M Fixed Charge Rate set forth in Appendix XI of SDG&E’s Transmission Owner Tariff (as such rate may be modified from time to time) x (\$1,000,000) = ~~\$5,141.70~~

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San Diego Gas & Electric Company  
FERC Electric Tariff, First Revised Volume No. 6

Second Revised Service Agreement No. 7

**EXPEDITED INTERCONNECTION FACILITIES AGREEMENT  
BETWEEN SAN DIEGO GAS & ELECTRIC COMPANY  
AND WILDFLOWER ENERGY, LP  
DATED JUNE 13, 2001**

**SERVICE AGREEMENT NO. 7**

## EXECUTION COPY

### EXPEDITED INTERCONNECTION FACILITIES AGREEMENT

#### 1. PREAMBLE

This Expedited Interconnection Facilities Agreement ("EIFA"), dated June 13, 2001, is between Wildflower Energy LP ("Wildflower") and SAN DIEGO GAS & ELECTRIC COMPANY ("SDG&E"), hereinafter sometimes referred to individually as "Party" or collectively as "Parties".

#### 2. RECITALS

2.1 SDG&E is a public utility engaged, among other things, in the business of owning and operating an electric system consisting of transmission and distribution facilities in Southern California;

2.2 Wildflower intends to design, engineer, construct, install, operate and maintain a Generating Facility located in the County of San Diego, California, for the purpose of generating electric energy for Wildflower's own use and/or for selling energy and/or ancillary services, and has requested permission from SDG&E to interconnect the Generating Facility in order to operate it in parallel with the SDG&E Electric System;

2.3 SDG&E is willing to permit such interconnection and parallel operation under the terms and conditions contained in this EIFA and the Interconnection Agreement;

2.4 Wildflower and SDG&E have agreed, pursuant to Wildflower's request, that SDG&E will design, engineer, construct, install, operate and maintain the Interconnection Facilities needed to interconnect Wildflower's Generating Facility with the SDG&E Electric System, provided that Wildflower pay SDG&E for such work as provided in this EIFA;

2.5 SDG&E acknowledges that Wildflower anticipates that it will need the Interconnection Facilities to be In-Service by June 15, 2001 in order to meet Wildflower's schedule for start-up and operation of the Generating Facility, and SDG&E agrees to use its best efforts to meet such date, provided, as set forth herein, that Wildflower meets the Milestones established by the Parties in Appendix C; and

2.6 This EIFA obligates SDG&E to design, engineer, construct, install, operate and maintain the Interconnection Facilities consistent with Good Utility Practice.

#### 3. AGREEMENT

Now, therefore, in consideration of the mutual covenants herein set forth, the Parties agree as follows:

#### 4. DEFINITIONS

Terms and expressions when used in this EIFA with the initial letters capitalized, whether in the singular, plural or possessive, shall have the meanings set forth in this EIFA.

**4.1 CPUC**

The California Public Utilities Commission, or its successor.

**4.2 Costs**

Costs shall mean all properly documented just, reasonable, necessary and prudent expenses actually incurred by SDG&E, including applicable overhead costs, in designing, engineering, constructing, installing, and replacing or repairing, as necessary, the Interconnection Facilities. Such costs shall be adjusted to include actually incurred taxes, including any costs related to federal income taxes imposed on SDG&E under Section 118(b) of the Internal Revenue Code of 1986, as amended, resulting from payments made by Wildflower to SDG&E in connection with the construction and installation of the Interconnection Facilities, even though the Parties may not agree that these payments constitute taxable contributions under Section 118(b). To eliminate disagreements as to the amount of such costs related to Section 118(b), if any, the Parties agree that such liability shall be equal to 37 percent of such taxable contributions under Section 118(b), unless the CPUC authorizes a new rate, in which case the new rate shall apply. Wildflower has the right to require SDG&E to seek a Private Letter Ruling (including, if applicable, a Technical Advice Memoranda) from the IRS as to whether any sums paid to SDG&E by Wildflower for the construction and installation of the Interconnection Facilities are subject to taxation; and to the extent that the Private Letter Ruling, or any legislation, change in law or formal guidance concludes that such sums are not taxable to SDG&E, SDG&E will refund to Wildflower an amount equal to that provided by Wildflower to SDG&E, if any, for such taxes, plus interest payments made by the IRS thereon, no later than 30 days after it has been determined that SDG&E has no tax liability on all or part of such sums. Wildflower shall reimburse SDG&E for any reasonable and documented costs incurred in seeking a ruling on the Section 118(b) issue, in response to Wildflower's request, including the cost of tax counsel, which SDG&E shall select to represent it, in connection with the Interconnection Facilities.

**4.3 Estimated Project Timeline**

[Reserved]

**4.4 FERC**

The Federal Energy Regulatory Commission, or its successor.

**4.5 Generating Facility**

The generating units and associated facilities of Wildflower, which shall include, but not be limited to, generator step-up facilities and protective devices.

**4.6 Good Utility Practice**

Any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be any one of a number of the optimum practice, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

**4.7 In-Service**

**In-Service for the SDG&E Interconnection Facilities is when such facilities are available for energization, so that Wildflower can begin testing the Generating Facility.**

**4.8 In-Service Date**

**The In-Service Date for the SDG&E Interconnection Facilities shall be June 13, 2001 or such other date as may be established pursuant to the terms of this EIFA.**

**4.9 Interconnection Agreement or "IA"**

**The agreement to be negotiated in good faith and entered into between the Parties substantially in the form attached hereto as Appendix D, pursuant to which SDG&E will provide Interconnection Service for the Generating Facility to Wildflower .**

**4.10 Interconnection Capacity**

**The amount of electric capacity up to which the Generating Facility may deliver energy and ancillary services into the SDG&E Electric System through the Interconnection Facilities as specified in Appendix A , Part I which may be modified at the request of Wildflower pursuant to this EIFA and in accordance with technical studies conducted, if necessary, by SDG&E, pursuant to ISO Tariff Section 5.7.**

**4.11 Interconnection Facilities**

**The interconnection facilities described in Appendix A, Part II.**

**4.12 Interconnection Service**

**Interconnection Service refers to Wildflower's ability, through the Interconnection Facilities, to deliver energy and ancillary services produced by the Generating Facility to, and, if necessary, to receive its facility station service requirements from, the SDG&E Electric System under the terms and conditions of the Interconnection Agreement when (i) the Generating Facility is interconnected with the SDG&E Electric System; and (ii) the operation of the SDG&E Electric System is not suspended, interrupted or interfered with as a result of Uncontrollable Force. The term "Interconnection Service" as used in this EIFA shall not refer to any right to transmit power over SDG&E's transmission and/or distribution system.**

**4.13 ISO**

**The California Independent System Operator Corporation or its successor which operates the ISO Controlled Grid.**

**4.14 ISO Controlled Grid**

**The system of transmission lines and associated facilities of the participating transmission owners that have been placed under the ISO's operational control.**

**4.15 ISO Tariff**

**The FERC-approved and effective ISO Tariff, as it may be modified or superseded from time to time.**



#### 4.16 Local Furnishing Bonds

Conduit revenue bonds issued by the City of San Diego and City of Chula Vista to finance or refinance a portion of SDG&E's costs of improvements to its local electric system in the approximate aggregate principal amount of \$686 million, including approximately \$168 million that financed transmission facilities and approximately \$518 million that financed distribution facilities, comprised of the following series of bonds:

| City of Chula Vista | City of San Diego |
|---------------------|-------------------|
| Series 1992 A       | Series 1992 A     |
| Series 1992 B       | Series 1993 A     |
| Series 1992 C       | Series 1993 C     |
| Series 1992 D       | Series 1995 A     |
| Series 1996 A       | Series 1995 B     |
| Series 1996 B       |                   |
| Series 1997 A       |                   |

#### 4.17 Milestones

[Reserved]

#### 4.18 SDG&E Electric System

All properties and other assets, other than the Interconnection Facilities, now or hereafter existing, which are owned or controlled by SDG&E or its successor or assigns, and used for or directly associated with the generation, transmission, transformation, distribution or sale of electric power, including all additions, extensions, expansions, and improvements thereto.

#### 4.19 Significant Regulatory Change

A "Significant Regulatory Change" occurs when the FERC, the ISO, the CPUC, the California Legislature, or the United States Congress, or any other regulatory judicial or other governmental body having jurisdiction over either Party issues an order or decision or adopts or modifies a tariff, or enacts a law that: (i) significantly and substantially changes the structure or function of the California electric utility industry in a way that materially affects this EIFA; or (ii) substantially prevents either Party from performing its material functions under this EIFA.

4.20 [Reserved]

#### 4.21 Term

The Term of this EIFA as set forth in Section 7.1.1 hereof.

#### 4.22 Uncontrollable Force

Any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm, flood, earthquake, explosion, work curtailment directed by the ISO, order, regulation, failure to

obtain necessary governmental authorizations (provided the applicant has made a complete and timely request for such authorizations and applicant has pursued such authorizations in a reasonably timely manner provided the applicant has complied with the schedules set forth herein for requesting such authorizations), or restriction imposed by governmental, military or lawfully established civilian authorities or any other cause beyond the reasonable control of a Party, which could not be avoided through the exercise of Good Utility Practice. The failure or refusal of the ISO to grant permission in a timely manner to SDG&E in response to a complete and timely request by SDG&E for planned facility outages needed to complete the installation of the Interconnection Facilities shall be an Uncontrollable Force. Equipment or material and services shortages, delivery of defective equipment or material, and contractor delay including delays in construction resulting therefrom, beyond the reasonable control of SDG&E, which could not be avoided by Good Utility Practice, shall be an Uncontrollable Force. Under no circumstance shall the lack of funds or failure to make payments be considered an Uncontrollable Force for purposes of this EIFA.

## **5. INSTALLATION OF SDG&E-OWNED INTERCONNECTION FACILITIES**

### **5.1 SDG&E's Obligations**

#### **5.1.1 [Reserved]**

**5.1.2 SDG&E shall study, design, engineer, construct, install, and, as necessary, repair and replace, the Interconnection Facilities in a good, diligent and workmanlike manner in accordance with Good Utility Practice and using its best efforts, subject to Section 5.1.3, to place the Interconnection Facilities In-Service by the In-Service Date. SDG&E will utilize its own resources and will contract for additional resources, as reasonably necessary, to meet the In-Service Date. Such resources shall include 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, if necessary to cause the Interconnection Facilities to be available by the In-Service Date. SDG&E shall obtain Wildflower's approval before incurring additional costs for such expedited work or expedited delivery.**

**5.1.3 SDG&E shall have the right, in the event it is unable due to an Uncontrollable Force, to obtain materials or labor for all of its construction requirements necessary to maintain electric service reliability for new and existing retail customers in accordance with Good Utility Practice, to allocate materials and labor to construction projects which it deems, in its reasonable discretion, necessary to maintain such electric service reliability. Provided, however, SDG&E shall not defer the procurement of materials or labor necessary to construct the Interconnection Facilities if such deferral is for the purpose of obtaining material or labor or allocating materials and labor to construction projects for customers that have executed an interconnection facilities agreement subsequent to the Effective Date and such deferral could delay the In-Service Date.**

**5.1.4 SDG&E shall not be required to undertake any initiative which is inconsistent with Good Utility Practice, applicable laws and regulations, SDG&E's established safety standards, material and equipment specifications, design criteria and construction procedures, and labor agreements.**

**5.1.5 After the Interconnection Facilities are placed In-Service, SDG&E shall design, engineer, construct, and install any replacements of, or additions to, the Interconnection Facilities in good, diligent and workmanlike manner in accordance with Good Utility Practice to maintain the interconnection of the Generating Facility to the SDG&E Electric System and allow power to flow between the SDG&E Electric System and the Generating Facility, as, and in the amount, contemplated herein. Unless reasonably necessary to install such replacements or additions, nothing in this EIFA shall**

be construed to require SDG&E to acquire land rights, either through condemnation or any other means, unless SDG&E shall freely elect to do so.

#### 5.1.6 ENVIRONMENTAL OBLIGATIONS

5.1.6.1. For purposes of this Section, the term "Environmental Law" shall mean applicable federal, state, and local law, regulation, rule, decision of the courts, ordinance, code, which, as of the Effective Date, relates in any way to environmental conditions and/or environmental quality (including, without limitation, air quality, water quality, wildlife, and natural resources). Environmental Law includes, without limitation, the Federal Water Pollution Control Act, as amended by the Clean Water Act (33 USC § 12.51 et seq.), the California Porter - Cologne Water Quality Control Act (California Water Code § 13000 et seq.), the federal Clean Air Act (42 USC § 7401 et seq.), the California Clean Air Act (California Health and Safety Code § 39000 et seq.), the federal Endangered Species Act (16 USC § 1531 et seq.), the California Endangered Species Act (California Fish & Game Code § 2050 et seq.); the National Environmental Policy Act (42 USC § 4321 et seq.), and the California Environmental Quality Act (California Public Resources Code § 21000 et seq.), and applicable rules and regulations promulgated thereunder.

5.1.6.2. Subject to Section 5.1.6.3, with respect to the construction, installation, operation and maintenance of the Interconnection Facilities, Wildflower and SDG&E agree to comply with applicable Environmental Law and with the orders, permits, permit conditions, or other requirements imposed by any federal, state or local governmental agencies having jurisdiction thereunder ("Agency Requirements") pertaining to the Larkspur Energy Facility.

5.1.6.3. With respect to Wildflower's and SDG&E's compliance obligations under Section 5.1.6.2 and the construction and installation of the Interconnection Facilities, Wildflower acknowledges that it shall have primary responsibility to perform all activities necessary to achieve compliance with applicable Environmental Law and any Agency Requirements, including, without limitation, obtaining all necessary permits undertaking any required mitigation measures and paying any required compensation with assistance from SDG&E as appropriate. Notwithstanding the foregoing, SDG&E acknowledges that it shall have primary responsibility to perform the activities necessary to achieve compliance with the terms of its Natural Community Conservation Planning Act Subregional Plan dated December 18, 1995 ("NCCP"), with assistance from Wildflower as appropriate. With respect to the operation and maintenance of the Interconnection Facilities, SDG&E will perform the activities necessary to achieve compliance with Environmental Law and Agency Requirements. Wildflower and SDG&E shall cooperate with each other in good faith to enable each to meet their compliance responsibilities and to achieve the timely construction of the Interconnection Facilities.

5.1.6.4. With respect to the construction and installation of the Interconnection Facilities, Wildflower shall pay the Costs, pursuant to Section 6.1, incurred by SDG&E to comply with Sections 5.1.6.2 and 5.1.6.3. After the In-Service Date, all reimbursements made by Wildflower to SDG&E associated with SDG&E's obligations under Sections 5.1.6.2 and 5.1.6.3 for operation and maintenance of the Interconnection Facilities shall be made pursuant to the operation and maintenance charge set forth in Section 6.2.

5.1.6.5. SDG&E shall provide Wildflower with reasonable access to SDG&E property and Wildflower shall provide SDG&E with reasonable access to Wildflower property, as required for Wildflower and SDG&E to comply with the Environmental Obligations and Agency Requirements consistent with their respective responsibilities as described in Sections 5.1.6.2 and 5.1.6.3.

5.2 Schedule to Design, Engineer, Construct and Install Interconnection Facilities and Wildflower's Obligations to Provide Property Rights.

5.2.1 [Reserved]

5.2.2 [Reserved]

5.2.3 Prior to the construction of Interconnection Facilities, Wildflower shall provide to SDG&E an easement(s) on the site of the Generating Facility, if required, in the form attached as Appendix G, Part I (the "Easement") and Part II (the "Consent") in order for SDG&E to connect the Interconnection Facilities to the Generating Facility. Wildflower represents that the Easement shall provide SDG&E with the right to use the facilities installed pursuant to same Easement, free of all liens, claims, and encumbrances.

5.2.4 In the event SDG&E reasonably expects that it will not be able to complete the Interconnection Facilities by the In-Service Date, SDG&E will promptly provide written notice to Wildflower. In such case, SDG&E shall consult with Wildflower on alternatives which may enable the In-Service Date to be met, even if at a higher cost, with Wildflower to elect whether to proceed with such alternatives at its expense. In the event that the In-Service Date cannot be met, SDG&E shall use its best efforts, subject to Section 5.1.2, to complete the Interconnection Facilities by the earliest date thereafter. Wildflower may delay the In-Service Date provided that Wildflower shall promptly notify SDG&E in writing if Wildflower reasonably expects that it will delay the In-Service Date and SDG&E will use commercially reasonable efforts to minimize any additional costs associated with modifying the design, engineering, installation and construction activities contemplated by the EIFA to accommodate Wildflower's changes to the In-Service Date.

### 5.3 Factors Affecting Timely Completion of Interconnection Facilities

5.3.1 Neither Party shall be responsible for any delay in completing the installation of the Interconnection Facilities resulting from Uncontrollable Force.

5.3.2 In the event that SDG&E is prevented from completing the installation of the Interconnection Facilities because of an Uncontrollable Force, SDG&E shall cooperate in the preparation of an action plan to complete the installation of the Interconnection Facilities or, if necessary, to modify the Interconnection Facilities to allow completion. If, after 18 months following SDG&E's notice to Wildflower of the occurrence of an Uncontrollable Force, the Parties are unable to identify a means of overcoming such Uncontrollable Force and completing the Interconnection Facilities which is reasonably acceptable to both Parties, either Party may terminate this EIFA by providing 30 days prior written notice to the other Party. The Parties shall amend this EIFA in writing to be consistent with any action plan adopted by the Parties pursuant to this Section. If this EIFA is terminated pursuant to this Section 5.3.2, the provisions of Section 7.2 shall apply. Wildflower also shall reimburse SDG&E for any reasonable expenses it may have incurred for engineering, surveying, right-of-way acquisition, material, and other work associated with that portion of Interconnection Facilities not installed.

5.3.3 [Reserved]

5.3.4 SDG&E shall not be liable for any damages resulting from delays excused under Sections 5.1, 5.2, or this Section 5.3. SDG&E's total liability for any of its unexcused delay in completing the installation of Interconnection Facilities shall not exceed 5% of the Interconnection Facility Cost. Notwithstanding any other provision of this EIFA, any delay that results from actions described in Sections

5.1, 5.2, or 5.3 shall extend the In-Service Date for a period equal to the duration of the delay.

5.3.5 In the event Wildflower is in default under Section 10.8.1(A), SDG&E may stop work on the construction and installation of the Interconnection Facilities and the In-Service Date shall extend for a period equal to the duration of the non-payment.

#### 5.4 Wildflower's Obligation for Certain Facilities

Wildflower shall own and maintain the facilities designated as Wildflower owned in Appendix B, Part II. SDG&E shall acquire and install the Interconnection Facilities, and Wildflower shall pay SDG&E the Costs for the Interconnection Facilities pursuant to Section 6.1. Wildflower's construction responsibilities regarding the Interconnection Facilities are described in Appendix A, Part III.

#### 5.5 Obligations for Regulatory Approvals and Permits

The Parties have applied for, or agree to apply for and obtain, the regulatory approvals and permits as set forth in Appendix H, which shall be subject to modification if additional regulatory filings, approvals and permits may be required. The Parties shall use best efforts to obtain such approvals and permits, and each Party shall cooperate with the other Party as reasonably necessary to permit the application for, and prosecution of, the applications for such approvals and permits that are the responsibility of the other Party.

#### 5.6 Maintenance of Tax Exempt Status for Local Furnishing Bonds

5.6.1 [Reserved]

5.6.2 [Reserved]

5.6.3 SDG&E shall provide the Services unless Wildflower breaches its representation and warranty in Section 5.6.5.

5.6.4 [Reserved]

5.6.5 Wildflower represents and warrants that it will comply with all tariff, protocols, orders, and directives of the ISO issued to protect the exclusion from gross income of interest on SDG&E's Local Furnishing Bonds.

5.6.6 SDG&E and Wildflower agree that Monetary damages by themselves will be inadequate to compensate SDG&E for Wildflower's breach of its obligations under Section 5.6.5. Wildflower therefore agrees that SDG&E is entitled to equitable relief by way of injunction or otherwise, if it breaches or threatens to breach its obligations under Section 5.6.5.

## 6. WILDFLOWER'S PAYMENT OBLIGATIONS

### 6.1 Cost of Interconnection Facilities.

Wildflower has advanced to SDG&E \$624,720 reflecting an estimate of the Costs for the SDG&E Interconnection Facilities which was a condition precedent to SDG&E commencing the design, engineering, construction and installation of the SDG&E Interconnection Facilities. Within 90 calendar days after the Interconnection Facilities are In-Service, SDG&E shall issue a final bill for payment pursuant to Section 9 for the design, engineering, construction and installation of the Interconnection

Facilities based on final, actual Costs incurred and paid. SDG&E shall refund to Wildflower, without interest, any amount received by SDG&E from Wildflower, which exceed the actual Cost related to the Interconnection Facilities.

## 6.2 Operation and Maintenance Charge

In accordance with the billing and payment procedures in Section 9, SDG&E shall bill annually during each January, and Wildflower shall pay over the Term of this EIFA, a separate operation and maintenance charge to compensate SDG&E for the operation, maintenance, and applicable taxes associated with the Interconnection Facilities in an amount equal to the currently effective Generation Interconnection O&M Fixed Charge Rate set forth in Appendix XI of SDG&E's Transmission Owner Tariff (as such rate may be modified from time to time) times the installed Cost of the Interconnection Facilities. An example calculation of the formula is attached as Appendix J. Provided, however, in the event that after the In-Service Date compliance with the conditions described in Section 5.1.6.1, or compliance with new conditions to protect the natural environment are imposed on SDG&E in connection with its operation and maintenance of the Interconnection Facilities, then the Parties agree that SDG&E may file with the FERC to revise the operation and maintenance charge set forth in Section 6.2 to permit recovery of (i) recurring compliance costs and (ii) nonrecurring compliance costs over a reasonable amortization period, provided such costs are just and reasonable and reasonably allocated on a pro rata basis to the Interconnection Facilities.

## 6.3 Other Charges

[Reserved.]

# 7. EFFECTIVE DATE AND TERMINATION

## 7.1 Effective Date and Termination of EIFA

7.1.1 This EIFA shall become effective on the date it is executed by both Parties ("Effective Date"), subject to acceptance of this EIFA for filing by FERC without the addition of any material condition that is unacceptable to either Party. In the event FERC (i) fails to accept this EIFA without suspension or (ii) finds that this EIFA is not just and reasonable or imposes conditions that are not acceptable to either Party, the Parties will use commercially reasonable efforts to agree upon amendments or modifications of this EIFA that would eliminate any such conditions or result in a just and reasonable finding. The term of this EIFA shall continue in full force and effect until the earlier date on which the Interconnection Agreement with respect to the Interconnection Facilities terminates or the date on which a Party provides notice of termination based on reasons specified in Section 7.1.2 of this EIFA.

7.1.2 In addition to termination rights provided to the Parties by applicable law, this EIFA may be terminated in accordance with Section 7.1.3 hereof for any of the following reasons:

- (i) by SDG&E if the Generating Facility permanently ceases operation for any reason;
- (ii) by Wildflower for any reason;
- (iii) [Reserved];
- (iv) by either Party, in accordance with the terms of Section 10.8.2 of this EIFA subject to Section 5.3.3 regarding Milestone extensions; or

(v) [Reserved]

(vi) by either Party in accordance with Section 5.3.2 hereof.

7.1.3 To effect termination resulting from an event set forth in Section 7.1.2 (i) or (v), a Party seeking to terminate shall provide at least 30 calendar days prior written notice specifying the termination date to the other Party in accordance with Section 10.17. However, if the Party receiving such notice of termination cures the event giving rise to the right to termination prior to the specified termination date or if more time is reasonably required to effect the cure and the receiving party is acting in good faith to achieve such cure, this EIFA shall remain in full force and effect. To effect termination resulting from an event set forth in Section 7.1.2 (iv), or (vi), the provisions of Section 10.8.2 shall apply. A termination by Wildflower in accordance with Section 7.1.2 (ii) shall become effective within 5 calendar days after Wildflower provides SDG&E with written notice of its intent to terminate.

## 7.2 Effect of Termination of this EIFA:

- (i) SDG&E may, at its option, alter, rearrange, or retain in place any portion of installed interconnection facilities paid for by Wildflower that SDG&E desires to continue to use to provide utility service, provided that SDG&E shall pay to Wildflower a facility termination charge reflecting the greater of the salvage value of such facilities or an amount for such facilities based on Wildflower's cost for such facilities less depreciation;
- (ii) Wildflower shall remove at its sole cost any uninstalled Interconnection Facilities paid for by Wildflower wherever located;
- (iii) Unless SDG&E exercises its option set forth in subsection 7.2(i), Wildflower shall, upon advance notice to SDG&E and in accordance with SDG&E's Standard Operating Procedures, as defined in the IA, and Good Utility Practice, remove the Wildflower owned facilities, as shown in Appendix B, Part II;
- (iv) [Reserved]
- (v) In the event of termination pursuant to subsection 7.1.2(ii), 7.1.2(iv), or 7.1.2(v), Wildflower shall pay to SDG&E pursuant to Section 9 all Costs, including any contract cancellation costs that cannot reasonably be avoided, that arise as a consequence of such termination.

## 8. SIGNIFICANT REGULATORY CHANGE

### 8.1 Notification

If, at any time during the term of this EIFA, either Party becomes aware of a Significant Regulatory Change (whether actual or proposed), and if such change may reasonably be expected to affect materially either Party's or both Parties' obligations or operations under this EIFA, such Party shall provide written notice to the other Party promptly, but no later than 30 calendar days after becoming aware of such Significant Regulatory Change. The notice shall contain a description of the Significant Regulatory Change and its impact on this EIFA, including expected time schedules. The Parties shall

proceed timely to meet and confer in accordance with Section 8.2 and shall use reasonable efforts to timely negotiate an appropriate amendment to this EIFA, if such is found to be necessary.

## **8.2 Amendment of EIFA**

**8.2.1** Following notification under Section 8.1, the Parties shall meet to discuss whether an amendment to this EIFA is necessary to address the Significant Regulatory Change. Such amendment, if any, shall be limited in scope to changes necessary to allow this EIFA to accommodate the Significant Regulatory Change identified in the notice issued pursuant to Section 8.1.

**8.2.2** If the Parties agree that such an amendment to this EIFA is necessary, the Parties will proceed to negotiate in good faith such amendment. If the Parties have not reached agreement within 60 calendar days of the date of the first meeting, any unresolved issues shall be resolved through dispute resolution procedures set forth in Section 10.9. Notwithstanding the above, if any issues remain unresolved as of 90 calendar days before the Significant Regulatory Change is scheduled to take place or if the Significant Regulatory Change is anticipated to take place at an earlier date, then with respect to the unresolved issues (i) SDG&E may, but is not required to, unilaterally file an amendment to this EIFA with FERC pursuant to Section 205 of the FPA, provided that Wildflower shall retain and may exercise its rights under the FPA to protest or oppose such filing, and (ii) Wildflower may, but is not required to, unilaterally file a complaint under Section 206 of the FPA asking FERC to amend this EIFA, and SDG&E may exercise its right to protest or oppose such filing.

**8.2.3** If within 30 calendar days of the date on which notice was provided in accordance with Section 8.1 hereof, the Parties cannot agree that an amendment to this EIFA is necessary to allow this EIFA to accommodate the Significant Regulatory Change, they shall submit such dispute to resolution proceedings pursuant to Section 10.9; provided, however, that if such dispute is not resolved as of 90 calendar days before the Significant Regulatory Change is scheduled to take place or a Party reasonably believes that the Significant Regulatory Change is anticipated to take place at an earlier date, then (i) SDG&E may, but is not required to, unilaterally file an amendment to this EIFA with FERC, provided that Wildflower shall retain and may exercise its rights under the FPA to protest or oppose such filing, and (ii) Wildflower may, but is not required to, unilaterally file a complaint under Section 206 of the FPA asking FERC to amend this EIFA, and SDG&E may exercise its right to protest or oppose such filing.

## **9. BILLING AND PAYMENT**

### **9.1 Billing**

Other than the initial payment, which shall be made to SDG&E by Wildflower upon execution of this EIFA, SDG&E shall bill Wildflower for all other Costs of Interconnection Facilities as set forth in Section 6.1. Wildflower shall remit payment via wire transfer in immediately available funds to SDG&E for all Costs at:

**San Diego Gas & Electric Company**

**Bank Name: Bank of America**

**Bank ABA: 121000358**

**Account No.: 00506-000706**

SDG&E may change the place where payment is sent by giving Wildflower notice thereof as provided in Section 10.17.



## 9.2 Payment Due Date

9.2.1 With respect to the final billing pursuant to Sections 6.1, 6.2 and 6.3, SDG&E shall electronically deliver to Wildflower such final bill. The payment of any bill shall be made no later than 30 calendar days from the date of the issuance of the bill absent a good faith dispute as to sums due or, if that day is a Saturday, Sunday or legal holiday, the next business day. Such date shall be referred to as the "Payment Due Date."

## 9.3 [Reserved]

## 9.4 Disputed Bills

If Wildflower disputes all or any portion of the final bill submitted to Wildflower by SDG&E pursuant to Section 6.1 or any other bill submitted by SDG&E pursuant to Sections 6.2, Wildflower shall pay the undisputed amount on or before the Payment Due Date. Wildflower shall, on or before the Payment Due Date, notify SDG&E, in writing, of the amount in dispute and the specific basis for the dispute. SDG&E and Wildflower shall endeavor to resolve any billing dispute within 30 calendar days of SDG&E's receipt of Wildflower's notice of a dispute (or such extended period as the Parties may establish). If the Parties cannot agree, either Party may initiate dispute resolution pursuant to Section 10.9. A dispute between either SDG&E or Wildflower and any third party shall not be a proper basis for withholding payment. Payments to SDG&E of Wildflower's obligations arising under this EIFA are not subject to any reduction, whether by offset, payments into escrow, or otherwise, except for routine adjustments or corrections as may be agreed to by the Parties or as expressly provided in this EIFA.

## 9.5 Adjusted Bills

Pursuant to Sections 6.1 and 6.3, a final and complete bill shall be rendered within 90 calendar days after the In-Service Date. If such final bill results in a refund, then SDG&E shall promptly issue a check to Wildflower for the amount of any refund.

## 9.6 [Reserved]

# 10. GENERAL PROVISIONS

## 10.1 Appendices Included

The following Appendices to this EIFA, as they may be revised from time to time by written agreement of the Parties or by order of FERC, are attached hereto and are incorporated by reference as if fully set forth herein:

- Appendix A - Part I (Interconnection Capacity), Part II (Interconnection Facilities), Part III (Construction Responsibilities)
- Appendix B - [Part I [Reserved], Part II (Line Diagram of Interconnection Facilities Wildflower-Owned and SDG&E-Owned Facilities), Part III [Reserved]
- Appendix C - [Reserved]
- Appendix D - Form of Interconnection Agreement
- Appendix E - Dispute Resolution and Arbitration

- Appendix F - Reserved
- Appendix G - Part I (Form of Easement)  
Part II (Form of Consent)
- Appendix H - Regulatory Approvals and Permits
- Appendix I - Insurance Requirements
- Appendix J - Sample Calculation of O&M Charge
- Appendix K - [Reserved]
- Appendix L - [Reserved]
- Appendix M - [Reserved]

## 10.2 Auditing

Upon reasonable advance written notice to SDG&E, Wildflower shall have the right to audit, at its own expense and during normal business hours, the relevant records of SDG&E for the purpose of verifying the expenses incurred by SDG&E and charged to Wildflower and for determining whether SDG&E is meeting its obligations under this EIFA. Wildflower agrees to disclose the information obtained in such audit only to those persons, whether employed by such Party or otherwise, that are directly involved in the administration of this EIFA. Wildflower agrees that under no circumstances will it use any information obtained in such an audit for any purposes other than the determination of SDG&E's compliance with the terms of this EIFA and verification of the propriety of any charges assessed to Wildflower hereunder. Wildflower's right to audit shall extend for a period of 3 years from the last day of each calendar year and following final payment under this EIFA. SDG&E shall maintain records and related back-up data for a period of 3 years from the last day of each calendar year and following final payment under this EIFA to facilitate such audits.

## 10.3 Adverse Determination or Expansion of Obligations

### 10.3.1 Adverse Determination

If, after the effective date of this EIFA, FERC or any other regulatory body, agency or court of competent jurisdiction determines that all or any part of this EIFA, its operation or effect is unjust, unreasonable, unlawful, imprudent or otherwise not in the public interest, each Party shall be relieved of any obligations hereunder to the extent necessary to comply with or eliminate such adverse determination. Any obligations not so affected shall remain in full force and effect. The Parties shall promptly enter into good faith negotiations in an attempt to achieve a mutually agreeable modification to this EIFA to address any such adverse determination.

### 10.3.2 Expansion of Obligations

If, after the effective date of this EIFA, FERC or a court of competent jurisdiction orders or determines that this EIFA should be interpreted, modified, or significantly extended in such a manner that either Party incurs significant new or different obligations not contemplated by this EIFA, then if requested by an adversely affected Party, the Parties shall be relieved of their obligations to the extent lawful and necessary to eliminate the effect of that order or determination, and the Parties shall

attempt to renegotiate in good faith the terms and conditions of the EIFA to restore the original balance of benefits and burdens contemplated by the Parties at the time this EIFA was made.

### 10.3.3 Renegotiation

If, within 90 calendar days after an order or decision as described in Sections 10.3.1 and 10.3.2, the Parties either: (i) do not agree that a renegotiation is feasible or necessary; or (ii) the Parties cannot agree to amend or supersede this EIFA, then: (a) either Party may submit the dispute for resolution in accordance with procedures set forth in Section 10.9; or (b) if such matter is not submitted for resolution under subsection (a) above within 10 days of the completion of the referenced 90 day period, either Party may unilaterally file a replacement EIFA for construction of Interconnection Facilities with FERC pursuant to Section 205 of the FPA, with the other Party reserving the right to protest such replacement EIFA. The effect of such termination, and the rights of the Parties thereunder, shall be as provided in Section 7.2.

## 10.4 Transfers and Assignments

### 10.4.1 Consent Required

No transfer or assignment of either Party's rights, benefits or duties under this EIFA shall be effective without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed; provided, however, such prior written consent is not required for (A) assignments stemming from interests that arise by reason of any deed of trust, mortgage, indenture or security agreement heretofore granted or executed by either Party or to be executed by Wildflower in connection with its financing or any subsequent refinancing; (B) a transfer or assignment by Wildflower to an affiliate in connection with such financing or refinancing; or (C) an assignment by SDG&E to an affiliate. Any attempted or purported transfer made other than in accordance with this Section 10.4, either voluntarily or by operation of law, shall be void and of no effect.

### 10.4.2 Assignee's Continuing Obligation

Any successor to or transferee or assignee of the rights or obligations of a Party, whether by voluntary transfer, judicial sale, foreclosure sale or otherwise shall be subject to all terms and conditions of this EIFA to the same extent as though such successor, transferee, or assignee were an original Party.

## 10.5 Captions

All indices, titles, subject headings, section titles and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning of the contents or scope of the EIFA. All references in this EIFA to sections are sections of this EIFA, unless otherwise indicated.

## 10.6 Construction of the EIFA

Each Party and their respective counsel have contributed to the preparation of this EIFA. Accordingly, no provision of this EIFA shall be construed against any Party because that Party or its counsel drafted the provision.

## 10.7 Cooperation and Right of Access and Inspection

Each Party shall give to the other all necessary permission to enable it to perform its obligations under the EIFA. Each Party shall give the other Party the right to have its contractors, employees and/or representatives, when accompanied by the contractors, employees and/or

representatives of the other Party, enter its premises at reasonable times and in accordance with reasonable rules and regulations for the purpose of inspecting the property and equipment of the Party in a manner which is reasonable for assuring the performance of the Parties' obligations under the EIFA.

## **10.8 Default**

**10.8.1** A Party will be in default under the EIFA if, at any time:

(A) the Party fails to make any payment due the other Party in accordance with the EIFA and does not make such payment to the other Party within 21 calendar days after receiving written notice from the other Party of such failure; or

(B) (1)(a) the Party fails in any material respect to comply with, observe or perform any term or condition of the EIFA; (b) any representation or warranty made herein by the Party fails to be true and correct in all material respects; or (c) the Party fails to provide to the other Party reasonable written assurance of its ability to perform fully and completely any of its material duties and responsibilities under the EIFA within 30 calendar days after receiving any reasonable request for such assurances from the other Party; and

(2)(a) the Party fails to correct or cure the situation within 30 calendar days after receiving written notice from the other Party; or (b) if the situation cannot be completely corrected or cured within such thirty-day period, the Party fails to either (i) commence diligent efforts to correct or cure the situation within such thirty-day period or (ii) completely correct or cure the situation within 90 calendar days after receiving written notice from the other Party.

**10.8.2 Remedies Upon Default.** If a Party defaults under the EIFA in accordance with this Section 10.8, the other Party may (A) act to terminate the EIFA by providing written notice of termination to the defaulting Party, and/or (B) take whatever action at law or in equity as may appear necessary or desirable to enforce the performance or observance of any rights, remedies, obligations, agreements, or covenants under the EIFA. Any termination sought under this Section 10.8.2 shall not take effect until FERC either authorizes any request by either Party seeking termination of the EIFA or accepts any written notice of termination. The rate of interest ("Rate of Interest") on any amount in default shall be the rate per annum calculated in accordance with 18 C.F.R. § 35.19a of the FERC's Regulations. The Interest Rate shall not exceed the maximum interest rate permitted under California law. Interest shall be calculated for the period during which the payment is overdue or the period during which the refund is accruing interest.

**10.8.3 Performance of Other Party's Obligations.** If either Party (the "Defaulting Party") fails to carry out its obligations under the EIFA and such failure could reasonably be expected to have a material adverse impact on the SDG&E Electric System, the Interconnection Facilities, the Generating Facility, or the regional network, the other Party, following 10 calendar days prior written notice (except in cases of an Emergency as defined in the IA, in which case only such notice as is reasonably practicable in the circumstances is required), may, but will not be obligated to, perform the obligations of the Defaulting Party (including, without limitation, maintenance obligations), in which case the Defaulting Party will, upon presentation of an invoice therefor, reimburse the other Party for all actual and reasonable costs and expenses incurred by it in performing said obligations of the Defaulting Party (including, without limitation, costs associated with its employees and the costs of appraisers, engineers, environmental consultants and other experts retained by said Party in connection with performance of the Defaulting Party's obligations), together with interest. The Rate of Interest shall be the rate per annum calculated in accordance with Section 10.8.2.

**10.8.4 Remedies Cumulative.** No remedy conferred by any of the provisions of the EIFA is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and

shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

#### 10.9 Dispute Resolution

The Parties shall make reasonable efforts to resolve all disputes arising under this EIFA expeditiously and by good faith negotiation. Where this EIFA specifically calls for resolution of disputes pursuant to this Section 10.9, the Parties shall pursue dispute resolution according to the procedures set forth in Appendix E. In all other circumstances the procedures in Appendix E may optionally be used to resolve disputes upon agreement by both Parties. In the event that a matter is submitted to arbitration under Appendix E the Parties shall be bound by the determination of the arbitrator(s). In the event the Parties are unable to resolve the dispute by application of the procedures in Appendix E, a Party may pursue its claim, if any, in any other appropriate forum.

#### 10.10 Governing Law

This EIFA shall be interpreted, governed by and construed under the laws of the State of California, as if executed and to be performed wholly within the State of California.

#### 10.11 Indemnity

##### 10.11.1 Definitions

As used in this Section 10.11, with initial letters capitalized, whether in the singular or the plural, the following terms shall have the following meanings:

- (i) **Accident** — Personal injury, death, property damage, or economic loss which:
  - (a) is sustained by a third party ("Claimant");
  - (b) arises out of delivery of, or curtailment of, or interruption to electric service, including but not limited to abnormalities in frequency or voltage; and
  - (c) results from either or both of the following:
    - (I) engineering, design, construction, repair, supervision, inspection, testing, protection, operation, maintenance, replacement, reconstruction, use, or ownership of the SDG&E Electric System, the Interconnection Facilities, or Wildflower's Generating Facility; or
    - (II) the performance or non-performance of either Party's obligations under the EIFA.
- (ii) **Indemnitee** — A Party defined in Section 10.11.2(ii).
- (iii) **Indemnitor** — A Party defined in Section 10.11.2(ii).

##### 10.11.2 Indemnity Duty

If a Claimant makes a claim or brings an action against a Party seeking recovery for loss, damage, costs or expenses resulting from or arising out of an Accident against a Party, the following shall apply:

- (i) That Party shall defend any such claim or action brought against it, except as otherwise provided in this Section 10.11.2.
- (ii) A Party ("Indemnitor") shall hold harmless, defend and indemnify, to the fullest extent permitted by law, the other Party, its directors or members of its governing board, officers and employees (collectively "Indemnitees"), upon request by the Indemnitee, for claims or actions brought against the Indemnitee allegedly resulting from Accidents caused by acts or omissions of the Indemnitor. In so doing, the Indemnitor shall not settle or consent to the entry of judgment in an action without the consent of the Indemnitee, which consent shall not be unreasonably withheld.
- (iii) No Party shall be obligated to defend, hold harmless or indemnify the other Party, its directors or members of its governing board, officers and employees for Accidents resulting from the latter's negligence or willful misconduct.
- (iv) If a Party successfully enforces this indemnity, the Party against which enforcement is required shall pay all costs, including reasonable attorneys' fees and other reasonable litigation expenses, incurred in such enforcement.

#### 10.12 Interpretation

This EIFA is not intended to modify any SDG&E or ISO Tariff or rule filed with the FERC. In case of conflict between this EIFA and any SDG&E or ISO Tariff, the ISO Tariff shall govern. This EIFA represents the entire understanding between the Parties hereto relating to the Costs of Interconnection Facilities, and supersedes any and all prior proposals or agreements, whether written or oral, that may exist between the Parties. Where there is conflict or inconsistency with the express terms in this EIFA and any documents referenced by this EIFA excluding the above referenced SDG&E and ISO Tariffs, the terms of this EIFA shall supersede such conflicting terms. If there is a conflict between the express terms in this EIFA and the IA, the terms of this EIFA shall supersede such conflicting terms as to matters related to the design, engineering, and construction of the Interconnection Facilities, including, but not limited to, Wildflower's obligations set forth in Section 6 hereof.

#### 10.13 Judgments and Determinations

When the terms of this EIFA provide that an action may or must be taken, or that the existence of a condition may be established based on a judgment or determination of a Party, such judgment shall be exercised or such determination shall be made reasonably and in good faith, and where applicable in accordance with Good Utility Practice, and shall not be arbitrary or capricious.

#### 10.14 Liability

##### 10.14.1 To Third Parties

Nothing in this EIFA shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

#### **10.14.2 Between the Parties**

Except for its willful misconduct or negligence, or with respect to breach of this EIFA, or with respect to the indemnity duty under Section 10.11 hereof, no Party, nor its directors or members of its governing board, officers, employees or agents shall be liable to another Party for any loss, damage, claim, cost, charge, or expense arising from or related to this EIFA. Notwithstanding the foregoing, neither Party, nor its directors or members of its governing board, officers, employees, or contractors shall be liable to the other Party for any consequential, special, or indirect damages.

#### **10.15 Modification**

This EIFA may be amended or modified only by a written instrument signed by the authorized representatives of both Parties, except as may otherwise herein be expressly provided.

#### **10.16 No Precedent**

This EIFA establishes no precedent with regard to any other entity or agreement. Nothing contained in this EIFA shall establish any rights to or precedent for other arrangements as may exist, now or in the future, between SDG&E and Wildflower for the provision of any interconnection arrangements or any form of electric service.

#### **10.17 Notices**

Except as otherwise expressly provided by this EIFA and in Appendix E, all notices or other communications herein provided to be given or which may be given by either Party to the other shall be deemed to have been duly given if delivered by electronic facsimile transmission with confirmed receipt, or when made in writing and delivered in person or deposited in the United States mail, postage prepaid, certified mail, return receipt requested and addressed as follows:

To SDG&E:

Robert J. Resley  
Director-Strategy & Resource Development  
San Diego Gas & Electric Company  
8306 Century Park Court  
San Diego, CA 92123-1593  
Phone: 858-654-6113  
Fax: 858-650-6115

James F. Walsh, III, Esq.  
Sempra Energy  
101 Ash Street  
San Diego, CA 92101-3017  
Phone: 619-699-5022  
Fax: 619-699-5189

To Wildflower :

Tom Doyle  
Vice President of Operations  
Wildflower Energy LP  
c/o InterGen N.A.  
909 Fannin Street, Suite 2200  
Houston, TX 77010  
Phone: 713-374-3900  
Fax: 713-374-3926

J. David Honeycutt  
Senior Counsel  
Wildflower Energy LP  
c/o InterGen N.A.  
909 Fannin Street, Suite 2222  
Houston, TX 77010  
Phone: 713-374-3975  
Fax: 713-374-3926

Either Party may change any address or location for notices and other communications by giving notice to the other Party as provided in this Section 10.17.

#### 10.18 Non-waiver

Failure by either Party to enforce any right or obligation with respect to any matter arising in connection with this EIFA shall not constitute a waiver as to that matter or any other matter.

#### 10.19 Reservation of Rights

##### 10.19.1 Rate Changes

Nothing contained herein shall be construed as affecting in any way the right of SDG&E to unilaterally make application to the FERC for a change in rates under Section 205 of the FPA and pursuant to the FERC's Rules and Regulations promulgated thereunder, Wildflower shall have the right to protest and object to such change in rates and otherwise to exercise any and all rights it may have with respect thereto, including its rights under Section 206 of the FPA. Nothing contained herein shall be construed as affecting in any way the right of Wildflower to unilaterally make application to the FERC for a change in rates under Section 206 of the FPA. The term "rates" as used herein shall mean all rates, terms and conditions contained in this EIFA. A change in rates may include, but not be limited to, not only changes in rates and charges but also in the underlying methodology by which such rates and charges are developed.

##### 10.19.2 FPA Disputes

The Parties agree that each Party expressly reserves all of its rights under the FPA, including the right to seek resolution by FERC or its successor agency of disputes arising under Sections 202(b) and/or 210 of the FPA; provided, however, that the Parties may mutually agree to resolve such dispute through procedures set forth in Section 10.9.

#### 10.20 Severability



If any term, covenant or condition of this EIFA or its application is held to be invalid as to any person, entity or circumstance, by FERC or any other regulatory body, or agency or court of competent jurisdiction, then such term, covenant or condition shall cease to have force and effect to the extent of that holding. In that event, however, all other terms, covenants and conditions of this EIFA and their application shall not be affected thereby, but shall remain in full force and effect unless and to the extent that a regulatory agency or court of competent jurisdiction finds that a provision is not separable from the invalid provision(s) of this EIFA.

#### 10.21 Uncontrollable Force

In the event of the occurrence of an Uncontrollable Force which prevents a Party from performing any of its obligations under this EIFA such Party shall (i) immediately notify the other Party in writing of such Uncontrollable Force and an estimate of the date on which the Party claiming the existence of an Uncontrollable Force believes the Uncontrollable Force will cease, (ii) not be entitled to suspend performance of any greater scope or longer duration than is required by the Uncontrollable Force, (iii) use commercially reasonable efforts to mitigate the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance hereunder, (iv) keep the other Party apprised of such efforts on a continual basis and (v) provide written notice of the resumption of performance hereunder. No Party will be considered in default as to any obligation under this EIFA if prevented from fulfilling the obligation due to the occurrence of an Uncontrollable Force.

#### 10.22 Creditworthiness - [Reserved]

#### 10.23 Survival

Any provision(s) of this EIFA that expressly or by implication comes into or remains in force following the termination or expiration of this EIFA shall survive the termination or expiration of this EIFA.

#### 10.24 Further Assurances

The Parties shall execute such additional documents including, without limitation, a consent to assignment or similar documents, and shall cause such additional action to be taken as may be required or, in the judgment of any Party, may be necessary or desirable, to effect or evidence the provisions of this EIFA and the transactions contemplated hereby.

#### 10.25 Confidentiality

##### 10.25.1 Confidential Information

- (a) Shall mean any confidential, proprietary or trade secret information of a plan, specification, pattern, procedure, design, device, list concept, policy or compilation relating to the present or planned business of a Party, which is designated in good faith as Confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection or otherwise, except that the real-time in-plant data, shall be considered Confidential Information without the need for designation. Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by either of the Parties to the other prior to the execution of this EIFA.

- (b) Each Party will hold in confidence any and all Confidential Information unless (1) compelled to disclose such information by judicial or administrative process or other provisions of law or as otherwise provided for in this EIFA, or (2) to meet obligations imposed by FERC or by a state or other federal entity or by membership in NERC, the California ISO or a regional transmission organization. Information required to be disclosed under (b)(1) or (b)(2) above, does not, by itself, cause any information provided by one Party to the other Party to lose its confidentiality. To the extent it is necessary for either Party to release or disclose such information to a third party in order to perform that Party's obligations herein, such Party shall advise said third party of the confidentiality provisions of this EIFA and use all reasonable efforts to require said third party to agree in writing to comply with such provisions.
- (c) During the term of this EIFA, and for a period of 2 years after disclosure hereunder, except as otherwise provided in this Section 10.25, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

#### 10.25.2 Scope

Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis prior to receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving party, after due inquiry was under no obligation to the disclosing party to keep such information confidential; (4) was independently developed by the receiving party without reference to Confidential Information of the Disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or breach of this Agreement; or (6) is required, in accordance with Section 10.25.1 of the EIFA, to be disclosed by any federal or state government or agency or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under the EIFA. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Party that it no longer is confidential.

#### 10.25.3 Order of Disclosure

If a court or a government agency or entity with the right power, and apparent authority to do so requests or requires either Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Party with prompt notice of such request(s) or requirement(s) so that the other Party may seek an appropriate protective order or waive compliance with the terms of the EIFA. The notifying Party shall have no obligation to oppose or object to any attempt to obtain such production except to the extent requested to do so by the disclosing Party and at the disclosing Party's expense. If either Party desires to object or oppose such production, it must do so at its own expense. The disclosing Party may request a protective order to prevent any confidential information from being made public. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use reasonable effort to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

#### 10.25.4 Use of Information or Documentation

Each Party may utilize information or documentation furnished by the disclosing Party and subject to Section 10.25.1 in any proceeding under Appendix E or in an administrative agency or court of competent jurisdiction addressing any dispute arising under this Agreement, subject to a confidentiality agreement with all participants (including, if applicable, any arbitrator) or a protective order.

#### 10.25.5 Remedies Regarding Confidentiality

The Parties agree that monetary damages by themselves will be inadequate to compensate a Party for the other Party's breach of its obligations under Section 10.25. Each Party accordingly agrees that the other Party is entitled to equitable relief, by way of injunction or otherwise, if it breaches or threatens to breach its obligations under Section 10.25.

#### 10.26 Insurance

Both Parties shall obtain insurance in conformance with the requirements set forth in Appendix I.

#### 10.27 Environmental Compliance and Procedures

Each Party shall notify the other Party, orally, promptly upon discovery of any release, spill, leak, discharge, disposal of, pump, pour, emit, empty, inject, leach, dump, or allow to escape into or through the environment ("Release") of any hazardous substance by it on the property or facilities of the other Party, or which may migrate to, or adversely impact the property, facilities or operations of, the other Party. Such oral notification shall be followed by written notification within 48 hours. The Party responsible for the Release of any hazardous substance on the property or facilities of the other Party, or which may migrate to, or adversely impact the property, facilities or operations of the other Party shall be responsible, as required by applicable environmental laws, for (i) performing any and all remediation or abatement activity, and (ii) submitting all reports or filings relevant to the Release. In addition, the Party responsible for the Release shall provide promptly copies to the other Party of all such reports or filings as well as any orders, letters, reports or decisions issued by any court or regulatory body in connection with the Release. Reasonable advance written notification (except in emergency situations, in which oral, followed by written notification, shall be provided as soon as practicable) shall be provided by any Party performing any remediation or abatement activity on the property or facilities of the other Party, or which may adversely impact the property, facilities, or operations of, the other Party. Except in emergency situations, such remediation or abatement activity shall be performed only with the prior written consent of the Party owning the affected property or facilities, which consent shall not be unreasonably withheld, delayed or conditioned, and provided that the Parties each agree to provide reasonable access to the Party responsible for the Release to enable the timely performance of any required abatement and remediation. The Parties agree to coordinate in good faith to reasonably achieve any required abatement and/or remediation while at the same time minimizing any interference with the affected property, facilities or operations of the other party. In addition, the Parties agree to coordinate, to the extent necessary, the preparation of site plans, reports or filings required by law or regulation. In complying with their obligations under this Agreement, the Parties further agree to comply with all applicable environmental laws.

10.28 Each Party hereby confirms that it complies with federal requirements to the extent applicable, including but not limited to the following: 48 C.F.R. Section 52 ~~et seq.~~; Affirmative Action for Workers with Disabilities; Affirmative Action Compliance; Equal Opportunity; Prohibition of Segregated Facilities; Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era; Utilization of Small Business Concerns; Affirmative Action Programs; Small, Small Disadvantaged and Women-

Owned Small Business Subcontracting Plan and any applicable sections contained in 41 C.F.R. Chapter 60.

11.

**EXECUTION**

The signatories hereto warrant and represent that they have been appropriately authorized to enter into this EIFA on behalf of the Party for whom they sign. This EIFA may be executed in one or more counterparts at different times, each of which shall be regarded as an original and all of which, taken together, shall constitute one and the same EIFA.

**SAN DIEGO GAS & ELECTRIC COMPANY**

**Wildflower Energy LP**

By: James Avery

By: \_\_\_\_\_

Title: Senior Vice President

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix A

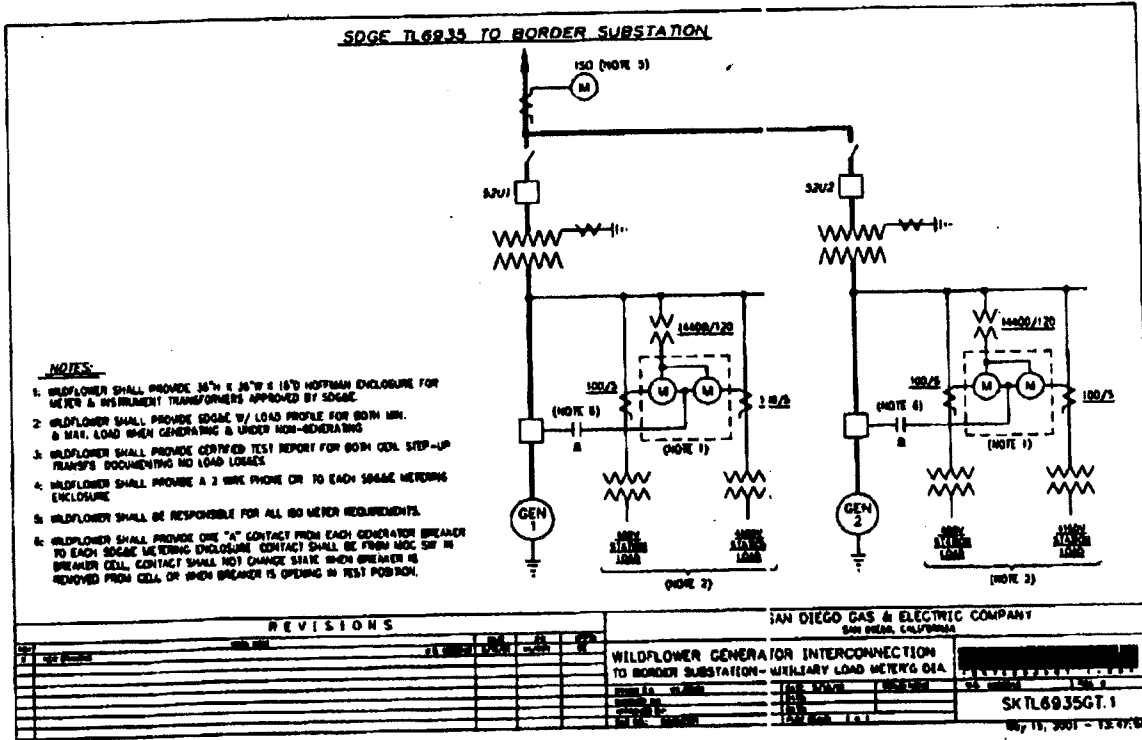
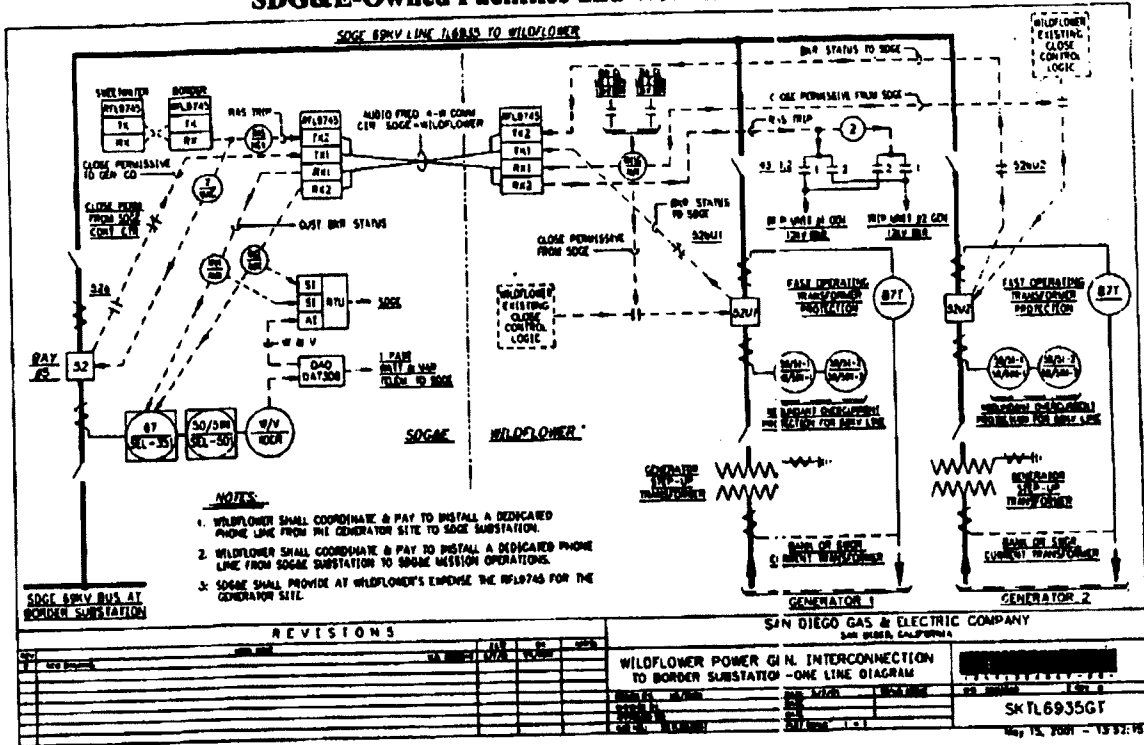
### Description of Interconnection Facilities & Interconnection Capacity

|  |
|--|
| <b>Part I: Interconnection Capacity</b>  |
| Pursuant to the draft System Impact Studies dated Feb. 16, 2001 and Mar. 13, 2001, Interconnection Capacity of 98MW will be available following construction, testing and energization of the following facilities.  |
| <b>Part II: Interconnection Facilities</b>   |
| <ol style="list-style-type: none"><li>1) Radial tie line TL6935 constructed between SDG&amp;E's Border Substation 69 kV Bus Bay #5 position and Wildflower dead-end rack.</li><li>2) 69 kV line disconnect switch, 69 kV gas circuit breaker, foundation and associated wiring.</li><li>3) Protection and telemetering for TL6935 as shown on attached drawing SKTL6935GT in Appendix B Part II.</li><li>4) Remedial action scheme(s) to trip or reduce Wildflower generation output in order to maintain reliability for transmission contingencies (e.g., for outages of SDG&amp;E tie lines 603, 614, 641, 644 and/or 6910)</li></ol> |
| <b>Part III: Construction Responsibilities</b>   |
| <b>Wildflower Construction Responsibilities</b> <ol style="list-style-type: none"><li>1) Installation of disconnect switches, circuit breakers, ancillary equipment and RFL telemetering equipment as shown on attached drawing SKTL6935CT in Appendix B Part II.</li><li>2) Installation of auxiliary metering equipment as shown on attached drawing SKTL6935GT.1.</li></ol>   |
| <b>SDG&amp;E Construction Responsibilities</b> <ol style="list-style-type: none"><li>1) Installation of interconnection facilities in Border Substation as described in Part II above.</li><li>2) Construction of the overhead radial tie line TL6935 between Border Substation and Wildflower dead-end rack.</li><li>3) Installation of Remedial action scheme(s) described in Part II, Item 4 above.</li></ol>   |

**Appendix B**

**Part I: [Reserved]**

## Part II: One-line Diagram and Auxiliary Load Metering Diagram of Interconnection Facilities Showing SDG&E-Owned Facilities and Wildflower -Owned Facilities



**Part III: [Reserved]**



**Form of Interconnection Agreement - Appendix D**

**Appendix C**

**Part I: [Reserved]**

**Form of Interconnection Agreement - Appendix D**

**Appendix D**  
**Form of Interconnection Agreement**

**INTERCONNECTION AGREEMENT**

**1. PREAMBLE**

This Interconnection Agreement ("IA"), dated June 13, 2001, between Wildflower Energy LP ("Wildflower") and SAN DIEGO GAS & ELECTRIC COMPANY ("SDG&E"), hereinafter sometimes referred to individually as "Party" or collectively as "Parties", is as follows:

**2. RECITALS**

2.1 Whereas, SDG&E is a public utility engaged, among other things, in the business of owning and operating an electric system consisting of transmission and distribution facilities in Southern California;

2.2 Whereas, Wildflower intends to construct and operate a Generating Facility, which is located in San Diego, California and described in Appendix E, for the purpose of generating electric energy for its own use, selling electric power at wholesale, or both and has requested permission from SDG&E to interconnect the Generating Facility in order to operate it in parallel with the SDG&E Electric System;

2.3 Whereas, SDG&E is willing to permit such interconnection and parallel operation under the terms and conditions contained in this IA;

2.4 Whereas, Wildflower understands that this IA does not provide any transmission or distribution services or ancillary services;

2.5 Whereas, the EIFA obligates Wildflower to design new Generating Facilities or additions to existing Generating Facilities consistent with Good Utility Practice;

2.6 Whereas, this IA obligates Wildflower to operate and maintain the Generating Facility consistent with Good Utility Practice;

2.7 Whereas, this IA establishes interconnection and operating responsibilities and associated procedures for communications between Wildflower and SDG&E Electric System operators. The IA also establishes procedures for safe work practices on the Interconnection Facilities and the SDG&E Electric System and routine test procedures;

2.8 Whereas Wildflower understands that it will be subject to the ISO Tariff and protocols and operating procedures thereunder and that it is responsible for making any arrangements necessary with the ISO.

## Form of Interconnection Agreement - Appendix D

### 3. AGREEMENT

Now, therefore, in consideration of the mutual covenants herein set forth, the Parties agree as follows:

### 4. DEFINITIONS

Terms and expressions when used in this IA with the initial letters capitalized, whether in the singular, plural or possessive, shall have the meanings set forth in this IA.

#### 4.1 Business Day

A day other than Saturday, Sunday or a day on which: (i) banks are legally closed for business in the State of California; or (ii) SDG&E is closed for business, which days are listed as follows and may change from time to time:

- New Years Day
- Martin Luther King Jr. Birthday
- Presidents Day
- Memorial Day
- Independence Day
- Labor Day
- Day Before Thanksgiving
- Thanksgiving Day
- Christmas Eve
- Christmas Day

#### 4.2 Clearance Point

The point(s) that electrically isolate(s) SDG&E's equipment from possible sources of energy from the Generating Facility and Generator Step-up Facilities. Clearance Points may be requested by SDG&E from time to time as provided in Section 8.7, so that work can be safely performed on the SDG&E Electric System. The Clearance Point is normally located at the Disconnect Device.

#### 4.3 CPUC

The California Public Utilities Commission or its successor.

#### 4.4 Designated SDG&E Switching Center

The SDG&E location, identified in Section 9.1 of this IA, with operational jurisdiction over the Generating Facility and the Generator Step-up Facilities.

#### 4.5 Disconnect Device

A device used to isolate the Generating Facility from the SDG&E Electric System and normally located adjacent to the Point of Interconnection. Each Generating Facility must have a Disconnect Device which shall be clearly marked "GENERATOR DISCONNECT SWITCH".

#### 4.6 Emergency

## **Form of Interconnection Agreement - Appendix D**

An abnormal condition or situation that adversely affects, or potentially may adversely affect, the Generating Facilities or the SDG&E System Integrity. Such an event may result from, but is not limited to, a System Emergency.

### **4.7 FPA**

The Federal Power Act as it may be amended or superseded.

### **4.8 FERC**

The Federal Energy Regulatory Commission or its regulatory successor.

### **4.9 Generating Facility**

The generating units of Wildflower described in Appendix E and associated facilities, which shall include, but not be limited to, Generator Step-up Facilities and protective devices.

### **4.10 Generator Step-up Facilities**

Electric facilities owned and operated by Wildflower to step-up the generator voltage to the voltage of the interconnection. Generator Step-up Facilities may include transformers, 69 kV disconnect switches, 69 kV bus and 69 kV circuit breakers.

### **4.11 Good Utility Practice**

Any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be any one of a number of the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

### **4.12 Governmental Authority**

Any federal, state, local or other governmental, regulatory or administrative agency, governmental commission, department, board, subdivision, court, tribunal, or other governmental arbitrator, arbitral body or other authority, but excluding Wildflower and any subsequent owner of the Generating Facility (if Wildflower or any subsequent owner is otherwise a Governmental Authority under this definition).

### **4.13 Interconnection Capacity**

The amount of net electric capacity up to which the Generating Facility may deliver energy and ancillary services into the SDG&E Electric System through the Interconnection Facilities, as specified in Section E.2.2 of Appendix E and modified, if necessary, through technical studies conducted by SDG&E, pursuant to Section 5.7 of the ISO Tariff in consultation with Wildflower.

### **4.14 Interconnection Facilities**

All apparatus installed to interconnect and allow power to flow between the Generating Facility through the Interconnection Facilities to the SDG&E Electric System and the Generating Facility.

## Form of Interconnection Agreement - Appendix D

including, but not limited to, underlying property rights, the Disconnect Device, connection, transformation, switching, metering, and communications equipment, as well as any necessary additions, modifications and reinforcements to the SDG&E Electric System necessitated as a result of interconnecting the Generating Facility to the SDG&E Electric System. Interconnection Facilities also include control and safety equipment to protect (i) the SDG&E Electric System and its customers from faults occurring at the Generating Facility and the Generator Step-up Facilities; and (ii) the Generating Facility and Generator Step-up Facilities from faults occurring on the SDG&E Electric System or on the electric system of others to which the SDG&E Electric System is directly or indirectly connected. These Interconnection Facilities are described in Appendix E.

### 4.15 Expedited Interconnection Facilities Agreement or "EIFA"

The Expedited Interconnection Facilities Agreement, dated June 13, 2001, between Wildflower Energy LP and San Diego Gas & Electric Company.

### 4.16 Interconnection Service

Interconnection Service refers to Wildflower's ability, through the Interconnection Facilities, to deliver at the Point(s) of interconnection the energy and ancillary services produced by the Generating Facility to and, if necessary, to receive its facility station service requirements from, the SDG&E Electric System under the terms and conditions of this IA when (i) the Generating Facility is interconnected with the SDG&E Electric System; and (ii) the operation of the SDG&E Electric System is not suspended, interrupted or interfered with as a result of Uncontrollable Force. The term "Interconnection Service" as used in this IA shall not refer to any right to transmit power over SDG&E's transmission and/or distribution system. The interconnection plan of service is described in Appendix E.

### 4.17 ISO

The California Independent System Operator Corporation or its successor which operates the ISO Controlled Grid.

### 4.18 ISO Controlled Grid

The system of transmission lines and associated facilities of the participating transmission owners that have been placed under the ISO's operational control.

### 4.19 ISO Tariff

The FERC-approved and effective California ISO Tariff, as it may be modified or superseded from time to time.

### 4.20 OK-On-Or-Near Authorization

A procedure used by SDG&E in connection with work on a live electric line or near an energized circuit. In an OK-On-Or-Near Authorization, SDG&E will request that Wildflower contact the Designated SDG&E Switching Center before re-energizing a circuit following an automatic trip.

### 4.21 Person

An individual, partnership, joint venture, corporation, limited liability company, trust, association or unincorporated organization, or any Governmental Authority.

## Form of Interconnection Agreement - Appendix D

without suspension or (ii) finds that this IA is not just and reasonable or imposes conditions that are not acceptable to either Party, the Parties will use commercially reasonable efforts to agree upon amendments or modifications of this IA that would eliminate any such conditions or result in a just and reasonable finding. The term of this IA shall continue in full force and effect until the date on which a Party provides notice of termination based on reasons specified in Sections 5.1 or 6.1.2

6.1.2 In addition to termination rights provided to the Parties by applicable law, this IA may be terminated in accordance with Section 6.1.3 hereof for any of the following reasons:

- (i) by SDG&E if the Generating Facility permanently ceases operation for any reason;
- (ii) by Wildflower for any reason;
- (iii) by either Party if the ownership of the Interconnection Facilities, or a substantial portion thereof is acquired by a public authority through the exercise of such authority's power of eminent domain; or
- (iv) by either Party, in accordance with the terms of Section 16.9.2 of this IA.

6.1.3 To effect termination resulting from an event set forth in Section 6.1.2 (i) or (iii), a Party seeking to terminate shall provide at least 30 calendar days prior written notice specifying the termination date to the other Party in accordance with Section 16.21. However, if the Party receiving such notice of termination cures the event giving rise to the right to termination prior to the specified termination date or more time is reasonably required to effect the cure and is acting to achieve such cure, this IA shall remain in full force and effect. To effect termination resulting from an event set forth in Section 6.1.2 (iv), the provisions of Section 16.9.2 shall apply. A termination by Wildflower in accordance with Section 6.1.2 (ii) shall become effective within 5 calendar days after Wildflower provides SDG&E with written notice of its intent to terminate.

### 6.2 Effect of Termination

Upon termination of this IA, the provisions of Section 7.2 of the EIFA shall govern.

## 7. SDG&E'S RIGHTS AND OBLIGATIONS

SDG&E shall operate and maintain the Interconnection Facilities and perform its rights and obligations under this IA in accordance with SDG&E's Standard Operating Procedures, established maintenance practices and Good Utility Practice.

7.1 Limited Responsibility to Accept Energy and Ancillary Services Into and to Deliver Station Requirements from the SDG&E Electric System

### 7.1.1 Sole Purpose to Provide Interconnection Services

The sole intent and purpose of this IA is to provide for the electric interconnection and parallel operation of the Generating Facility with the SDG&E Electric System,

## **Form of Interconnection Agreement - Appendix D**

including the establishment of the operating capacity of the Point of Interconnection and rules governing the interconnected operations to promote and maintain SDG&E System Integrity.

### **7.1.2. Obligation to Accept Energy and Ancillary Services**

SDG&E shall permit delivery into or from the SDG&E Electric System at the Point of Interconnection energy and ancillary services produced by the Generating Facility up to the Interconnection Capacity specified in Appendix E and delivered into the SDG&E Electric System in accordance with this IA and, if necessary, any Generation Facility station service requirements; provided, however, Wildflower shall make previous arrangements, either directly for its own account or indirectly through a purchaser of its energy and ancillary services, for the transmission service, and any necessary export or import permits, needed to transfer energy and ancillary services from and, as necessary, station service requirements to, the Point of Interconnection. Provided, further, that the Parties recognize Wildflower may purchase station service from any retail service provider. However, in the event Wildflower requests SDG&E to provide station service, Wildflower acknowledges and agrees that such service shall be at applicable retail rates established by the CPUC. In the event of an increase in the output of the Generating Facility or other material change or modification to the configuration and operation of the Generation Facility, the Parties shall negotiate appropriate revisions to this IA, including as necessary the specifications or requirements set forth in Appendix E as necessary to permit SDG&E to provide revised Interconnection Service in fashion consistent with this IA. Facilities that are required to accommodate such revised Interconnection Service shall provide the ISO with acceptable operating flexibility and meet all applicable requirements for reliable integration within the ISO Controlled Grid.

### **7.1.3 No Obligation to Provide Transmission or Distribution Service**

Nothing in this IA shall be deemed either expressly or implicitly to obligate SDG&E to provide any electric transmission or distribution service for the transport of electric energy from the Generating Facility.

### **7.1.4 New or Revised Interconnection Services Subject to ISO Approval**

Wildflower understands that SDG&E is subject to the ISO Tariff and to the TCA and, as a result, SDG&E cannot commit to provide any new or revised Interconnection Service to Wildflower without the approval of the ISO.

## **7.2 Right to Disconnect the Generating Facility During the Term**

### **7.2.1 Wildflower's Failure to Meet Standards**

SDG&E may, consistent with Standard Operating Procedures and Good Utility Practice, disconnect the Generating Facility from the SDG&E Electric System if, and during the period which, the Generating Facility materially fails to meet the requirements set forth in this IA. Except as described in Section 7.2.1.1, prior to such disconnection SDG&E shall promptly provide written notice to Wildflower detailing Wildflower's failure to adhere to such requirements and provide Wildflower 30 calendar days to correct such deficiency. Except as otherwise provided in Subsection 7.2.1.1, SDG&E shall not disconnect the Generation Facility if Wildflower corrects the deficiencies described in the written notice within 30 calendar days or is diligently working to achieve a cure that reasonably takes additional time.

#### **7.2.1.1 Immediate Disconnection**

## Form of Interconnection Agreement - Appendix D

If SDG&E reasonably determines that a hazardous condition exists and immediate action is necessary to protect persons, Interconnection Facilities, or the SDG&E Electric System, other customers' facilities, or other interconnected utility systems from material damage or interference caused by the Generating Facility, then SDG&E may immediately disconnect the Generating Facility from the SDG&E Electric System. Immediately following such events, the Designated SDG&E Switching Center will provide the Generating Facility with a clear explanation of the cause(s) for the action taken and the remedies required to return to normal operation. Within 24 hours SDG&E will also provide a written report to Wildflower explaining any such event.

### 7.2.2 Right to Inspect Wildflower's Operations Logs, Maintenance Records, and Facilities

Upon reasonable advance notice to Wildflower, SDG&E shall have the right to enter Wildflower's premises at any reasonable times for inspection of Wildflower's (i) operations logs and maintenance records relating to activities which can reasonably be expected to affect operation of the SDG&E Electric System and (ii) control, protective and safety devices. While on Wildflower's premises, SDG&E shall comply with Wildflower's written safety, security and operating conventions, protocols and practices; provided, that Wildflower has provided SDG&E with such written safety, security and operating conventions, protocols and practices, which are consistent with Good Utility Practice. Such inspection shall be at SDG&E's sole cost and expense.

### 7.3 Right to Interrupt Interconnection Service

#### 7.3.1 Unscheduled Interruptions

Upon reasonable advance notice to Wildflower, SDG&E may temporarily interrupt or reduce Interconnection Service to the Generating Facility, or temporarily separate the SDG&E Electric System, or the Interconnection Facilities, from the Generating Facility, if SDG&E reasonably determines at any time that: (i) an Emergency condition exists and the action is necessary or desirable to protect or maintain SDG&E System Integrity; (ii) the operation of the Interconnection Facilities, or SDG&E Electric System is suspended, interrupted or interfered with as a result of Uncontrollable Force; or (iii) it has been so instructed by the ISO, in accordance with the TCA, or by any duly authorized regulatory or governmental agency. In the event of such interruption or reduction in Interconnection Service, SDG&E shall restore full Interconnection Service on a basis comparable to the restoration of other public service and safety facilities, and, in any event, as directed by the authorized emergency response officials. Should SDG&E determine that such interruption or reduction in service will be of a prolonged nature, SDG&E and Wildflower shall confer and attempt to agree on the earliest reasonable time by which full service can be restored.

#### 7.3.2 Interruption by Protective Devices

SDG&E utilizes automatic protective devices in order to assist in maintaining SDG&E System Integrity. SDG&E is to maintain these devices in reasonable working order. In the event of any interruption resulting from the operation of protective devices, Interconnection Service will be restored consistent with Standard Operating Procedures and Good Utility Practice.

#### 7.3.3 Maintenance Interruptions

7.3.3.1 SDG&E may interrupt Interconnection Service to the Generating Facility to perform necessary maintenance on the Interconnection Facilities or the SDG&E Electric System; provided, that such interruptions are consistent with Standard Operating Procedures and Good Utility



## Form of Interconnection Agreement - Appendix D

Practice. SDG&E shall reasonably attempt to coordinate such maintenance interruptions with Wildflower and shall provide Wildflower with as much advance notice as possible but in no event shall the notice be less than 3 Business Days except where SDG&E determines an Emergency exists or may exist which requires quicker action to correct, in which case SDG&E shall provide as much advance notice to Wildflower of the interruption as is reasonably possible.

7.3.3.2 SDG&E normally conducts maintenance interruptions during normal business hours on a Business Day, between 6:30 AM and 4:00 PM. In the event that Wildflower desires the proposed maintenance interruption to occur during non-business hours, SDG&E will make reasonable efforts to accommodate Wildflower, but in all events reserves the right to charge Wildflower the additional cost for work performed. SDG&E will provide Wildflower with an estimate of the additional cost and if Wildflower still desires the work to be performed during non-normal business hours and SDG&E does perform the work, SDG&E shall charge Wildflower the actual additional costs of the work, the amount of which shall not exceed the cost estimate.

### 7.4 Right to Install Facilities

#### 7.4.1 Installation of Facilities

In the event SDG&E determines that it is necessary, consistent with Standard Operating Procedures and Good Utility Practice, in order to accommodate generator interconnections and transmission or distribution services, for SDG&E to install new or modify existing SDG&E-owned facilities, including, but not limited to, such facilities located at the Border substation, and implement operating procedures (collectively, the facilities and procedures shall be referred to hereinafter as the "Facilities") and such Facilities adversely affect and do not benefit the Interconnection Capacity or the Generating Facility, SDG&E shall promptly notify Wildflower. The Parties shall work together, in good faith, to agree upon the nature, scope, and costs for such facilities and procedures reasonably necessary to address such adverse affect. If the Parties cannot agree on such facilities and procedures and associated costs and benefits and procedures, then the dispute shall be resolved through procedures set forth in Section 16.10 (Dispute Resolution); provided, SDG&E may install and implement such facilities and procedures prior to the resolution of such dispute, but only if the dispute involves the costs and benefits of such facilities and procedures and not design or engineering matters, and SDG&E takes all reasonably available means to minimize the time and amount of disruption of Interconnection Services to Wildflower. The Parties agree that SDG&E and not Wildflower shall be solely responsible for all costs associated with any facilities and measures determined pursuant to this subsection that are required to address any adverse affect on Wildflower.

#### 7.4.2 Costs Incurred by Wildflower as a Result of the Installation and Operation of Facilities

To the extent Wildflower may reasonably be required to modify its Generating Facility as a result of Facilities to be installed by SDG&E, SDG&E and not Wildflower shall be solely responsible for all costs reasonably incurred by Wildflower to accommodate such Facilities but only to the extent such Facilities adversely affect Wildflower. The Parties shall work together, in good faith, to agree upon the extent and costs of such facilities and operating procedures so needed by Wildflower. If the Parties cannot agree on the need or cost of such facilities and operating procedures, then the dispute shall be resolved through procedures set forth in Section 16.10; provided that until such dispute is resolved either by mutual agreement or the dispute resolution procedures SDG&E shall not place into commercial operation the Facilities.

#### 7.4.3 SDG&E's Right to Install Protective Devices on Wildflower-Owned Facilities

## Form of Interconnection Agreement - Appendix D

SDG&E may install at its cost automatic protective devices on Wildflower-owned facilities that SDG&E determines in its reasonable judgment are required to assist in maintaining SDG&E System Integrity; provided that such protective devices do not damage, or impair the operation of Wildflower's facilities.

### 8. WILDFLOWER 'S RIGHTS AND OBLIGATIONS

#### 8.1 Wildflower's Right to Deliver Energy and Ancillary Services to the SDG&E Electric System

Wildflower shall have the sole and exclusive right to deliver energy and ancillary services from the Generating Facility into the SDG&E Electric System through the Interconnection Facilities; provided, at no time shall Wildflower deliver energy and ancillary services at a rate that exceeds the Interconnection Capacity specified in Appendix E; nor shall Wildflower deliver energy and ancillary services into the SDG&E Electric System unless it has arranged for transmission service pursuant to Section 7.1.2.

##### 8.1.1 Consequences of Exceeding Interconnection Capacity

It is the intent of the Parties that power deliveries to the SDG&E Electric System shall not exceed the Interconnection Capacity specified in Appendix E at any time. In the event that energy and ancillary service deliveries exceed the Interconnection Capacity, the Parties, at either Party's request, shall meet to determine the reason that the Interconnection Capacity was exceeded. If the Parties determine that such an event was not due to Uncontrollable Force or an Emergency and is reasonably likely to occur again in the future, then a new higher Interconnection Capacity shall be established. SDG&E shall have the right to require that a study be conducted pursuant to the ISO Tariff and SDG&E's Transmission Owner Tariff, at Wildflower's expense, to determine if additional facilities, including upgrades to the SDG&E transmission and distribution systems, are required to accommodate the increased Interconnection Capacity. If the Parties fail to agree within 30 calendar days after the initial meeting, that the Interconnection Capacity must be increased, the matter, at either Party's request, shall be resolved through the dispute resolution procedures set forth in Section 16.10. If either Party determines that additional facilities are required, then the Parties shall execute an amended Interconnection Facilities Agreement, as described in Section 5.1, to allow SDG&E to recover the Costs of any such additional facilities. During any period SDG&E and Wildflower have not reached an accommodation whether the event of deliveries in excess of the Interconnection Capacity occurred and is likely to occur again in the future, Wildflower agrees, in the event of material adverse effects resulting therefrom, to operate the Generating Facility in a manner that is consistent with Good Utility Practice and is likely to ensure that energy and ancillary services are not delivered at any time into SDG&E's Electric System in excess of the Interconnection Capacity specified in Appendix E.

#### 8.2 Generating Facility Must Meet Standards

##### 8.2.1 Generating Facility to Meet Applicable Laws and Good Utility Practice

Wildflower shall be fully responsible for designing new generating facilities or additions to the existing Generating Facility in accordance with Good Utility Practice. Wildflower is also fully responsible for installing, owning, operating and maintaining the Generating Facility or any new generating facility or additions in accordance with all applicable laws, rules and regulations of governmental agencies having jurisdiction and in accordance with Good Utility Practice.

## **Form of Interconnection Agreement - Appendix D**

### **8.2.2 Generating Facility to Comply with SDG&E Interconnection Handbook; Maintenance by Wildflower of Facilities**

New generating facilities or additions to the existing Generating Facility shall be designed and constructed in accordance with the SDG&E Interconnection Handbook, and Wildflower shall have obtained the necessary approvals from each Governmental Authority and the ISO, as applicable. Such facilities shall be designed, constructed and operated in accordance with the SDG&E Interconnection Handbook, except as provided in Appendix F. SDG&E shall provide Wildflower with the latest revisions of the SDG&E Interconnection Handbook that SDG&E may make from time to time. Wildflower shall be responsible for assuring that its operating personnel at all times have the latest versions of the SDG&E Interconnection Handbook. Wildflower shall maintain its facilities in accordance with SDG&E's established maintenance practices and Good Utility Practice.

### **8.2.3 Wildflower Shall Provide Transmission Planning Data**

Wildflower is obligated to provide SDG&E with steady state and dynamic data for the Generating Facility as required by the SDG&E Interconnection Handbook and the WSCC.

### **8.2.4 Wildflower Shall Operate Protective Devices**

Wildflower shall operate protective and safety devices as required by the SDG&E Interconnection Handbook for safe parallel operation of the Generating Facility with the SDG&E Electric System.

### **8.2.5 Duty to Minimize Disturbances**

Wildflower agrees to plan and operate its Generating Facility related apparatus in a manner that reasonably minimizes electrical disturbances on the Interconnection Facilities and the SDG&E Electric System caused by the operation of Wildflower's Generating Facility.

### **8.2.6 Power Delivery Standard**

Power delivered to the Interconnection Facilities from the Generating Facility shall be at what is commonly designated as three phase alternating current, at 60 Hertz, and at the normal voltage specified in Appendix E. Normal variations in voltage and frequency shall be permitted pursuant to Standard Operating Procedures and Good Utility Practice.

## **8.3 No Parallel Operation Without Approval**

If Wildflower's Generating Facilities have not been operated for one year or more, Wildflower shall not operate its Generating Facility in parallel with the SDG&E Electric System until the Generating Facility has been inspected by an authorized SDG&E representative and final written approval has been received from SDG&E, which approval shall not be unreasonably withheld, conditioned, or delayed. Any such inspection and approval shall not be deemed or construed as any representation, assurance, guarantee or warranty by SDG&E of the safety, durability, reliability, or compliance as required in Section 8.2, of the Generating Facility and its control, protective and safety devices or the quality of power produced by the Generating Facility.

## **8.4 Wildflower Must Implement Operating Guidelines**

## **Form of Interconnection Agreement - Appendix D**

Wildflower shall implement the Standard Operating Procedures, including applicable guidelines included in the SDG&E Interconnection Handbook, provided that such SDG&E Interconnection Handbook is maintained by SDG&E in accordance with applicable requirements of each Governmental Authority and the ISO, as applicable. Wildflower shall ensure that its operating personnel are familiar with the procedures and guidelines in this IA.

### **8.5 Obligation to Maintain Power Factor and Voltage**

Wildflower understands that the voltage of SDG&E's Electric System is not automatically regulated and may vary widely. The voltage levels will fluctuate depending on plant operation and SDG&E Electric System conditions. In accordance with the SDG&E Interconnection Handbook, Wildflower shall install, operate, and maintain the necessary equipment to maintain proper power factor and voltage at the Point of Interconnection. Wildflower shall specify the power factor range of operation at the generator terminals to meet or exceed a minimum bandwidth from 0.90 lag (producing reactive power) to 0.95 lead (absorbing reactive power) at rated power output. Unless otherwise instructed by the ISO or SDG&E, the Generating Facility must be operated in an automatic voltage regulating mode being promptly responsive to changes in transmission voltage and shall follow the voltage set point provided by the Designated SDG&E Switching Center.

### **8.6 Emergency Disconnection and Interruption Protective Devices**

In an Emergency, Wildflower agrees to expeditiously open the Disconnect Device upon notification from the Designated SDG&E Switching Center that such action is needed, pursuant to Standard Operating Procedures and Good Utility Practice, to preserve reliability or prevent unsafe conditions. Wildflower shall utilize protective devices in order to protect its Generating Facility. Wildflower is to maintain these devices in reasonable working order. In the event of interruption, the Generating Facility will be restarted consistent with Good Utility Practice.

### **8.7 Clearance Point Request by SDG&E**

Consistent with the requirements for responding to an Emergency or undertaking work, as provided in Sections 7.2.1.1, 7.3.1, 7.3.3 and 8.6, Wildflower must open its Disconnect Device if SDG&E reasonably requests a Clearance Point. A qualified SDG&E employee will observe that the Disconnect Device is open, lock it with a SDG&E lock, and attach a filled-out "Hold-Out" tag to indicate it is a Clearance Point. Such lock shall be removed promptly upon cessation of the need for opening the Disconnect Device.

### **8.8 Routine Tests and OK-On-Or-Near Authorizations**

When conducting a routine test or an OK-On-Or-Near Authorization, Wildflower agrees to follow the procedures set forth in Appendix B.

### **8.9 Obligation to Maintain Insurance**

The obligations of the Parties to maintain insurance are set out in Appendix A.

### **8.10 Obligation to Provide Access Rights**

#### **8.10.1 SDG&E Access Rights**

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Wildflower agrees to grant SDG&E all reasonably necessary easements and rights-of-way, including adequate and continuing access rights, on property of Wildflower to transport, install, operate, maintain, replace, and remove Interconnection Facilities and any equipment that may be provided, owned, operated and maintained by SDG&E on the property of Wildflower in connection therewith. Wildflower agrees to grant such easements and rights-of-way to SDG&E at no cost and in a form satisfactory to SDG&E (utilizing reasonable commercial principals) and capable of being recorded in the office of the County Recorder.

**8.10.2 Wildflower Access Rights**

Wildflower shall have access to the Interconnection Facilities in an emergency to perform any remediation or abatement pursuant to Section 16.29 in accordance with the provisions of Section 16.29. While in the Border substation, Wildflower shall comply with the SDG&E Standard Operating Procedures, established maintenance practices and written safety and security conventions, protocols and practices, which are consistent with Good Utility Practice.

**8.11 Review and Disclaimer**

Review, if any, by SDG&E of the design, construction, operation, or maintenance of the Generating Facility, including modifications thereto, shall not constitute any representation as to the economic or technical feasibility, operational capability, or reliability of such facilities. Wildflower shall in no way represent to any third party that any such review by SDG&E of such facilities, including but not limited to any review of the design, construction, operation, or maintenance of such facilities by SDG&E, is a representation by SDG&E as to the economic or technical feasibility, operational capability, or reliability of such facilities. Wildflower is solely responsible for economic and technical feasibility, operational capability, and reliability of Wildflower's Generating Facility.

**9. OPERATING COMMUNICATIONS AND NOTIFICATIONS**

**9.1 Designated Representatives**

The Parties shall provide for operating communications through their respective designated representatives as follows:

| <b>SDG&amp;E</b>                             | <b>Wildflower</b>                |
|--|----------------------------------|
| <b>Operations Shift Supervisor</b>           | <b>Dispatch Desk</b>             |
| <hr/>  | <hr/>                            |
| <b>Title</b>                                 | <b>Name or Title of Operator</b> |
| <b>Mission Control Center</b>                | <b>858-320-1500</b>              |
| <hr/>  | <hr/>                            |
| <b>Designated SDG&amp;E Switching Center</b> | <b>Telephone Number</b>          |
| <b>619-296-5411</b>                          | <b>Larkspur Site Supervisor</b>  |
| <hr/>  | <hr/>                            |
| <b>Telephone Number</b>                      | <b>Alternate Operator</b>        |
|  | <b>619-720-8121</b>              |
|  | <hr/>                            |
|  | <b>Telephone Number</b>          |

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### 9.2 Communication with the Designated SDG&E Switching Center

#### 9.2.1 Advance Notice of Generating Unit Synchronization Events

Wildflower shall advise the Designated SDG&E Switching Center in advance of its intent to synchronize a Generating Facility and coordinate with SDG&E in conformance with the Standard Operating Procedures and Good Utility Practice. The Designated SDG&E Switching Center must provide a permissive close control signal before the respective generator breaker close circuit is enabled, allowing Wildflower to synchronize and close the generator breaker.

#### 9.2.2 Maintenance of Operating Communications With SDG&E

Wildflower shall maintain operating communications with the Designated SDG&E Switching Center. The operating communications shall include, but not be limited to, advising the Designated SDG&E Switching Center promptly, and whenever possible in advance of any separation from the SDG&E Electric System and any scheduled and unscheduled shutdowns, equipment clearances, and changes in levels of operating voltage or power factors. Such communications shall also include daily operating reports as provided below in Section 10.

#### 9.2.3 Prompt Notification of Changes

Wildflower promptly shall notify the Designated SDG&E Switching Center of, and any changes in, the following:

- (a) The current names and 24-hour phone numbers of the personnel responsible for operating and maintaining the Generating Facility;
- (b) Any Emergency situation or any request that SDG&E de-energize a portion of the SDG&E Electric System or the Interconnection Facilities under its control;
- (c) Any changes in the mechanical or electric condition of the Generating Facility or Generator Step-up Facilities that may materially affect the reliability of either the Generating Facility or SDG&E System Integrity;
- (d) Discovery of any misoperation or inoperable condition of a SDG&E-required interconnection relay or circuit breaker;
- (e) Discovery of any circuit breaker that was operated by a SDG&E-required interconnection relay, along with the relay targets that caused the circuit breaker to operate; and
- (f) Plans to manually separate from the SDG&E Electric System or the Interconnection Facilities and the times of actual manual parallels and separations. Emergency separations shall be reported as soon as conditions permit.

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### 9.3 Oral Communications

All oral operating communications shall be conducted through the Designated SDG&E Switching Center. Wildflower agrees to maintain 24 hour direct phone service so that SDG&E can give instructions to Wildflower or its designated operator.

### 9.4 Telemetry Requirements

[Reserved]

### 9.5 Operating Agreements

The Parties may enter into a separate agreement describing specific operating procedures regarding the Generating Facility.

## 10. OPERATION AND MAINTENANCE OF GENERATING FACILITY AND GENERATOR STEPUP FACILITIES

### 10.1 Daily Operating Log

Wildflower shall keep a written daily operations log for the Generating Facility. The log shall include information on unit availability, maintenance outages, circuit breaker trip operations, and any significant events related to operations of the Generating Facility.

### 10.2 Power Factor and Voltage Instructions

Wildflower will receive, from time to time, voltage set-point (or plant power factor) instructions from the Designated SDG&E Switching Center. Wildflower shall operate the Generating Facility to maintain the specified voltage set-point (or plant power factor). If Wildflower is unable to maintain the specified voltage set-point (or plant power factor), it shall promptly notify the Designated SDG&E Switching Center.

### 10.3 Daily Operating Report

Wildflower shall electronically transmit a daily report, when applicable, including information required by Section 10.4 to the Designated SDG&E Switching Center; provided, that Wildflower shall telephone that information daily to the Designated SDG&E Switching Center Representative as provided in Section 9.1 upon receiving notice that the electronic data transmission is not being correctly received.

### 10.4 Maintenance Notice

Under normal conditions, Wildflower shall give as much reasonable advance notice as reasonably possible (a minimum of 5 Business Days) to the Designated SDG&E Switching Center when planning to perform work that may affect the SDG&E Electric System or the Interconnection Facilities. At a minimum, the notice shall include:

- (a) Nature of the work to be performed;
- (b) Date and time the work will begin;

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- (c) Date and time the work will be completed;
- (d) Apparatus to be cleared and the Clearance Points required;
- (e) Name and telephone number of the person in charge of the work; and
- (f) Whether or not protective grounds will be installed.

### 10.5 Maintenance on Facilities Energized by SDG&E

#### 10.5.1 Wildflower May Perform Certain Work

If Wildflower wishes to perform work on its own facilities which would normally be energized by SDG&E-controlled voltage source(s), Wildflower may request that SDG&E open, lock and tag SDG&E's associated disconnect device to isolate Wildflower's facilities from SDG&E voltage source(s). SDG&E will also establish the disconnect device(s) as an open Clearance Point(s) and install "Hold-Out" tags as presently set forth in Section 13.1 of SDG&E Standard Operating Procedures).

#### 10.5.2 Wildflower Responsible for its Equipment and Work

SDG&E is not responsible for Wildflower's equipment energized by the Generator Step-up Facilities or by any other means. Wildflower agrees that any work it performs is at its own risk. Wildflower shall take all necessary steps to ensure that work is conducted consistent with Good Utility Practice.

### 10.6 Coordinated Maintenance Planning

To the extent possible, the Parties will cooperate and coordinate on planning of scheduled outages for the Generating Facility and the Interconnection Facilities in accordance with the Standard Operating Procedures and Good Utility Practice.

### 10.7 Remedial Action Scheme Requirements

For certain contingency situations on the SDG&E Electric System, the generation output from the Generating Facilities will result in an overload condition on electric facilities in the area. To remedy such overload condition and maintain system reliability Wildflower consents to SDG&E initiating a remedial action scheme. Depending upon the contingency that occurs, the remedial action scheme ("RAS") may cause the tripping of one or both of the Wildflower generating units. The RAS will remain in effect for the minimum time deemed necessary by SDG&E to remedy an overload condition and restore system reliability.

Designated SDG&E Switching Center shall notify Wildflower Designated Representative whenever a related RAS scheme is armed or disarmed.

A table of remedial actions that result from the application of the RAS is attached as Appendix E (E.2.3) of this IA. Appendix E may be modified from time to time upon the mutual agreement of both Parties after consultation with the ISO.



**11. METERING**

**11.1 Delivery Meters**

All real and reactive power deliveries to the SDG&E Electric System from Wildflower's Generating Facility shall be metered at each Point of Interconnection with meters meeting all of the requirements of the ISO Tariff. In addition, meters and metering equipment shall meet the requirements of the SDG&E Interconnection Handbook. Any conflicts with regard to metering standards that may arise between this IA, the SDG&E Interconnection Handbook and the ISO Tariff shall be resolved consistent with the ISO Tariff. Power deliveries shall be metered at voltage specified for the Point of Interconnection in Appendix E.2.1.

**11.2 Requirements for Meters and Meter Maintenance**

The Responsible Meter Party's metering equipment located at the Point of Interconnection shall measure and record real and reactive power flows and shall be capable of recording flows in both directions. Such "in" and "out" bi-directional meters shall be designed to prevent reverse registration and shall measure and continuously record such deliveries. Meters, metering transformers and devices shall be maintained and tested annually by the Responsible Meter Party in accordance with applicable metering maintenance and testing standards and guidelines.

**11.3 Meter Access**

**11.3.1 Access to Meter-Related Facilities**

The Party that owns meter-related facilities, such as metering transformers and devices, shall grant reasonable access to allow the other Party to use such meter-related facilities for the other Party's own meters; provided that the other Party shall compensate the owning Party for actual costs incurred related to such access.

**11.3.2 Reading and Maintaining Meters**

If required, the other Party shall grant the Responsible Meter Party such reasonable access to the other Party's facilities as may be required for meter reading and/or the proper operation and maintenance of all revenue metering facilities.

**11.4 Auxiliary Metering**

Auxiliary energy usage supplied to the Generating Facility through SDG&E's tie line TL6935 when the Generating Facility is not in service, shall be metered for SDG&E billing purposes utilizing metering equipment installed at the appropriate locations on Wildflower's 12 kV auxiliary buses as shown in appendix E6.

**12. MAINTENANCE OF INTERCONNECTION EQUIPMENT OWNED BY WILDFLOWER**

**12.1 Modifications to the Interconnection or Protection Devices**

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Wildflower agrees to obtain SDG&E's prior written approval before materially modifying its existing interconnection or protection devices that have previously been approved by SDG&E; provided, SDG&E's approval shall not be unreasonably withheld, conditioned, or delayed. Modifications include, but are not limited to, the application of new or revised settings. Wildflower shall notify SDG&E in writing, at least 60 calendar days prior to such modification, unless lesser time is necessitated under the circumstances in conformance with Good Utility Practice.

### 12.2 Testing of Interconnection Facilities

SDG&E-required Interconnection Facilities owned by Wildflower shall be periodically tested and maintained by qualified personnel in accordance with the manufacturer's specifications. Wildflower shall at SDG&E's election permit SDG&E to observe such tests. Copies of equipment test reports shall be maintained by Wildflower and, upon request, forwarded to SDG&E for review.

### 12.3 Relay Requirements

#### 12.3.1 Relays

Before the Generating Facility operates in parallel with SDG&E, all SDG&E-required interconnection relays shall be verified and made available for review by SDG&E. If a relay is removed for maintenance or repair, the Designated SDG&E Switching Center shall be notified. If the relays are removed for any reason, SDG&E reserves the right to inspect the Generating Facility before parallel operation may resume.

#### 12.3.2 Nameplates

Lamoid or equivalent forms of nameplates or labels shall be installed by Wildflower adjacent to all SDG&E-required interconnection relays. Each relay nameplate shall include the device number and the relay's function.

## 13. REFERENCES

The following reference materials, all of which are subject to revision or being superseded from time to time in SDG&E's sole discretion, are available for use by Wildflower and its operating personnel. Copies may be requested from the Designated SDG&E Switching Center:

13.1 SDG&E Standard Operating Procedures: ATP7005, as it may be modified or superseded from time to time in SDG&E's sole discretion, is a document describing approved SDG&E clearance procedures and OCP7505, as it may be modified or superseded from time to time in SDG&E's sole discretion, is a document describing instructions for obtaining clearances.

13.2 SDG&E Interconnection Handbook: A handbook, developed by SDG&E pursuant to TCA Section 10.3.1 that is entitled "Technical Standards For Load And Non-SDG&E Owned Generator Interconnections", describing technical requirements for wholesale generators and loads connected to the SDG&E Electric System, as it may be modified or superseded from time to time in SDG&E's sole discretion. SDG&E's standards contained in the handbook are, and shall be maintained, consistent with Good Utility Practice and Applicable Reliability Criteria. Where there is conflict or inconsistency between the terms and conditions of this IA and the SDG&E Interconnection Handbook, the terms and conditions of this IA shall apply.

14. SIGNIFICANT REGULATORY CHANGE

14.1 Notification

If, at any time during the term of this IA, either Party becomes aware of a Significant Regulatory Change (whether actual or proposed), and if such change may reasonably be expected to materially affect either Party's or both Parties' obligations or operations under this IA, such Party shall provide written notice to the other Party promptly, but no later than 30 calendar days after becoming aware of such Significant Regulatory Change. The notice shall contain a description of the Significant Regulatory Change and its impact on this IA, including expected time schedules. If either Party believes that it will be necessary to amend this IA to address the anticipated change, then the Parties shall proceed timely to meet and confer in accordance with Section 14.2 hereof and shall use reasonable efforts to timely negotiate an appropriate amendment to this IA.

14.2 Amendment of Agreement

14.2.1 Meet to Discuss Need for Amendment

Following notification under Section 14.1, the Parties shall meet to discuss whether an amendment to this IA is necessary to address the Significant Regulatory Change. Such amendment, if any, shall be limited in scope to what is necessary to allow this IA to accommodate the Significant Regulatory Change identified in the notice issued pursuant to Section 14.1.

14.2.2 Process to Amend Agreement

If the Parties agree that such an amendment to this IA is necessary, the Parties will proceed to negotiate in good faith such amendment. If the Parties have not reached agreement within 60 calendar days of the date of the first meeting, any unresolved issues shall be resolved through dispute resolution procedures set forth in Section 16.10. Notwithstanding the above, if any issues remain unresolved as of 90 calendar days before the Significant Regulatory Change is scheduled to take place or if the Significant Regulatory Change is anticipated to take place at an earlier date, then with respect to the unresolved issues, (i) SDG&E may, but is not required to, unilaterally file an amendment to this IA with FERC pursuant to Section 205 of the FPA, provided that Wildflower shall retain and may exercise its rights under the FPA to protest or oppose such filing, and (ii) Wildflower may, but is not required to, unilaterally file a complaint under Section 206 of the FPA asking FERC to amend this IA, and SDG&E may exercise its right to protest or oppose such filing.

14.2.3 Inability to Agree That Amendment Is Necessary

If within 30 calendar days of the date on which notice was provided in accordance with Section 14.1 hereof, the Parties cannot agree that an amendment to this IA is necessary to allow this IA to accommodate the Significant Regulatory Change, they shall submit such dispute to resolution proceedings pursuant to Section 16.10 (Dispute Resolution); provided, however, that if such dispute is not resolved as of 90 calendar days before the Significant Regulatory Change is scheduled to take place or a Party reasonably believes that the Significant Regulatory Change is anticipated to take place at an earlier date, then (i) SDG&E may, but is not required to, unilaterally file an amendment to this IA with FERC, provided that Wildflower shall retain and may exercise its rights under the FPA to protest or oppose such filing, and (ii) Wildflower may, but is not required to, unilaterally file a complaint under Section 206 of the FPA asking FERC to amend this IA, and SDG&E may exercise its right to protest or oppose such filing.

15. BILLING AND PAYMENT

15.1 Billing

SDG&E shall bill Wildflower, and Wildflower shall bill SDG&E, for any costs contemplated pursuant to the IA. Wildflower shall pay SDG&E for such costs at:

San Diego Gas & Electric  
P.O. Box 25110  
Santa Ana, California 92799-5110

SDG&E shall pay Wildflower for such costs at:

Wildflower Energy LP  
c/o InterGen N.A.  
909 Fannin Street, Suite 2200  
Houston, TX 77010  
Attn: Accounts Payable

A party may change the place where payment is made by giving the other party 30 calendar days advance notice thereof as provided in Section 16.21.

15.2 Payment Due Date

The payment of any bill shall be due absent a good faith dispute as to sums due and must be received by the billing party not later than the 30th calendar day following the day on which the billed party receives the bill or, if that 30th day is a Saturday, Sunday or legal holiday, the next Business Day. Such date shall be referred to as the "Payment Due Date". A bill shall be deemed delivered on the third Business Day after the postmarked date unless a copy of the bill is delivered by electronic facsimile, in which case it shall be deemed delivered on the same day. If a party has a question concerning a bill, it may immediately review the back-up data used in preparation of the bill which both parties shall retain for 3 years from the last day of each calendar year and following final payment under this IA.

15.3 Estimated Bills

If charges under this IA cannot be determined accurately for preparing a bill, a Party shall use its best estimates in preparing the bill and such estimated bill shall be paid by the other Party. Any estimated charges shall be labeled as such and the billing Party shall, upon request, document the basis for the estimate used. Estimated bills shall be prepared and paid in the same manner as other bills under this IA. The billing Party shall prepare an adjusted bill pursuant to Section 15.5 when final and complete billing information becomes available.

15.4 Disputed Bills

If a Party disputes all or any portion of a bill, the billed party shall pay the undisputed amount on or before the Payment Due Date. The billed Party shall, on or before the Payment Due Date, notify the billing Party, in writing, of the amount in dispute and the specific basis for the dispute. The Parties shall endeavor to resolve any billing dispute within 30 calendar days of the billing party's receipt of the billed Party's notice of a dispute (or such extended period as the Parties may establish). If the Parties cannot agree, either Party may initiate dispute resolution pursuant to Section 16.10 (Dispute Resolution). A dispute between either Party and any third party shall not be a proper basis for

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withholding payment. Payments to the billing Party of the billed Party's obligations arising under this IA are not subject to any reduction, whether by offset, payments into escrow, or otherwise, except for routine adjustments or corrections as may be agreed to by the Parties or as expressly provided in this IA.

### **15.5 Adjusted Bills**

When final and complete billing information becomes available and a charge is determined accurately or billing errors are identified and corrected, the billing Party shall promptly prepare and submit an adjusted bill to the billed Party, and any additional payments by the billed Party shall be made in accordance with the provisions of this Section 15.5. Refunds by the billing Party shall be paid to the billed party not later than 30 calendar days after the date of the adjusted bill.

## **16. GENERAL PROVISIONS**

### **16.1 Appendices Included**

The following Appendices to this IA, as they may be revised from time to time by written agreement of the Parties or by order of FERC, are attached hereto and are incorporated by reference as if fully set forth herein:

**Appendix A - Insurance**

**Appendix B - Routine Test Guidelines and OK-On-Or-Near Authorization Procedures**

**Appendix C - Dispute Resolution and Arbitration**

**Appendix D - Elections Made By Wildflower**

**Appendix E - Generating Facility Information and Interconnection Capacity**

**Appendix F - SDG&E Interconnection Handbook Waivers**

### **16.2 Auditing**

Upon reasonable advance written notice each Party shall have the right to audit, at its own expense and during normal business hours, the relevant records of the other Party (including the relevant records of Wildflower's meters) for the limited purpose of determining whether the other Party is meeting its obligations under this IA. Such audits shall be limited to only those records reasonably required to determine compliance with this IA, and each Party agrees to disclose the information obtained in such audit only to those persons, whether employed by such Party or otherwise, that are directly involved in the administration of this IA. Each Party agrees that under no circumstances will it use any information obtained in such an audit for any purposes other than the determination of SDG&E's compliance with the terms of this IA and verification of the propriety of any charges assessed to Wildflower hereunder. Each Party's right to audit shall extend for a period of 3 years from the last day of each calendar year and following final payment under this IA. Records and related back-up data shall be maintained for a period of 3 years from the last day of each calendar year and following final payment under this IA to facilitate such audits.

### **16.3 Adverse Determination or Expansion of Obligations**

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### 16.3.1 Adverse Determination

If, after the effective date of this IA, FERC or any other regulatory body, agency or court of competent jurisdiction determines that all or any part of this IA, its operation or effect is unjust, unreasonable, unlawful, imprudent or otherwise not in the public interest, each Party shall be relieved of any obligations hereunder to the extent necessary to comply with or eliminate such adverse determination. Any obligations not so affected shall remain in full force and effect. The Parties shall promptly enter into good faith negotiations in an attempt to achieve a mutually agreeable modification to this IA to address any such adverse determination.

### 16.3.2 Expansion of Obligations

If, after the effective date of this IA, FERC or court of competent jurisdiction orders or determines that this IA should be interpreted, modified, or significantly extended in such a manner that SDG&E or Wildflower may be required to incur significant new or different obligations to the other Party not contemplated by this IA, then the Parties shall be relieved of their obligations to the extent lawful and necessary to eliminate the effect of that order or determination, and the Parties shall attempt to renegotiate in good faith the terms and conditions of the IA to restore the original balance of benefits and burdens contemplated by the Parties at the time this IA was made.

### 16.3.3 Renegotiation

If, within 3 months after an order or decision as described in Sections 16.3.1 and 16.3.2, the Parties either: (i) do not agree that a renegotiation is feasible or necessary; or (ii) the Parties cannot agree to amend or supersede this IA, then: (a) either Party may submit the dispute for resolution in accordance with procedures set forth in Section 16.10; or (b) if such matter is not submitted for resolution under subsection (a) above within 10 days of the completion of the referenced 90 day period, either Party may unilaterally file a replacement interconnection agreement with FERC pursuant to Section 205 of the FAP, with Wildflower reserving the right to protest such replacement interconnection agreement. The effect of termination, and the rights of the Parties thereunder, shall be as provided in Section 6.2 of this IA..

## 16.4 Transfers and Assignments

### 16.4.1 Consent Required

No transfer or assignment of either Party's rights, benefits or duties under this IA shall be effective without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, such prior written consent is not required for (A) assignments stemming from interests that arise by reason of any deed of trust, mortgage, indenture or security agreement heretofore granted or executed by either Party or to be executed by Wildflower in connection with its financing or any subsequent refinancing; (B) a transfer or assignment by Wildflower to an affiliate in connection with such financing or refinancing; or (C) an assignment by SDG&E to an affiliate. Any attempted or purported transfer made other than in accordance with this Section 16.4.1, either voluntarily or by operation of law, shall be void and of no effect.

### 16.4.2 Assignee's Continuing Obligation

Any successor to or transferee or assignee of the rights or obligations of a Party, whether by voluntary transfer, judicial sale, foreclosure sale or otherwise, shall be subject to all terms and

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conditions of this IA to the same extent as though such successor, transferee, or assignee were an original Party.

### 16.5 Captions

All indices, titles, subject headings, section titles and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning of the contents or scope of the IA. All references in this IA to sections are sections of this IA, unless otherwise indicated.

### 16.6 Construction of the Agreement

Each Party and their respective counsel have contributed to the preparation of this IA. Accordingly, no provision of this IA shall be construed against any Party because that Party or its counsel drafted the provision.

### 16.7 Control and Ownership of Facilities

The SDG&E Electric System shall at all times be and remain in the exclusive ownership, possession and control of SDG&E, and nothing in the IA shall be construed to give Wildflower any right of ownership, possession or control of all or any portion of the SDG&E Electric System. All facilities installed hereunder shall, unless otherwise agreed by the Parties, at all times be and remain the property of SDG&E, notwithstanding that they may be affixed to premises owned or leased by or under license to Wildflower.

### 16.8 Cooperation and Right of Access and Inspection

Each Party shall give to the other all reasonably necessary permission to enable it to perform its obligations under the IA. Each Party shall give the other Party the right to have its contractors, employees and/or representatives, when accompanied by the contractors, employees and/or representatives of the other Party, enter its premises at reasonable times and in accordance with reasonable rules and regulations for the purpose of inspecting the property and equipment of the Party in a manner which is reasonable for assuring the performance of the Parties' obligations under the IA.

### 16.9 Default

16.9.1 A Party will be in default under the EIFA if, at any time:

- (A) the Party fails to make any payment due the other Party in accordance with this IA and does not make such payment to the other Party within 30 calendar days after receiving written notice from the other Party of such failure; or
- (B) (1)(a) the Party fails in any material respect to comply with, observe or perform any term or condition of this IA; (b) any representation or warranty made herein by the Party fails to be true and correct in all material respects; or (c) the Party fails to provide to the other Party reasonable written assurance of its ability to perform fully and completely any of its material duties and responsibilities under this IA within 30 calendar days after receiving any reasonable request for such assurances from the other Party; and

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(2)(a) the Party fails to correct or cure the situation within 30 calendar days after receiving written notice from the other Party, or (b) if the situation cannot be completely corrected or cured within such thirty-day period, the Party fails to either (i) commence diligent efforts to correct or cure the situation within such thirty-day period or (ii) completely correct or cure the situation within 90 calendar days after receiving written notice from the other Party.

**16.9.2 Remedies Upon Default.** If a Party defaults under this IA in accordance with this Section 16.9, the other Party may (A) act to terminate this IA by providing written notice of termination to the defaulting Party, and/or (B) take whatever action at law or in equity as may appear necessary or desirable to enforce the performance or observance of any rights, remedies, obligations, agreements, or covenants under this IA. Any termination sought under this Section 16.9.2 shall not take effect until FERC either authorizes any request by either Party seeking termination of this IA or accepts any written notice of termination.

**16.9.3 Performance of Other Party's Obligations.** If either Party (the "Defaulting Party") fails to carry out its obligations under this IA and such failure could reasonably be expected to have a material adverse impact on the SDG&E Electric System, the Interconnection Facilities, the Generating Facility, or the regional network, the other Party, following 10 calendar days prior written notice (except in cases of an Emergency, in which case only such notice as is reasonably practicable in the circumstances is required), may, but will not be obligated to, perform the obligations of the Defaulting Party (including, without limitation, maintenance obligations), in which case the Defaulting Party will, upon presentation of an invoice therefor, reimburse the other Party for all actual and reasonable costs and expenses incurred by it in performing said obligations of the Defaulting Party (including, without limitation, costs associated with its employees and the costs of appraisers, engineers, environmental consultants and other experts retained by said Party in connection with performance of the Defaulting Party's obligations), together with interest calculated in accordance with Section 15.7.

**16.9.4 Remedies Cumulative.** No remedy conferred by any of the provisions of this IA is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

### 16.10 Dispute Resolution

The Parties shall make reasonable efforts to resolve all disputes arising under this IA expeditiously and by good faith negotiation. Where this IA specifically calls for resolution of disputes pursuant to this Section 16.10, the Parties shall pursue dispute resolution according to the procedures set forth in Appendix C. In all other circumstances the procedures in Appendix C may optionally be used to resolve disputes upon agreement by both Parties. In the event that a matter is submitted to arbitration under Appendix C, the Parties shall be bound by the determination of the arbitrator(s). In the event the Parties are unable to resolve the dispute by application of the procedures in Appendix C, a Party may pursue its claim, if any, in any other appropriate forum.

### 16.11 Governing Law

This IA shall be interpreted, governed by and construed under the laws of the State of California, as if executed and to be performed wholly within the State of California.



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### 16.12 Indemnity

#### 16.12.1 Definitions

As used in this Section 16.12, with initial letters capitalized, whether in the singular or the plural, the following terms shall have the following meanings:

- loss which:
- 16.12.1.1 Accident - Personal injury, death, property damage, or economic
- (a) is sustained by a Third Party ("Claimant");
  - (b) arises out of delivery of, or curtailment of, or interruption to electric service, including but not limited to abnormalities in frequency or voltage; and
  - (c) results from either or both of the following:
    - (i) engineering, design, construction, repair, supervision, inspection, testing, protection, operation, maintenance, replacement, reconstruction, use, or ownership of either the SDG&E Electric System, the Interconnection Facilities, or Wildflower's Generating Facility; or
    - (ii) the performance or non-performance of either Party's obligations under the IA.
- 16.12.1.2 Indemnitee — A Party defined in Section 16.12.2(b).
- 16.12.1.3 Indemnitor — A Party defined in Section 16.12.2(b).

#### 16.12.2 Indemnity Duty

If a Claimant makes a claim or brings an action against a Party seeking recovery for loss, damage, costs or expenses resulting from or arising out of an Accident, the following shall apply:

- (a) That Party shall defend any such claim or action brought against it, except as otherwise provided in this Section 16.12.2.
- (b) A Party ("Indemnitor") shall hold harmless, defend and indemnify, to the fullest extent permitted by law, the other Party, its directors or members of its governing board, officers and employees (collectively "Indemnitees"), upon request by the Indemnitee, for claims or actions brought against the Indemnitee allegedly resulting from Accidents caused by acts or omissions of the Indemnitor. In so doing, the Indemnitor shall not settle or consent to the entry of judgment in an action without the consent of the Indemnitee, which consent shall not be unreasonably withheld.

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- (c) No Party shall be obligated to defend, hold harmless or indemnify the other Party, its directors or members of its governing board, officers and employees for Accidents resulting from the latter's negligence or willful misconduct.
- (d) If a Party successfully enforces this indemnity, the Party against which enforcement is required shall pay all costs, including reasonable attorneys' fees and other reasonable litigation expenses, incurred in such enforcement.

### 16.13 Interpretation

This IA is not intended to modify any SDG&E tariff or rule filed with the FERC. In case of conflict between this IA and any SDG&E or ISO Tariff, the ISO Tariff shall govern. This IA represents the entire understanding between the Parties hereto relating to the parallel operation of the Generating Facility with the SDG&E Electric System, and supersedes any and all prior proposals or agreements, whether written or oral, that may exist between the Parties, provided that the EIFA governs with respect to the initial installation and construction of the Interconnection Facilities and the ongoing charges for operation and maintenance of such Interconnection Facilities. Where there is conflict or inconsistency with the express terms in this IA and any documents referenced by this IA excluding the above referenced SDG&E and ISO tariffs, the terms of this IA shall supersede such conflicting terms. If there is a conflict between the express terms in this IA and the EIFA, the terms of this IA shall supersede such conflicting terms as to matters related to the operation and maintenance of the Interconnection Facilities and the Generating Facility and the right of SDG&E to install additional facilities.

### 16.14 Judgments and Determinations

When the terms of this IA provide that an action may or must be taken, or that the existence of a condition may be established based on a judgment or determination of a Party, such judgment shall be exercised or such determination shall be made reasonably and in good faith, and where applicable in accordance with Standard Operating Procedures or Good Utility Practice, and shall not be arbitrary or capricious.

### 16.15 Liability

#### 16.15.1 To Third Parties

Nothing in this IA shall be construed to create any duty to, any standard of care with reference to, or any liability to, any Third Party.

#### 16.15.2 Between the Parties

Except for its willful misconduct or negligence, or with respect to breach of this IA, or with respect to the indemnity duty under Section 16.12, no Party, nor its directors or members of its governing board, officers, employees or agents shall be liable to another Party for any loss, damage, claim, cost, charge, or expense arising from or related to this IA. Notwithstanding the foregoing, neither Party, nor its directors or members of its governing board, officers, employees or agents shall be liable to the other Party for any consequential, special or indirect damages.

#### 16.15.3 Protection of a Party's Own Facilities

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Each Party shall be responsible for protecting its facilities from possible damage by reason of electrical disturbances or faults caused by the operation, faulty operation, or non-operation of another Party's facilities, and such other Party shall not be liable for any such damage so caused.

### **16.15.4 Liability for Interruptions**

Neither Party shall be liable to the other, and each Party hereby releases the other and its directors, officers, employees and agents from and indemnifies them, to the fullest extent permitted by law, for any claim, demand, liability, loss or damage, whether direct, indirect or consequential, incurred by either Party, which results from the interruption or curtailment of power flows on or ancillary services to be provided through, the Interconnection Facilities undertaken pursuant to (i) this IA, (ii) Standard Operating Procedures and Good Utility Practice, or (iii) ISO directives.

### **16.16 Modification**

This IA may be amended or modified only by a written instrument signed by the authorized representatives of both Parties, except as may otherwise herein be expressly provided.

### **16.17 No Dedication of Facilities**

Any undertaking by either Party under any provision of this IA is rendered strictly as an accommodation and shall not constitute the dedication by Wildflower of any part or all of the Generating Facility or by SDG&E of any part or all of the SDG&E Electric System to the other, the public, or any Third Party. Any such undertaking by any Party under a provision of, or resulting from, this IA shall cease upon the termination of that Party's obligations under this IA.

### **16.18 No Obligation to Offer Same Service To Others**

By entering into this IA to interconnect with Wildflower and filing it with FERC, SDG&E does not commit itself to furnish any like or similar undertaking to any other Person.

### **16.19 No Precedent**

This IA establishes no precedent with regard to any other entity or IA. Nothing contained in this IA shall establish any rights to or precedent for other arrangements as may exist, now or in future, between SDG&E and Wildflower for the provision of any interconnection arrangements or any form of electric service.

### **16.20 No Transmission, Distribution or Ancillary Services Provided**

Under this IA, SDG&E does not undertake to provide any transmission service, distribution service, or Ancillary Services using any part of the SDG&E Electric System for Wildflower or any Third Party, or to act as a Scheduling Coordinator or in any other capacity as an intermediary for Wildflower with others. Nothing in this IA shall be construed to preclude Wildflower from seeking transmission, distribution, or other services under a separate arrangement with SDG&E, or pursuant to any tariff for such service which SDG&E may have on file with FERC or CPUC, or on the basis of other rights that may exist in law or regulation.

### **16.21 Notices**

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Except as provided in Sections 9 and 10 above and in Appendix C, all notices or other communications herein provided to be given or which may be given by either Party to the other shall be deemed to have been duly given if delivered by electronic facsimile transmission with confirmed receipt, or when made in writing and delivered in person or deposited in the United States mail, postage prepaid, certified mail, return receipt requested and addressed as follows:

**To SDG&E:**

Manager, Energy Supply Management  
San Diego Gas & Electric Company  
8306 Century Park Court CP41D  
San Diego, CA 92123-1593

James F. Walsh, III, Esq.  
Sempra Energy  
101 Ash Street  
San Diego, CA 92101-3017

**To Wildflower :**

Vice President of Operations  
Wildflower Energy LLP  
c/o InterGen N.A.  
909 Fannin Street, Suite 2200  
Houston, TX 77010

J. David Honeycutt  
Wildflower Energy LLP  
c/o InterGen N.A.  
909 Fannin Street, Suite 2222  
Houston, TX 77010

Either Party may change any address or location for notices and other communications by giving notice to the other Party as provided in this Section 16.21.

**16.22 Non-waiver**

Failure by either Party to enforce any right or obligation with respect to any matter arising in connection with this IA shall not constitute a waiver as to that matter or any other matter.

**16.23 Reservation of Rights**

**16.23.1 Rate Changes**

Nothing contained herein shall be construed as affecting in any way the right of SDG&E to unilaterally make application to the FERC for a change in rates under Section 205 of the FPA and pursuant to the FERC's Rules and Regulations promulgated thereunder. Wildflower shall have the right to protest and object to such change in rates and otherwise to exercise any and all rights it may have with respect thereto, including its rights under Section 206 of the FPA. Nothing contained herein shall be construed as affecting in any way the right of Wildflower to unilaterally make application to the FERC for a change in rates under Section 206 of the FPA. The term "rates" as used herein shall mean all rates, terms and conditions contained in this IA. A change in rates may include, but not be limited to, not only changes in rates and charges but also in the underlying methodology by which such rates and charges are developed.

**16.23.2 FPA Disputes**

The Parties agree that each Party expressly reserves all of its rights under the FPA, including the right to seek resolution by FERC of disputes arising under Sections 202(b) and/or 210 of the FPA; provided, however, that the Parties may mutually agree to resolve such dispute through procedures set forth in Section 16.10.

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### 16.24 Rules and Regulations

SDG&E and Wildflower may each establish and, from time to time, change such reasonable procedures, rules, or regulations as they shall determine are necessary in order to establish the methods of operation to be followed in the performance of this IA; provided that any such procedure, rule, or regulation shall not be inconsistent with the provisions of this IA. If a Party objects to a procedure, rule, or regulation established by the other Party, it will notify the other Party and the Parties will endeavor to modify the procedure, rule, or regulation in order to resolve the objection. If the Parties cannot reach agreement, either Party may seek to resolve such dispute through procedures set forth in Section 16.10.

### 16.25 Severability

If any term, covenant or condition of this IA or its application is held to be invalid as to any person, entity or circumstance, by FERC or any other regulatory body, or agency or court of competent jurisdiction, then such term, covenant or condition shall cease to have force and effect to the extent of that holding. In that event, however, all other terms, covenants and conditions of this IA and their application shall not be affected thereby, but shall remain in full force and effect unless and to the extent that a regulatory agency or court of competent jurisdiction finds that a provision is not separable from the invalid provision(s) of this IA.

### 16.26 Uncontrollable Force

In the event of the occurrence of an Uncontrollable Force which prevents a Party from performing any of its obligations under this IA such Party shall (i) immediately notify the other Party in writing of such Uncontrollable Force and an estimate of the date on which the Party claiming the existence of an Uncontrollable Force believes the Uncontrollable Force will cease, (ii) not be entitled to suspend performance of any greater scope or longer duration than is required by the Uncontrollable Force, (iii) use commercially reasonable efforts to overcome the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance hereunder, (iv) keep the other Party apprised of such efforts on a continual basis, and (v) provide written notice of the resumption of performance hereunder. No Party will be considered in default as to any obligation under this IA if prevented from fulfilling the obligation due to the occurrence of an Uncontrollable Force.

### 16.27. Confidentiality

#### 16.27.1 Confidential Information

- (a) Shall mean any confidential, proprietary or trade secret information of a plan, specification, pattern, procedure, design, device, list concept, policy or compilation relating to the present or planned business of a Party, which is designated in good faith as Confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection or otherwise, except that the real-time in-plant data, shall be considered Confidential Information without the need for designation. Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by either of the Parties to the other prior to the execution of the IA.

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- (b) Each Party will hold in confidence any and all Confidential Information unless (1) compelled to disclose such information by judicial or administrative process or other provisions of law or as otherwise provided for in this IA, or (2) to meet obligations imposed by FERC or by a state or other federal entity or by membership in NERC, the California ISO or a regional transmission organization. Information required to be disclosed under (b)(1) or (b)(2) above, does not, by itself, cause any information provided by one Party to the other Party to lose its confidentiality. To the extent it is necessary for either Party to release or disclose such information to a third party in order to perform that Party's obligations herein, such Party shall advise said third party of the confidentiality provisions of the IA and use all reasonable efforts to require said third party to agree in writing to comply with such provisions.
- (c) During the term of the IA, and for a period of 2 years after disclosure hereunder, except as otherwise provided in this Section 16.27, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

### 16.27.2 Scope

Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis prior to receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving party, after due inquiry was under no obligation to the disclosing party to keep such information confidential; (4) was independently developed by the receiving party without reference to Confidential Information of the Disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or breach of this Agreement; or (6) is required, in accordance with Section 16.27.1 of this IA, to be disclosed by any federal or state government or agency or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this IA. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Party that it no longer is confidential.

### 16.27.3 Order of Disclosure

If a court or a government agency or entity with the right power, and apparent authority to do so requests or requires either Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Party with prompt notice of such request(s) or requirement(s) so that the other Party may seek an appropriate protective order or waive compliance with the terms of this IA. The notifying Party shall have no obligation to oppose or object to any attempt to obtain such production except to the extent requested to do so by the disclosing Party and at the disclosing Party's expense. If either Party desires to object or oppose such production, it must do so at its own expense. The disclosing Party may request a protective order to prevent any confidential information from being made public. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential

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Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use reasonable effort to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

### 16.27.4 Use of Information or Documentation

Each Party may utilize information or documentation furnished by the disclosing Party and subject to Section 16.27 in any proceeding in an administrative agency or court of competent jurisdiction addressing any dispute arising under this IA, subject to a confidentiality agreement with all participants (including, if applicable, any arbitrator) or a protective order.

### 16.27.5 Remedies Regarding Confidentiality

The Parties agree that monetary damages by themselves will be inadequate to compensate a Party for the other Party's breach of its obligations under Section 16.27. Each party accordingly agrees that the other Party is entitled to equitable relief, by way of injunction or otherwise, if it breaches or threatens to breach its obligations under Section 16.27.

### 16.28 Insurance

Both Parties shall obtain insurance in conformance with the requirements set forth in Appendix A.

### 16.29 Environmental Compliance and Procedures

Each Party shall notify the other Party, orally, promptly upon discovery of any release, spill, leak, discharge, disposal of, pump, pour, emit, empty, inject, leach, dump, or allow to escape into or through the environment ("Release") of any hazardous substance by it on the property or facilities of the other Party, or which may migrate to, or adversely impact the property, facilities or operations of, the other Party. Such oral notification shall be followed by written notification within 48 hours. The Party responsible for the Release of any hazardous substance on the property or facilities of the other Party, or which may migrate to, or adversely impact the property, facilities or operations of the other Party shall be responsible, as required by applicable environmental laws, for (i) performing any and all remediation or abatement activity, and (ii) submitting all reports or filings relevant to the Release. In addition, the Party responsible for the Release shall provide promptly copies to the other Party of all such reports or filings as well as any orders, letters, reports or decisions issued by any court or regulatory body in connection with the Release. Reasonable advance written notification (except in emergency situations, in which oral, followed by written notification, shall be provided as soon as practicable) shall be provided by any Party performing any remediation or abatement activity on the property or facilities of the other Party, or which may adversely impact the property, facilities, or operations of, the other Party. Except in emergency situations, such remediation or abatement activity shall be performed only with the prior written consent of the Party owning the affected property or facilities, which consent shall not be unreasonably withheld, delayed or conditioned and provided that the Parties each agree to provide reasonable access to the Party responsible for the Release to enable the timely performance of any required abatement and remediation. The Parties agree to coordinate in good faith to reasonably achieve any required abatement and/or remediation while at the same time minimizing any interference with the affected property, facilities or operations of the other party. In addition, the Parties agree to coordinate, to the extent necessary, the preparation of site plans, reports or filings required by law or regulation. In complying with their obligations under this Agreement, the Parties further agree to comply with all applicable environmental laws.

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**17. EXECUTION**

The signatories hereto warrant and represent that they have been appropriately authorized to enter into this IA on behalf of the Party for whom they sign. This IA may be executed in one or more counterparts at different times, each of which shall be regarded as an original and all of which, taken together, shall constitute one and the same IA.

**SAN DIEGO GAS & ELECTRIC COMPANY**

**Wildflower Energy LP**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

James Avery  
Name

\_\_\_\_\_  
Name

Senior Vice President  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



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### APPENDIX A

#### Insurance

A.1 Each Party shall maintain during the performance hereof:

A.1.1 Commercial General Liability Insurance for bodily injury, personal injury, and property damage in limits, of combined single limit or equivalent for the results of any one (1) occurrence, of not less than \$5,000,000. Such insurance shall provide coverage at least as broad as the Insurance Service Office (ISO) 1986 Commercial General Liability Coverage "occurrence" form, with no coverage deletions.

A.1.2 Workers' Compensation insurance for statutory benefits limits of the applicable Labor Code(s) and Workers' Compensation law(s) and Coverage B - Employer's Liability with limits of \$1,000,000 each accident for Bodily Injury by accident, \$1,000,000 each employee for Bodily Injury by disease, and \$1,000,000 policy limit for Bodily Injury by disease.

A.1.3 Commercial or Business Automobile Liability insurance, covering use of all owned, leased, non-owned or hired automobiles with a combined single limit of not less than \$1,000,000) each accident.

A.1.4 Such insurance described in Section A.1.1, A.1.2 (Employers Liability only), and A.1.3 above, by endorsement to the policy(ies), shall include each Party as an additional insured, shall contain a severability of interest or cross-liability clause and shall provide that each Party shall not by reason of its inclusion as an additional insured incur liability to the insurance carrier for payment of premium for such insurance.

#### A.2 Additional Insurance Provisions

A.2.1 Evidence of coverage described above in Section 1 shall state that coverage provided is primary in respect of operations carried out pursuant to this IA and is not excess to or contributing with any insurance or self-insurance maintained by the other Party for events arising out of the performance or non-performance of the insured Party's obligations under this Agreement.

A.2.2 Each Party shall furnish the required certificates and endorsements to the other prior to commencing operation.

A.2.3 Each Party waives its rights of recovery against the other for any loss or damage covered by such policy(ies) to the extent that such loss or damage is reimbursed under such policy(ies). Such insurance shall be endorsed to include a Waiver of Subrogation in favor of the other party and evidence of such Waiver of Subrogation shall be noted on the certificates of insurance.

A.2.4 Such insurance shall provide for 30 calendar days written notice to each Party prior to cancellation, termination, alteration or material change of such insurance, and 10 calendar days written notice for non-payment of premium.

A.2.5 Failure of either Party to comply with the above insurance terms and conditions, or the complete or partial failure of an insurance carrier to fully protect and indemnify the other Party or its

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affiliates, or the inadequacy of the insurance shall not in any way lessen or affect the obligation or liabilities of each Party to the other.

A.2.6 All insurance certificates, endorsements, cancellations, terminations, alterations, and material changes of such insurance shall be issued and submitted to the following:

**For Sempra Energy acting on behalf of San Diego Gas & Electric Company:**

**Director, Risk Management Department**

**101 Ash Street**

**San Diego, CA 92101-3017**

**For Wildflower Energy LP:**

**Wildflower Energy LP**

**c/o InterGen N.A.**

**909 Fannin Street, Suite 2200**

**Houston, TX 77010**

**Attn: Tom Doyle**

**APPENDIX B**

**Routine Test Guidelines and OK-On-Or-Near Authorization Procedures**

**B.1 Routine Test Guidelines**

The following routine test guidelines apply to the Generating Facility.

**B.1.1** Wildflower shall secondary bench test individual relays by applying the appropriate currents, voltages or frequencies. The relays must be tested at their specified settings to verify the following:

**B.1.1.1** Operating point at which relay will actuate.

**B.1.1.2** Time delay for at least three (3) separate operating points, if applicable.

**B.1.1.3** Phase angle characteristic of directional impedance relays.

**B.1.1.4** All relays must meet the following tolerances as applicable under test conditions:

| <u>Item</u> | <u>Range</u> |
|-------------|--------------|
| Current     | ± 5%         |
| Voltage     | ± 5%         |
| Time        | ± 5%         |
| Frequency   | ± 0.3 Hz     |
| Phase Angle | ± 5 Degrees  |

**B.1.2** Wildflower shall check each protective relay to confirm that the appropriate breaker and/or main breaker is tripped by the relay contact. Wildflower will provide an acceptable loop test routine to prove the appropriate breaker and/or main breaker is tripped by the relay contact. Wildflower will not trip breakers as part of the loop check.

**B.1.3** Wildflower shall check all current voltage and frequency relays when energized to confirm that the proper secondary quantities are applied.

**B.2 OK-On-Or-Near Authorization Procedures**

**B.2.1** Wildflower agrees to the following conditions regarding an OK-On-Or-Near Authorization requested by SDG&E.

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**B.2.1.1 Wildflower shall not re-energize the affected circuits, whether manually or automatically, without first receiving the approval of the Designated SDG&E Switching Center.**

**B.2.1.2 Wildflower agrees to install and maintain permanent warning signs on the Generating Facility's main control panel and at each remote operating location where Wildflower has remote closing capability. The warning signs shall instruct personnel to contact SDG&E before re-closing the circuit.**

## APPENDIX C

### Dispute Resolution and Arbitration

#### C.1 Negotiation and Mediation

As provided in Section 16.10, the Parties agree to seek settlement of all disputes arising under this IA by good faith negotiation before resorting to other methods of dispute resolution. In the event that negotiations have failed, but before initiating arbitration proceedings under this Appendix C, the Parties may by mutual assent decide to seek resolution of a dispute through mediation. If this occurs, the Parties shall meet and confer to establish an appropriate timetable for mediation, to pick a mediator, and to decide on any other terms and conditions that will govern the mediation.

#### C.2 Technical Arbitration

C.2.1 The Parties agree that it is in the best interest of both Parties to seek expedited resolution of arbitrable disputes that are technical in nature. Technical disputes may include, without limitation, disputes centered on engineering issues involving technical studies, the need for and associated costs of any work or facilities contemplated by this IA, the Interconnection Capacity, and the need for Facilities as that term is defined in Section 7.4.1. Such technical issues may be resolved through expert application of established technical knowledge and by reference to Good Utility Practice and industry standards.

C.2.2 The Party initiating arbitration pursuant to Section C.3 below shall indicate in its notice to the other Party whether it regards the dispute to be technical in nature. If both Parties agree that a dispute is technical in nature, then the Parties shall meet and confer to develop an appropriate timetable and process for expedited resolution of the dispute by a neutral expert, or "technical arbitrator". If the Parties cannot agree that a dispute is technical in nature, or if they cannot agree on a neutral arbitrator, then the Parties shall submit the dispute to arbitration under the procedures set forth in Section C.3 below.

#### C.3 Arbitration

##### C.3.1 Notices And Selection Of Arbitrators

In the event that a dispute is subject to arbitration under Section 16.10, the aggrieved Party shall initiate arbitration by sending written notice to the other Party. Such notice shall identify the name and address of an impartial person to act as an arbitrator. Within 10 Business Days after receipt of such notice, the other Party shall give a similar written notice stating the name and address of the second impartial person to act as an arbitrator. Each Party shall then submit to the two named arbitrators a list of the names and addresses of at least three persons for use by the two named arbitrators in the selection of the third arbitrator. If the same name or names appear on both lists, the two named arbitrators shall appoint one of the persons named on both lists as the third arbitrator. If no name appears on both lists, the two named arbitrators shall select a third arbitrator from either list or independently of either list. If the two named arbitrators cannot agree on the selection of the third arbitrator, the third arbitrator shall be appointed by the Chief Judge of the United States District Court for the Southern District of California upon the joint request of the two named arbitrators. Each arbitrator selected under these procedures shall be a person experienced in the construction, design, operation or regulation of electric power transmission facilities, as applicable to the issue(s) in dispute.

**C.3.2 Procedures**

Within 15 Business Days after the appointment of the third arbitrator, or on such other date to which the parties may agree, the arbitrators shall meet to determine the procedures that are to be followed in conducting the arbitration, including, without limitation, such procedures as may be necessary for the taking of discovery pursuant to Sections 2016-2036 of the California Code of Civil Procedure, giving testimony and submission of written arguments and briefs to the arbitrators. Unless otherwise mutually agreed by the parties, the arbitrators shall determine such procedures based upon the purpose of the Parties in conducting an arbitration under Section 16.10 of the IA, specifically, the purpose of utilizing the least burdensome, least expensive and most expeditious dispute resolution procedures consistent with providing each Party with a fair and reasonable opportunity to be heard. If the arbitrators are unable unanimously to agree to the procedures to be used in the arbitration, the arbitration shall be governed by the Commercial Arbitration Rules of the American Arbitration Association.

**C.3.3 Hearing and Decision**

After giving the Parties due notice of hearing and a reasonable opportunity to be heard, the arbitrators shall hear the dispute(s) submitted for arbitration and shall render their decision within 90 calendar days after appointment of the third arbitrator or such other date selected upon the mutual agreement of the Parties. The arbitrators' decision shall be made in writing and signed by any 2 of the 3 arbitrators. The decision shall be final and binding upon the parties; provided, however, under no circumstances are the arbitrators authorized to award any money damages in favor of either Party in rendering a decision and award. Judgment may be entered on the decision in any court of competent jurisdiction upon the application of either Party.

**C.3.4 Expenses**

Each Party shall bear its own costs and the costs and expenses of the arbitrators shall be borne equally by the parties.

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**APPENDIX D**

**Elections Made By Wildflower**

(check the appropriate line)

**D.1 Standby Generator**

In the interest of safety, Wildflower must promptly notify SDG&E before operating or allowing any Third Party to operate any generation sources capable of parallel operation with the SDG&E Electric System which are interconnected to the Interconnection Facilities. Wildflower shall comply with the requirements identified in the SDG&E Interconnection Handbook, as it may be revised or superseded from time to time, for all such generation sources capable of parallel operation with the SDG&E Electric System. For SDG&E's information and by way of initial compliance with this Section, Wildflower represents to SDG&E that the following is correct:

D.1.1  Wildflower has installed a standby generator.

D.1.2  Wildflower does not have and does not plan to install a standby generator.

D.1.3  While Wildflower does not currently have a standby generator installed, it plans to install a standby generator in the future. Wildflower will notify the Designated SDG&E Switching Center before operating this generator in parallel with the SDG&E Electric System.

Wildflower shall promptly notify SDG&E if the conditions or circumstances indicated above change.

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**APPENDIX E**

**GENERATING FACILITY INFORMATION AND INTERCONNECTION CAPACITY**

**E.1 Generating Facility Information**

**E.1.1 Location of Generating Facility: 9345 1/2 Otay Mesa Rd., San Diego, CA**

**E.1.2 Description of Generating Facility:**

**E.1.2.1 Number of units: 2**

**E.1.2.2 Frequency: 3-phase, 60 Hertz.**

**E.1.2.3 Auxiliary Power Supply Location: 69 kV Backfeed at Border Substation**

**E.1.2.4 Make: General Electric**

**E.1.2.5 Model: LM6000 PC Enhanced Sprint**

**E.1.2.6 Type: Gas Turbine**

**E.1.2.7 Serial No.: NA**

**E.1.2.8 Nameplate Output Rating: Generator: 70MVA**

**E.2 Interconnection with the SDG&E Electric System**

**E.2.1 Voltage of the Interconnection 69 kV**

**E.2.2 Interconnection Capacity: 98 MW (Summer months) / 93 MW (Winter)**

**E.2.3 Remedial Action Scheme Requirements**



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| Contingency   | Overloaded Line        | Units Subject to RAS Tripping |      |
|---|------------------------|-------------------------------|------|
|   |                        | BD#1                          | BD#2 |
| TL603<br>(SW-NC-SDC-NSMFOT)   | TL614B (SW-NC tap)     | X                             |      |
|   |                        |                               |      |
| TL614 (CS-S-NC-SW)  | TL658 (DI-S)           | X                             | X    |
|   |                        |                               |      |
| TL641 (SY-MG)   | TL642A (SY-MG tap)     | X                             | X    |
|   |                        |                               |      |
| TL644 (SY-SW)   | TL642A (SY-MG tap)     | X                             | X    |
|   | TL642B (SW-MG tap)     |                               |      |
|   |                        |                               |      |
| TL6910 (ML-BD)  | TL649F (BD tap-OL tap) | X                             |      |
|   |                        |                               |      |
| <p><b>Note:</b> A time delay will be utilized whenever possible between the tripping of units. The overload will be monitored after each unit tripping to determine if the next unit tripping is necessary. Unit runback alternatives may be utilized in place of unit tripping if technically feasible, at Wildflower's expense. Actual RAS functionality as shown in final System Impact Study reports for the facility is subject to modification from time to time by mutual agreement of the Parties</p> |                        |                               |      |

**E.3 Interconnection Facilities**

Shown in E.6

## **Form of Interconnection Agreement - Appendix D**

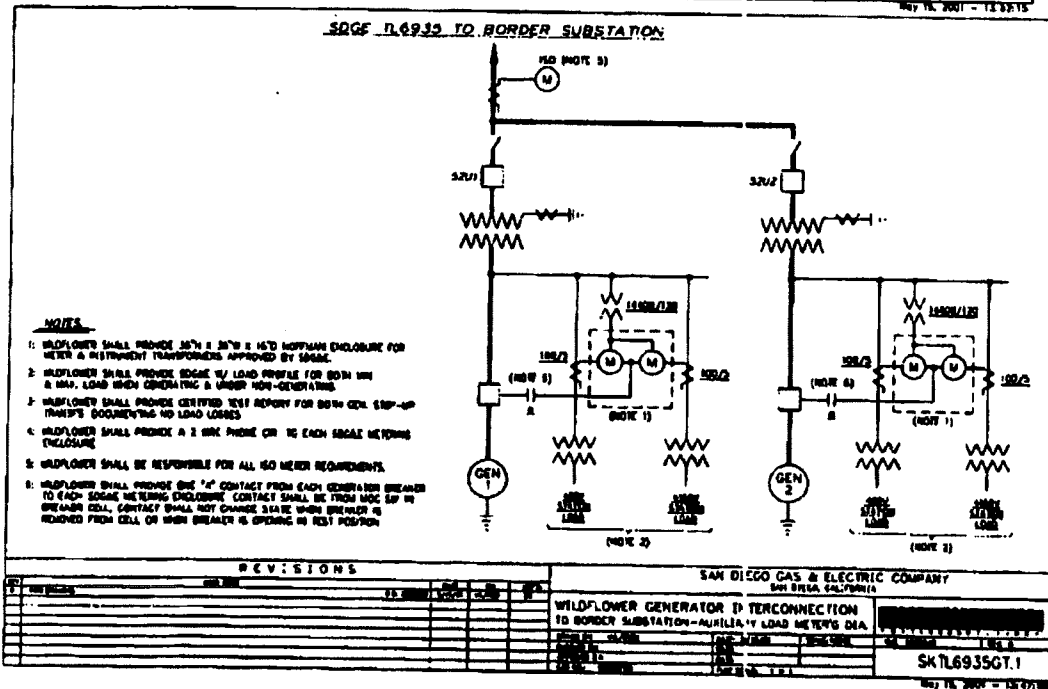
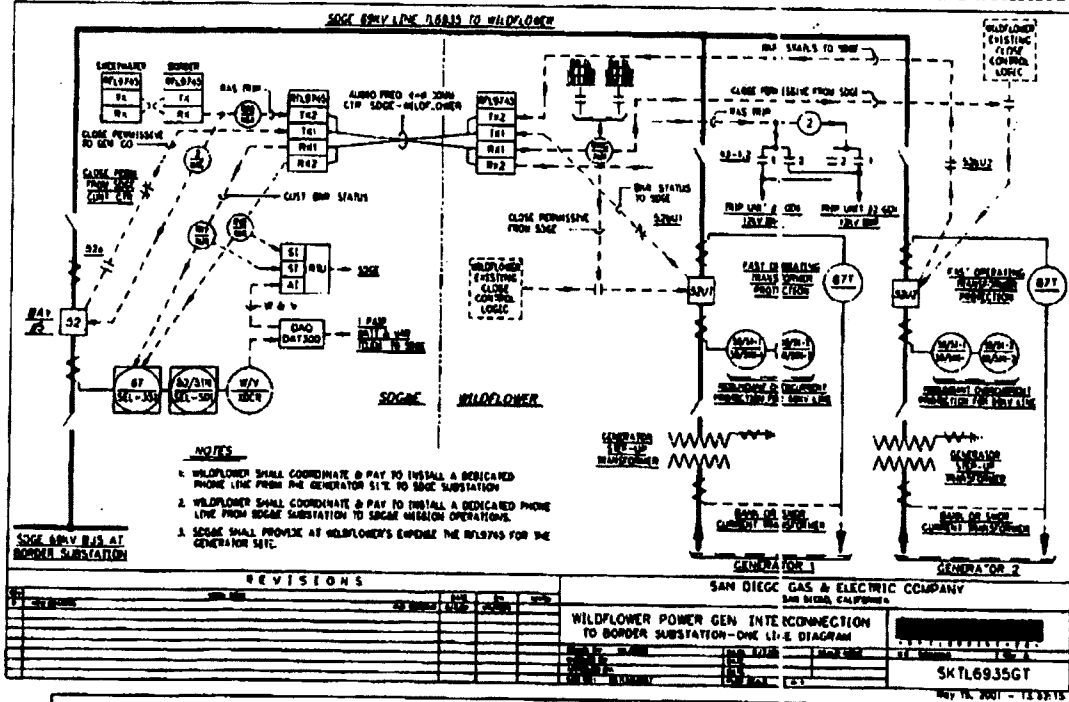
### **E.4 Points of Interconnection**

The "points of interconnection" are the points where the Wildflower-owned facilities connect with the Interconnection Facilities and the ISO-Controlled Grid, as shown in Section E.6 below.

### **E.5 Reserved**

Form of Interconnection Agreement - Appendix D

E.6: One-line Diagram and Auxiliary Load Metering Diagram of Interconnection Facilities Showing SDG&E-Owned Facilities and Wildflower-Owned Facilities



**Form of Interconnection Agreement - Appendix D**

**APPENDIX F**

**SDG&E Interconnection Handbook Waivers**

Wildflower shall submit requests for waivers from the SDG&E Interconnection Handbook in writing within 1 year of the date of execution of this Agreement. The written request shall provide an explanation of the basis for the requested waiver including a description of the alternative proposed by Wildflower. SDG&E shall perform a timely review of such waiver requests and inform Wildflower in writing of SDG&E's decision. Wildflower may refer any refusal of SDG&E to grant a waiver request to Dispute Resolution pursuant to Section 16.10 of the Agreement.

## **APPENDIX E**

### **Dispute Resolution and Arbitration**

#### **E.1 Negotiation and Mediation**

As provided in Section 10.9, the Parties agree to seek settlement of all disputes arising under this EIFA by good faith negotiation before resorting to other methods of dispute resolution. In the event that negotiations have failed, but before initiating arbitration proceedings under this Appendix E, the Parties may by mutual assent decide to seek resolution of a dispute through mediation. If this occurs, the Parties shall meet and confer to establish an appropriate timetable for mediation, to pick a mediator, and to decide on any other terms and conditions that will govern the mediation.

#### **E.2 Technical Arbitration**

**E.2.1** The Parties agree that it is in the best interest of both Parties to seek expedited resolution of arbitrable disputes that are technical in nature. Technical disputes may include, without limitation, disputes centered on engineering issues involving technical studies, and the need for and Cost of Interconnection Facilities. Such technical issues may be resolved through expert application of established technical knowledge and by reference to Good Utility Practice and industry standards.

**E.2.2** The Party initiating arbitration pursuant to Section E.3 below shall indicate in its notice to the other Party whether it regards the dispute to be technical in nature. If both Parties agree that a dispute is technical in nature, then the Parties shall meet and confer to develop an appropriate timetable and process for expedited resolution of the dispute by a neutral expert, or "technical arbitrator". If the Parties cannot agree that a dispute is technical in nature, or if they cannot agree on a neutral arbitrator, then the Parties shall submit the dispute to arbitration under the procedures set forth in Section E.3 below.

#### **E.3 Arbitration**

##### **E.3.1 Notices And Selection Of Arbitrators**

In the event that a dispute is subject to arbitration under Section 10.9, the aggrieved Party shall initiate arbitration by sending written notice to the other Party. Such notice shall identify the name and address of an impartial person to act as an arbitrator. Within 10 Business Days after receipt of such notice, the other Party shall give a similar written notice stating the name and address of the second impartial person to act as an arbitrator. Each Party shall then submit to the two named arbitrators a list of the names and addresses of at least three persons for use by the two named arbitrators in the selection of the third arbitrator. If the same name or names appear on both lists, the two named arbitrators shall appoint one of the persons named on both lists as the third arbitrator. If no name appears on both lists, the two named arbitrators shall select a third arbitrator from either list or independently of either list. If the two named arbitrators cannot agree on the selection of the third arbitrator, the third arbitrator shall be appointed by the Chief Judge of the United States District Court for the Southern District of California upon the joint request of the two named arbitrators. Each arbitrator selected under these procedures shall be a person experienced in the construction, design, operation or regulation of electric power transmission facilities, as applicable to the issue(s) in dispute.

### **E.3.2 Procedures**

Within 15 Business Days after the appointment of the third arbitrator, or on such other date to which the parties may agree, the arbitrators shall meet to determine the procedures that are to be followed in conducting the arbitration, including, without limitation, such procedures as may be necessary for the taking of discovery pursuant to Sections 2016-2036 of the California Code of Civil Procedure, giving testimony and submission of written arguments and briefs to the arbitrators. Unless otherwise mutually agreed by the parties, the arbitrators shall determine such procedures based upon the purpose of the Parties in conducting an arbitration under Section 10.9 of the EIFA, specifically, the purpose of utilizing the least burdensome, least expensive and most expeditious dispute resolution procedures consistent with providing each Party with a fair and reasonable opportunity to be heard. If the arbitrators are unable unanimously to agree to the procedures to be used in the arbitration, the arbitration shall be governed by the Commercial Arbitration Rules of the American Arbitration Association.

### **E.3.3 Hearing and Decision**

After giving the Parties due notice of hearing and a reasonable opportunity to be heard, the arbitrators shall hear the dispute(s) submitted for arbitration and shall render their decision within 90 calendar days after appointment of the third arbitrator or such other date selected upon the mutual agreement of the Parties. The arbitrators' decision shall be made in writing and signed by any 2 of the 3 arbitrators. The decision shall be final and binding upon the parties; provided, however, under no circumstances are the arbitrators authorized to award any money damages in favor of either Party in rendering a decision and award. Judgment may be entered on the decision in any court of competent jurisdiction upon the application of either Party.

### **E.3.4 Expenses**

Each Party shall bear its own costs and the costs and expenses of the arbitrators shall be borne equally by the parties.

**Appendix F**  
**[Reserved]**

**Appendix G**

**Part I - Form of Easement**

Recording Requested by  
San Diego Gas & Electric Company

When recorded, mail to:

San Diego Gas & Electric Company  
c/o Sempra Energy  
8335 Century Park Court, Suite 100  
San Diego, CA 92123-1569  
Attn: Real Estate Records - CP11D

SPACE ABOVE FOR RECORDER'S USE

Project No.: 132119-010  
Const. No.: 1661620  
APN No.: 646-130-48

Transfer Tax: \_\_\_\_\_  
SAN DIEGO GAS & ELECTRIC COMPANY

**EASEMENT**

CIF HOLDINGS, L.P., A CALIFORNIA LIMITED PARTNERSHIP, as Grantor, for valuable consideration, receipt of which is hereby acknowledged grants to SAN DIEGO GAS & ELECTRIC COMPANY, a corporation, as Grantee, an easement and right of way, in, upon, over, under and across the lands hereinafter described, to excavate for, lay, construct, operate, repair, replace, change the size of, maintain, patrol and use, a line of pipe for the transportation of natural gas to that certain electric generating facility to be constructed by Wildflower Energy, L.P., or its successors or assigns, upon the lands described in Exhibit "A" together with all the fixtures, equipment and appurtenances necessary or convenient for the operation and maintenance thereof, at a location in, upon, under and along the hereinafter described easement and right of way as Grantee may now or hereafter deem necessary or convenient, together with the right of ingress thereto and egress therefrom by a practical route to be designated in writing by Grantor and attached hereto as Exhibit "C", upon, over and across the hereinafter described lands, together with the right to clear and keep clear said easement and right of way, from explosives, materials, buildings, or other structures.

The lands in which said easement and right of way are hereby granted are more particularly described in Exhibit "A" attached hereto and made a part hereof.

The easement is more particularly described and shown in the Exhibit "H", consisting of 2 sheets, attached hereto and made a part hereof.

Grantor shall not erect, place or construct, nor permit to be erected, placed or constructed, any building or other structure, plant any tree, impound or store water or other fluid substances, nor drill or dig any well on said easement and right of way, to the extent that any of same would interfere with Grantee's exercise of the rights herein granted.

Grantor shall not increase or decrease the ground surface elevations, nor allow the ground surface elevations to be increased or decreased within the boundaries of this easement and right of way, nor shall the ground be penetrated in any manner to a depth in excess of 18 inches without written consent of Grantee. Such consent shall not be unreasonably withheld.

Grantor shall not grant or dedicate any easement or easements on, under or over this easement and right of way that would interfere with the rights herein conferred on Grantee, without written consent of Grantee. The right to transfer and assign this easement and right of way in whole or in part being hereby granted to Grantee.

Grantee shall have the right to trim, cut and/or remove trees, foliage and roots upon and from within this easement and right of way.

The terms, covenants and conditions of this easement and right of way shall be binding upon and inure to the benefit of any heirs, successors, executors, administrators, permittees, licensees, agents or assigns of Grantor and the successors and assigns of Grantee.

IN WITNESS WHEREOF, Grantor executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 2001.



**CIF HOLDINGS, L.P., A CALIFORNIA  
LIMITED PARTNERSHIP**

**BY: PVCC, INC., AS GENERAL PARTNER**

**BY: \_\_\_\_\_**

**TITLE: \_\_\_\_\_**

**Lessee hereby consents and subordinates its interest in and to this easement.**

**Dated: \_\_\_\_\_**

**BY: WILDFLOWER ENERGY, L.P.,  
A LIMITED PARTNERSHIP**

**BY: WILDFLOWER GENERATING PARTNERS I, LLC,  
A DELAWARE LIMITED LIABILITY COMPANY**

**BY: \_\_\_\_\_  
JOHN JONES  
VICE PRESIDENT**

**Drawn \_\_\_\_\_  
Checked \_\_\_\_\_  
Sketch \_\_\_\_\_  
Date 5/15/01**

Recording Requested by  
San Diego Gas & Electric Company

When recorded, mail to:

San Diego Gas & Electric Company  
C/o Sempra Energy  
8335 Century Park Court, Suite 100  
San Diego, CA 92123  
Attn: Real Estate Records-CP11D

SPACE ABOVE FOR RECORDER'S USE

A.P. No. 646-130-060  
Sketch No. S-3333-372

Transfer Tax \_\_\_\_\_  
SAN DIEGO GAS & ELECTRIC COMPANY

### EASEMENT

For good and valuable consideration, receipt of which is hereby acknowledged, CIF HOLDINGS, L. P., A CALIFORNIA LIMITED PARTNERSHIP, (Grantor), grants to SAN DIEGO GAS & ELECTRIC COMPANY, a corporation (Grantee), an easement and right-of-way (Easement) to erect, construct, change the size of, improve, reconstruct relocate, replace, repair, inspect, patrol, maintain and use one or more lines of poles, with wires and cables suspended thereon and supported thereby, including guys, anchorage, crossarms, braces, insulators, grounding wires and all other appliances, fixtures and appurtenances for use in connection therewith, for the transmission and distribution of electricity (all hereinafter referred to as Grantee's Facilities) for the transportation of electricity to that certain electric generating facility to be constructed by Wildflower Energy, L.P. or its successors or assigns upon the lands described in Exhibit "A", at such locations and elevations as Grantee may now or hereafter deem convenient or necessary at any time and from time to time, together with the right of ingress and egress to, from, along, and within said Easement by a practical route to be designated in writing by Grantor and attached hereto as Exhibit "C", in, upon, over and across the hereinafter described lands, together with the right to clear and keep clear said Easement from structures, including but not limited to buildings, explosives, brush, combustibles and materials, and to construct and maintain roads as are necessary and appropriate hereto.

The Easement is more particularly described in the Exhibit "B", attached hereto and made a part hereof.

Grantor shall not erect, place or construct, nor permit to be erected, placed or constructed, any structures, including but not limited to buildings and fences, impound or store fluid or flammable substances, drill or dig any well, nor, except as hereinafter provided, plant any trees on this Easement without Grantee's prior written consent.

Grantor shall not increase or decrease the ground surface elevations nor allow the ground surface elevations to be increased or decreased in any manner within the Easement, nor shall the ground be penetrated in any manner to a depth in excess of 18 inches without the prior written consent of the Grantee.

Grantor agrees that no other easement or right-of-way shall be granted or dedicated on, under or over this Easement that would interfere with the rights herein conferred on Grantee, without the prior written consent of Grantee.

Grantee shall have the right to trim, cut and remove trees, brush, foliage, roots and other vegetation from within this Easement whenever in Grantee's judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted. This right shall not relieve Grantor of any duty to trim, cut and remove trees and brush to prevent danger or hazard to property or persons.

Grantee shall have the right when it deems necessary to trim or top and to keep trimmed or topped any and all trees on Grantor's lands adjacent to the herein granted Easement whenever in Grantee's judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted. Grantor shall not be required to trim or top trees in the ordinary course of tree care.

All prospecting for or development of geothermal substances, minerals, oil, gas, petroleum, or other substances on Grantor's abovescribed lands shall be done from locations outside the boundaries of this Easement; further, said prospecting or development shall be done in such a manner and by methods that will not penetrate the 500 foot deep zone directly beneath the surface of the ground within this Easement, nor interfere with Grantee's right of ingress and egress, operation, maintenance and repair of Grantee's Facilities located within this Easement.

Wherein, in this grant of Easement and right-of-way, Grantee's written consent is required, said consent shall not be unreasonably withheld.

The right to transfer and assign this Easement in whole or in part is hereby granted to Grantee.

This Easement shall be binding upon and inure to the benefit of successors, executors, heirs, administrators and assigns of Grantor and Grantee.

In Witness Whereof, Grantor has executed this Easement this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

CIF HOLDINGS, L. P., A CALIFORNIA LIMITED PARTNERSHIP

BY: PVCC, INC., AS GENERAL PARTNER

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

Lessee hereby consents and subordinates its interest in and to this easement.

Dated: \_\_\_\_\_ WILDFLOWER ENERGY LP, A DELAWARE LIMITED PARTNERSHIP

BY: WILDFLOWER GENERATING PARTNERS I, LLC, A DELAWARE LIMITED LIABILITY COMPANY

BY: \_\_\_\_\_ JOHN JONES VICE PRESIDENT

Drawn McQuire  
Sketch S-3333-372  
Date 06/04/2001

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ ) SS.

On \_\_\_\_\_, before me \_\_\_\_\_ (name, title of officer), appeared \_\_\_\_\_

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ ) SS.

On \_\_\_\_\_, before me \_\_\_\_\_ (name, title of officer), appeared \_\_\_\_\_

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

**EXHIBIT "A"**

That certain real property situated in the City of San Diego, County of San Diego, State of California, and more particularly described as follows:

The North Quarter of the Northwest Quarter of the Northwest Quarter of Section : 6, Township 18 South, Range 1 West, San Bernardino Base and Meridian, according to United States Government Survey approved September 11, 1879. The Southerly line of said North Quarter being drawn parallel with the Northerly line of said Section 36.

EXCEPTING THEREFROM all that portion lying within that certain strip of land conveyed to the County of San Diego by Final Order of Condemnation, recorded February 26, 1990 as Recorder's File/Page No. 90-1C 1649 of Official Records of said County of San Diego.

EXCEPTING THEREFROM that portion lying within the South 10.00 feet of the North 30.00 feet of the East 35.00 feet of the West 916.58 feet of said Northwest Quarter of Section 36.

**EXHIBIT "B"**

(Electrical Facilities)

The said easement in the aforesaid lands shall be 24.00 feet in width, the centerlines of which are described as follows:

Commencing at a 2 inch pipe with brass disk stamped "L.S. 3681", marking the Northeast corner of that certain "2.20 AC." gross parcel of land as shown and delineated on Record of Survey Map No. 10468, filed March 27, 1986 at File No. 86-118006 in the Office of the County Recorder of said County of San Diego; said corner bears North 00° 51' 56" East, 300.01 feet (rec. 300.00 feet) from a 2 inch pipe with brass disk stamped "L.S. 3681", marking the Southeast corner thereof; thence South 77° 18' 08" West, 42.55 feet to the TRUE POINT OF BEGINNING of the centerline herein described; thence North 83° 06' 21" West, 192.64 feet to a point herein designated Point "A".

ALSO: Beginning at said TRUE POINT OF BEGINNING; thence North 00° 53' 59" East, 55.19 feet.

ALSO: That certain strip of land 6.00 feet in width, the centerline of which is described as follows:

Beginning at said Point "A"; thence North 00° 51' 56" East, 73.50 feet.

Part II - Form of Consent

**ENTRY PERMIT**

**SAN DIEGO GAS & ELECTRIC COMPANY**

San Diego Gas & Electric Company ("SDG&E") owns that real property located in San Diego County, SBE Map 141-37-119 Parcel 1 and 141-37-129, Parcel 3 (the "Property") as more particularly described on Exhibit 'A', attached hereto and incorporated herein by reference. SDG&E hereby grants permission to Wildflower Energy, LP ("Permittee") acting through its agents, employees, contractors or invitees to enter upon the Property for the purpose and on the terms and conditions set forth below in this Entry Permit ("Permit"):

**PURPOSE**

Permittee desires to enter upon the Property to use as a temporary staging and storage site for materials relating to the construction of an electric generating plant, adjacent to the SDG&E property described above ("Purpose").

**TERMS AND CONDITIONS OF ENTRY**

- 1. Permittee may enter the Property for the Purpose(s) set forth above only.
- 2. Permittee shall use its best efforts to minimize interference with any existing use of the Property.
- 3. The Permit shall be effective for a period of two (2) months commencing on May 1, 2001 and terminating on July 31, 2001. Permittee shall notify SDG&E at least twenty-four (24) hours prior to entering upon the Property.
- 4. Permittee's right to enter the Property shall at all times be subject to SDG&E's right to use the Property for the purposes for which the Property was acquired and for which it is currently used or for which SDG&E desires to use the Property.

Permittee agrees to provide 24 hr. a day vehicle access to SDG&E's 30" gas transmission pipeline located within the storage area. Permittee agrees to provide an on-site crane or other means to move stored material out of this area immediately in the event of an emergency. SDG&E will provide 24 hr. written notice to Permittee in the event access is required in a non-emergency situation. Permittee agrees to move all stored material from the area of Permittee's proposed 3" gas service and conduct installation prior to construction. Tentative construction dates are between June 1-15, 2001 and will be coordinated with the project manager, William Kelsey.

- 5. Permittee shall, at its own cost and expense, secure and maintain in effect during the term of this Permit, insurance coverages as described herein, in amounts not less than the minimum limits specified, to protect SDG&E and Permittee from claims or liabilities in any way arising out of Permittee's use of SDG&E's easements: (a) Workers' Compensation Insurance and Employer's Liability Insurance in accordance with statutory requirements, (b) commercial general liability insurance in an amount not less than \$5,000,000.00 per occurrence for bodily injury and/or property damage, and (c) automobile liability insurance on all vehicles owned or operated by Permittee with a combined single limit per occurrence of not less than \$5,000,000. Such insurance shall name SDG&E as an additional insured, shall contain a severability of interest or cross liability clause and shall be primary for all purposes. Certificates of insurance evidencing the coverages and provisions

required shall be furnished to SDG&E prior to any use of SDG&E's easement by Permittee and shall provide that written notice be given to SDG&E at least thirty (30) days prior to cancellation or reduction of any coverage. Permittee agrees, at the request of SDG&E, to increase the limits of insurance to meet the reasonable limits then required by SDG&E.

- 6. Permittee shall, prior to the termination of this Permit or the completion of its purpose, restore the Property to the same condition, or as nearly the same condition as reasonably possible, to that which existed prior to Permittee's entry.
- 7. Permittee agrees to comply with all applicable local, state and federal statutes, ordinances, codes and/or regulations applicable to the Purpose, including all environmental laws.
- 8. PERMITTEE CERTIFIES THAT PERMITTEE WAIVES ALL CLAIMS WHICH PERMITTEE MIGHT HAVE AGAINST SDG&E and its officers, directors, agents, employees, affiliated companies and contractors for injury, accident, illness, property damage, death or other occurrence arising in any manner whatsoever out of its presence on the Property.

Permittee expressly assumes all risks of Permittee's entry onto the Property including the risk that Permittee might be injured as a result of the negligence or gross negligence of SDG&E or its officers, directors, agents, employees, affiliated companies or contractors or as a result of a defect in or on the property of any of them or their officers, directors, agents, employees, or contractors. Permittee agrees to indemnify, save and hold harmless and defend SDG&E and its officers, directors, agents, employees, affiliated companies and contractors from any and all loss, costs, damages, expenses and attorneys' fees arising out of Permittee's presence on the Property, including Permittee's violation of local, state and/or federal environmental laws, statutes or ordinances. Permittee's obligation to indemnify under this Permit shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Permittee under any statutory scheme, including, without limitation, under any Worker's Compensation Acts, Disability Benefits Acts or other Employee Benefit Acts.

9. Permittee shall not place, use, store or cause to be placed or used or stored any fuel or other hazardous material or hazardous waste on the Property.
10. Permittee agrees to supply SDG&E with a copy of any report or study of any finding on the Property.
11. If either party files any action or brings any proceeding against the other party arising from or related to this Permit, the prevailing party shall be entitled to recover from the other party, as an element of its costs of suit and not as damages, reasonable attorneys' fees, costs and expenses incurred in the action or proceeding, including any appeal thereof. The "prevailing party" within the meaning of this section shall be the party who is entitled to recover its costs of suit for the proceeding, whether or not the same proceeds to final judgment.
12. This Permit and the attached Exhibit A constitute the entire agreement between the parties. Any prior agreements, promises, negotiations or representations not expressly set forth herein are of no force and effect.
13. If any term or provision of this Permit shall, to any extent, be held invalid or unenforceable, the remainder of this Permit shall not be affected and shall remain in full force and effect.
14. A waiver or a breach of a covenant or provision of this Permit shall not be deemed a waiver of any other covenant or provision in this Permit and no waiver shall be valid unless in writing and executed by the waiving Party.
15. This Permit shall be governed and construed in accordance with the laws of the State of California, but without reference to any conflict or rule that would compel reference to the law of another jurisdiction.
16. Permittee may not assign or transfer its right, duties or obligations under this Permit without the prior written consent of SDG&E. Any attempted assignment without the prior written consent of SDG&E shall be void.
17. SDG&E reserves the right to revoke its permission to enter the Property, in whole or in part, at anytime and in its sole discretion.



Permittee has read this Entry Permit, understands it, and agrees to be bound by its terms as of the date set forth below.

**PERMITTEE:**

**WILDFLOWER ENERGY, L.P.**

**SAN DIEGO GAS &  
ELECTRIC COMPANY**

By its duly authorized agent,  
Sempra Energy

By: \_\_\_\_\_

John Jones

Title: Vice President, InterGas North America

By: \_\_\_\_\_

Title: Property Management Rep.

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Recording Requested by  
San Diego Gas & Electric Company

When recorded, mail to:

Kathy Babcock  
Sempra Energy  
8335 Century Park Court  
San Diego, California 92123-1569  
Attn: Land Management, CP 11D

APN 646-130-41

SPACE ABOVE FOR RECORDER'S USE

**CONSENT AGREEMENT**

San Diego Gas & Electric Company (SDG&E) hereby consents to Wildflower Energy, LP's, hereinafter referred to as Consentee, use in common with SDG&E of an area generally shown on the drawing marked Exhibit "A" attached hereto and by reference made a part hereof.

Said area is within SDG&E's easements recorded May 2, 1986, Doc. No. 86-174623 and March 29, 1993, Doc. No. 93-190947, both of Official Records, San Diego County, California. (SDG&E R/W No. 80896 and 81104).

This consent, limited to the use of said easements for two (2) driveway access ramps shown and delineated on Exhibit A, the location of which are approximate only, is given subject to the following standard terms and conditions:

1. Consentee agrees that no structure, other than those specifically described above and/or shown on Exhibit "A" will be placed in the SDG&E easement.
2. Consentee agrees to properly ground each structure within the easement per SDG&E standard specifications, marked Exhibit "B" attached hereto and by reference made a part hereof, if applicable.
3. Consentee agrees not to contest SDG&E's title to the easement or the priority of SDG&E's title.
4. Consentee acknowledges that its right to utilize SDG&E's easement is subject to the California Public Utilities Commission's General Order 69C, as amended, or such other applicable General Order. A copy of General Order 69C is attached hereto and incorporated herein. Consentee agrees to remove or relocate all or part of the subject improvements and restore the ground and area to as near its original condition as possible at Consentee's expense, within sixty (60) days of receipt of written demand by SDG&E.
5. Consentee shall, at its own cost and expense, secure and maintain in effect during the term of this Consent Agreement, insurance coverages as described herein, in amounts not less than the minimum limits specified, to protect SDG&E and Consentee from claims or liabilities arising out of the negligence of the Consentee as it pertains to Consentee's use of SDG&E's easements: (a) Workers' Compensation Insurance and Employer's Liability Insurance in accordance with statutory requirements, (b) commercial general liability insurance in an amount not less than \$5,000,000.00 per occurrence for bodily injury and/or property damage, and (c) automobile liability insurance on all vehicles owned or operated by Consentee with a combined single limit per occurrence of not less than \$5,000,000.00. Such insurance shall name SDG&E as an additional insured, shall contain a severability of interest or cross liability clause, a waiver of subrogation clause, and

shall be primary to and not excess or contributory to any insurance or self-insurance of SDG&E. Certificates of insurance evidencing the coverages and provisions required shall be furnished to SDG&E prior to any use of SDG&E's easement by Consentee and shall provide that written notice be given to SDG&E at least thirty (30) days prior to cancellation or reduction of any coverage. Consentee agrees, at the request of SDG&E, to increase the limits of insurance to meet the reasonable limits then required by SDG&E.

6. Consentee agrees to assume all risks of loss, damage, and injury to persons and/or property arising from Consentee's use of the SDG&E easement. Consentee also agrees to indemnify, defend and hold SDG&E harmless from any liability arising from Consentee's use of the SDG&E easement. Consentee's obligation to indemnify under this Consent Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Consentee under any statutory scheme, including, without limitation, under any Worker's Compensation Acts, Disability Benefits Acts or other Employee Benefit Acts. Nothing contained herein shall be deemed to indemnify SDG&E against its own negligence, or that of its employees, contractors or subcontractors.
7. Consentee agrees to comply with all appropriate statutes, ordinances, codes, and regulations of public bodies having jurisdiction over the subject matter of this consent.
8. Consentee agrees that SDG&E shall not be responsible in any manner for any repair or maintenance of, or damage, to the subject improvements.
9. The terms and conditions of this document shall benefit and bind the parties hereto, their successors, assigns, agents and or contractors.
10. Consentee agrees to give SDG&E at least 48 hours notice before grading or performing any additional construction work within or near the easement by calling the undersigned.
11. Vehicle access shall be provided at all times (24 hours a day) to SDG&E's two - 20-foot wide easements and their structures.
12. SDG&E service locks shall be required on all gates, present and future, adjacent to or along the two 20-foot easements.

**Appendix H**  
**Regulatory Approvals and Permits**

Wildflower shall obtain the following regulatory permits and approvals:

1. CEC Certification issued April 5, 2001 pursuant to Docket 01-EP-01
2. San Diego Air Pollution Control District Authority to Construct for applications 976094 and 976138 issued April 24, 2001.

SDG&E shall obtain the following regulatory approvals and permits

1. Approval or exemption from the CPUC regarding Public Utilities Code Section 1001 and CPUC General Order 131-D, SDG&E shall have the Advice Letter prepared for filing within 7 business days of the Effective Date of the EIFA. To the extent permitted by the CPUC, the Parties shall utilize best efforts to have SDG&E file the Advice Letter as expeditiously as possible, provided that SDG&E shall not be obligated to file such Advice Letter if it has a reasonable basis to believe such filing would be rejected and has communicated such basis to Wildflower. In the event the CPUC denies the Advice Letter, SDG&E shall expeditiously prepare and file an application for a certificate of public convenience and necessity ("CPCN").
2. Acceptance by FERC of EIFA and IA pursuant to Section 205 of the Federal Power Act.

## **APPENDIX I**

### ***Insurance***

**1.1 Each Party shall maintain during the performance hereof:**

**1.1.1 Commercial General Liability Insurance for bodily injury, personal injury, and property damage in limits, of combined single limit or equivalent for the results of any one (1) occurrence, of not less than \$5,000,000. Such insurance shall provide coverage at least as broad as the Insurance Service Office (ISO) 1986 Commercial General Liability Coverage "occurrence" form, with no coverage deletions.**

**1.1.2 Workers' Compensation insurance for statutory benefits limits of the applicable Labor Code(s) and Workers' Compensation law(s) and Coverage B - Employer's Liability with limits of \$1,000,000 each accident for Bodily Injury by accident, \$1,000,000 each employee for Bodily Injury by disease, and \$1,000,000 policy limit for Bodily Injury by disease.**

**1.1.3 Commercial or Business Automobile Liability insurance, covering use of all owned, leased, non-owned or hired automobiles with a combined single limit of not less than One Million Dollars (\$1,000,000) each accident.**

**1.1.4 Such insurance described in Sections 1.1.1, 1.1.2 (Employers Liability only) and 1.1.3 above, by endorsement to the policy(ies), shall include each Party as an additional insured, shall contain a severability of interest or cross-liability clause and shall provide that each Party shall not by reason of its inclusion as an additional insured incur liability to the insurance carrier for payment of premium for such insurance.**

**1.2 Additional Insurance Provisions**

**1.2.1 Evidence of coverage described above in Section 1 shall state that coverage provided is primary in respect of operations carried out pursuant to this EIFA and is not excess to or contributing with any insurance or self-insurance maintained by the other Party for events arising out of the performance or non-performance of the insured Party's obligations under this EIFA.**

**1.2.2 Each Party shall furnish the required certificates and endorsements to the other prior to commencing operation.**

**1.2.3 Each Party waives its rights of recovery against the other for any loss or damage covered by such policy(ies) to the extent that such loss or damage is reimbursed under such policy(ies). Such insurance shall be endorsed to include a Waiver of Subrogation in favor of the other party and evidence of such Waiver of Subrogation shall be noted on the certificates of insurance.**

**1.2.4 Such insurance shall provide for 30 calendar days written notice to each Party prior to cancellation, termination, alteration or material change of such insurance; provided, however, 10 calendar days prior written notice shall be provided to Each party prior to cancellation or termination for non-payment of premiums.**

**1.2.5 Failure of either Party to comply with the above insurance terms and conditions, or the complete or partial failure of an insurance carrier to fully protect and indemnify the other Party or its**

**affiliates, or the inadequacy of the insurance shall not in any way lessen or affect the obligation or liabilities of each Party to the other.**

**1.2.6 All insurance certificates, endorsements, cancellations, terminations, alterations, and material changes of such insurance shall be issued and submitted to the following:**

**For Sempra Energy acting on behalf of San Diego Gas & Electric Company:**

**Director, Risk Management Department**

**101 Ash Street**

**San Diego, CA 92101-3017**

**For Wildflower Energy LP:**

**Wildflower Energy LP**

**C/o InterGen N.A.**

**909 Fannin Street, Suite 2200**

**Houston, TX 77010**

**Attn: Tom Doyle**

## Appendix J

### Sample Calculation of Monthly O&M Charge

When the Interconnection Facilities are placed In-Service, Section 6.2 of the EIFA provides for a monthly O&M charge equal to the currently effective Generation Interconnection O&M Fixed Charge Rate set forth in Appendix XI of SDG&E's Transmission Owner Tariff (as such rate may be modified from time to time) times the installed Cost of the Interconnection Facilities.

The following example using hypothetical costs illustrates how the formula would work. Assume the following:

|  |              |
|--|--------------|
| Cost of the Interconnection Facilities | \$ 1,000,000 |
|--|--------------|

The resulting monthly O&M charge would be calculated as follows:

the currently effective Generation Interconnection O&M Fixed Charge Rate set forth in Appendix XI of SDG&E's Transmission Owner Tariff (as such rate may be modified from time to time) x (\$1,000,000)

**Appendix K**  
**Credit Assurance**  
**[Reserved]**

**Appendix L**  
**Form of Section 211 Request**

**[Reserved]**



**Appendix M**

**Form of Approving Bond Counsel Opinion**

**[Reserved]**

**SERVICE AGREEMENT NO. 8**

## INTERCONNECTION AGREEMENT

### 1. PREAMBLE

This Interconnection Agreement ("IA"), dated June 13, 2001, between Wildflower Energy LP ("Wildflower") and SAN DIEGO GAS & ELECTRIC COMPANY ("SDG&E"), hereinafter sometimes referred to individually as "Party" or collectively as "Parties", is as follows:

### 2. RECITALS

2.1 Whereas, SDG&E is a public utility engaged, among other things, in the business of owning and operating an electric system consisting of transmission and distribution facilities in Southern California;

2.2 Whereas, Wildflower intends to construct and operate a Generating Facility, which is located in San Diego, California and described in Appendix E, for the purpose of generating electric energy for its own use, selling electric power at wholesale, or both and has requested permission from SDG&E to interconnect the Generating Facility in order to operate it in parallel with the SDG&E Electric System;

2.3 Whereas, SDG&E is willing to permit such interconnection and parallel operation under the terms and conditions contained in this IA;

2.4 Whereas, Wildflower understands that this IA does not provide any transmission or distribution services or ancillary services;

2.5 Whereas, the EIFA obligates Wildflower to design new Generating Facilities or additions to existing Generating Facilities consistent with Good Utility Practice;

2.6 Whereas, this IA obligates Wildflower to operate and maintain the Generating Facility consistent with Good Utility Practice;

2.7 Whereas, this IA establishes interconnection and operating responsibilities and associated procedures for communications between Wildflower and SDG&E Electric System operators. The IA also establishes procedures for safe work practices on the Interconnection Facilities and the SDG&E Electric System and routine test procedures;

2.8 Whereas Wildflower understands that it will be subject to the ISO Tariff and protocols and operating procedures thereunder and that it is responsible for making any arrangements necessary with the ISO.

### 3. AGREEMENT

Now, therefore, in consideration of the mutual covenants herein set forth, the Parties agree as follows:

#### **4. DEFINITIONS**

Terms and expressions when used in this IA with the initial letters capitalized, whether in the singular, plural or possessive, shall have the meanings set forth in this IA.

##### **4.1 Business Day**

A day other than Saturday, Sunday or a day on which: (i) banks are legally closed for business in the State of California; or (ii) SDG&E is closed for business, which days are listed as follows and may change from time to time:

- New Years Day
- Martin Luther King Jr. Birthday
- Presidents Day
- Memorial Day
- Independence Day
- Labor Day
- Day Before Thanksgiving
- Thanksgiving Day
- Christmas Eve
- Christmas Day

##### **4.2 Clearance Point**

The point(s) that electrically isolate(s) SDG&E's equipment from possible sources of energy from the Generating Facility and Generator Step-up Facilities. Clearance Points may be requested by SDG&E from time to time as provided in Section 8.7, so that work can be safely performed on the SDG&E Electric System. The Clearance Point is normally located at the Disconnect Device.

##### **4.3 CPUC**

The California Public Utilities Commission or its successor.

##### **4.4 Designated SDG&E Switching Center**

The SDG&E location, identified in Section 9.1 of this IA, with operational jurisdiction over the Generating Facility and the Generator Step-up Facilities.

##### **4.5 Disconnect Device**

A device used to isolate the Generating Facility from the SDG&E Electric System and normally located adjacent to the Point of Interconnection. Each Generating Facility must have a Disconnect Device which shall be clearly marked "GENERATOR DISCONNECT SWITCH".

##### **4.6 Emergency**

An abnormal condition or situation that adversely affects, or potentially may adversely affect, the Generating Facilities or the SDG&E System Integrity. Such an event may result from, but is not limited to, a System Emergency.

##### **4.7 FPA**

The Federal Power Act as it may be amended or superseded.

**4.8 FERC**

The Federal Energy Regulatory Commission or its regulatory successor.

**4.9 Generating Facility**

The generating units of Wildflower described in Appendix E and associated facilities, which shall include, but not be limited to, Generator Step-up Facilities and protective devices.

**4.10 Generator Step-up Facilities**

Electric facilities owned and operated by Wildflower to step-up the generator voltage to the voltage of the interconnection. Generator Step-up Facilities may include transformers, 69 kV disconnect switches, 69 kV bus and 69 kV circuit breakers.

**4.11 Good Utility Practice**

Any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be any one of a number of the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

**4.12 Governmental Authority**

Any federal, state, local or other governmental, regulatory or administrative agency, governmental commission, department, board, subdivision, court, tribunal, or other governmental arbitrator, arbitral body or other authority, but excluding Wildflower and any subsequent owner of the Generating Facility (if Wildflower or any subsequent owner is otherwise a Governmental Authority under this definition).

**4.13 Interconnection Capacity**

The amount of net electric capacity up to which the Generating Facility may deliver energy and ancillary services into the SDG&E Electric System through the Interconnection Facilities, as specified in Section E.2.2 of Appendix E and modified, if necessary, through technical studies conducted by SDG&E, pursuant to Section 5.7 of the ISO Tariff in consultation with Wildflower.

**4.14 Interconnection Facilities**

All apparatus installed to interconnect and allow power to flow between the Generating Facility through the Interconnection Facilities to the SDG&E Electric System and the Generating Facility, including, but not limited to, underlying property rights, the Disconnect Device, connection, transformation, switching, metering, and communications equipment, as well as any necessary additions, modifications and reinforcements to the SDG&E Electric System necessitated as a result of interconnecting the Generating Facility to the SDG&E Electric System. Interconnection Facilities also include control and safety equipment to protect (i) the SDG&E Electric System and its customers from

faults occurring at the Generating Facility and the Generator Step-up Facilities; and (ii) the Generating Facility and Generator Step-up Facilities from faults occurring on the SDG&E Electric System or on the electric system of others to which the SDG&E Electric System is directly or indirectly connected. These Interconnection Facilities are described in Appendix E.

**4.15 Expedited Interconnection Facilities Agreement or "EIFA"**

The Expedited Interconnection Facilities Agreement, dated June 13, 2001, between Wildflower Energy LP and San Diego Gas & Electric Company.

**4.16 Interconnection Service**

Interconnection Service refers to Wildflower's ability, through the Interconnection Facilities, to deliver at the Point(s) of interconnection the energy and ancillary services produced by the Generating Facility to and, if necessary, to receive its facility station service requirements from, the SDG&E Electric System under the terms and conditions of this IA when (i) the Generating Facility is interconnected with the SDG&E Electric System; and (ii) the operation of the SDG&E Electric System is not suspended, interrupted or interfered with as a result of Uncontrollable Force. The term "Interconnection Service" as used in this IA shall not refer to any right to transmit power over SDG&E's transmission and/or distribution system. The interconnection plan of service is described in Appendix E.

**4.17 ISO**

The California Independent System Operator Corporation or its successor which operates the ISO Controlled Grid.

**4.18 ISO Controlled Grid**

The system of transmission lines and associated facilities of the participating transmission owners that have been placed under the ISO's operational control.

**4.19 ISO Tariff**

The FERC-approved and effective California ISO Tariff, as it may be modified or superseded from time to time.

**4.20 OK-On-Or-Near Authorization**

A procedure used by SDG&E in connection with work on a live electric line or near an energized circuit. In an OK-On-Or-Near Authorization, SDG&E will request that Wildflower contact the Designated SDG&E Switching Center before re-energizing a circuit following an automatic trip.

**4.21 Person**

An individual, partnership, joint venture, corporation, limited liability company, trust, association or unincorporated organization, or any Governmental Authority.

**4.22 Point(s) of Interconnection**

The points identified in Section E.3 of Appendix E where the Generating Facility contacts the SDG&E Electric System.

#### 4.23 SDG&E Electric System

All properties and other assets, other than the Interconnection Facilities, now or hereafter existing, which are owned or controlled by SDG&E or its successor, and used for or directly associated with the generation, transmission, transformation, distribution or sale of electric power, including all additions, extensions, expansions, and improvements thereto.

#### 4.24 SDG&E System Integrity

The state of operation of the SDG&E Electric System in a manner that is deemed by SDG&E in its reasonable discretion necessary or desirable to minimize the risk of injury to persons and/or property and enable SDG&E to provide adequate and reliable electric service to its customers.

#### 4.25 [Reserved]

#### 4.26 SDG&E Interconnection Handbook

SDG&E Interconnection Handbook shall have the meaning set forth in Section 13.2 hereof.

#### 4.27 Standard Operating Procedures

The established standard operating procedures which all SDG&E personnel involved in the operation, construction and maintenance of the SDG&E Electric System and the Interconnection Facilities are required to follow, as they may be modified or superseded from time to time.

#### 4.28 Responsible Meter Party

The Party having the responsibility for providing, installing, owning, operating, testing, servicing and maintaining meters and associated recording or telemetering equipment at each Point of Interconnection. Currently, the Responsible Meter Party is Wildflower.

#### 4.29 Significant Regulatory Change

A "Significant Regulatory Change" occurs when the FERC, the ISO, the CPUC, the California Legislature, or the United States Congress, or any other regulatory, judicial or other governmental body having jurisdiction over either Party issues an order or decision or adopts or modifies a tariff, or enacts a law that: (i) significantly and substantially changes the structure or function of the California electric utility industry in a way that materially affects this IA; or (ii) substantially prevents either Party from performing its material functions under this IA.

#### 4.30 TCA

The Transmission Control Agreement, between the ISC and Participating TOs, including SDG&E, establishing the terms and conditions under which each Participating TO will discharge their respective duties and responsibilities, as it may be modified from time to time.

#### 4.31 Third Party

A Person other than SDG&E or Wildflower.

#### 4.32 Uncontrollable Force

Any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm, flood, earthquake, explosion, work curtailment directed by the ISO, order, regulation, failure to obtain necessary governmental authorizations (provided the applicant has made a complete and timely request for such authorizations and applicant has pursued such authorizations in a reasonably timely manner provided the applicant has complied with any applicable schedules for requesting such authorizations), or restriction imposed by governmental, military or lawfully established civilian authorities or any other cause beyond the reasonable control of a Party, which could not be avoided through the exercise of Good Utility Practice. The failure or refusal of the ISO to grant permission in a timely manner to SDG&E in response to a complete and timely request by SDG&E for planned facility outages needed to complete the installation of the Interconnection Facilities shall be an Uncontrollable Force. Equipment or material and services shortages and contractor including delays in construction resulting therefrom, beyond the reasonable control of SDG&E, shall be an Uncontrollable Force. Under no circumstance shall the lack of funds or failure to make payments be considered an Uncontrollable Force for purposes of this IA.

#### 4.33 WSCC

The Western Systems Coordinating Council or its successor.

### 5. PRE-COMMENCEMENT OBLIGATIONS

#### 5.1 Interconnection Facilities Agreement

SDG&E and Wildflower shall have entered into a separate EIFA between SDG&E and Wildflower, providing for the design, engineering, construction, installation, operation and maintenance of, and the recovery of costs associated with, the facilities that are necessary for Wildflower's Generating Facility to interconnect with the SDG&E Electric System and allow the Generating Facility to deliver energy and ancillary services up to the Interconnection Capacity into the SDG&E Electric System. SDG&E shall have the right to terminate this IA in the event that the EIFA terminates pursuant to the terms and conditions of such agreement.

#### 5.2 Local Furnishing Bonds

The obligations of SDG&E and Wildflower regarding maintenance of tax exempt status of Local Furnishing Bonds as defined in the EIFA shall be governed by Section 5.6 of the EIFA.

### 6. TERM

#### 6.1 Effective Date and Termination of the IA

6.1.1 This IA shall become effective on the date it is executed by both Parties ("Effective Date"), subject to acceptance of this IA for filing by FERC without the addition of any material condition that is unacceptable to either Party. In the event FERC (i) fails to accept this IA without suspension or (ii) finds that this IA is not just and reasonable or imposes conditions that are not acceptable to either Party, the Parties will use commercially reasonable efforts to agree upon amendments or modifications of this IA that would eliminate any such conditions or result in a just and reasonable



finding. The term of this IA shall continue in full force and effect until the date on which a Party provides notice of termination based on reasons specified in Sections 5.1 or 6.1.2.

6.1.2 In addition to termination rights provided to the Parties by applicable law, this IA may be terminated in accordance with Section 6.1.3 hereof for any of the following reasons:

- (i) by SDG&E if the Generating Facility permanently ceases operation for any reason;
- (ii) by Wildflower for any reason;
- (iii) by either Party if the ownership of the Interconnection Facilities, or a substantial portion thereof, is acquired by a public authority through the exercise of such authority's power of eminent domain; or
- (iv) by either Party, in accordance with the terms of Section 16.9.2 of this IA.

6.1.3 To effect termination resulting from an event set forth in Section 6.1.2 (i) or (iii), a Party seeking to terminate shall provide at least 30 calendar days prior written notice specifying the termination date to the other Party in accordance with Section 16.21. However, if the Party receiving such notice of termination cures the event giving rise to the right to termination prior to the specified termination date or more time is reasonably required to effect the cure and is acting to achieve such cure, this IA shall remain in full force and effect. To effect termination resulting from an event set forth in Section 6.1.2 (iv), the provisions of Section 16.9.2 shall apply. A termination by Wildflower in accordance with Section 6.1.2 (ii) shall become effective within 5 calendar days after Wildflower provides SDG&E with written notice of its intent to terminate.

## 6.2 Effect of Termination

Upon termination of this IA, the provisions of Section 7.2 of the EIFA shall govern.

## 7. SDG&E'S RIGHTS AND OBLIGATIONS

SDG&E shall operate and maintain the Interconnection Facilities and perform its rights and obligations under this IA in accordance with SDG&E's Standard Operating Procedures, established maintenance practices and Good Utility Practice.

### 7.1 Limited Responsibility to Accept Energy and Ancillary Services Into and to Deliver Station Requirements from the SDG&E Electric System

#### 7.1.1 Sole Purpose to Provide Interconnection Services

The sole intent and purpose of this IA is to provide for the electric interconnection and parallel operation of the Generating Facility with the SDG&E Electric System, including the establishment of the operating capacity of the Point of Interconnection and rules governing the interconnected operations to promote and maintain SDG&E System Integrity.

#### 7.1.2 Obligation to Accept Energy and Ancillary Services

SDG&E shall permit delivery into or from the SDG&E Electric System at the Point of Interconnection energy and ancillary services produced by the Generating Facility up to the Interconnection Capacity specified in Appendix E and delivered into the SDG&E Electric System in accordance with this IA and, if necessary, any Generation Facility station service requirements; provided, however, Wildflower shall make previous arrangements, either directly for its own account or indirectly through a purchaser of its energy and ancillary services, for the transmission service, and any necessary export or import permits, needed to transfer energy and ancillary services from and, as necessary, station service requirements to, the Point of Interconnection. Provided, further, that the Parties recognize Wildflower may purchase station service from any retail service provider. However, in the event Wildflower requests SDG&E to provide station service, Wildflower acknowledges and agrees that such service shall be at applicable retail rates established by the CPUC. In the event of an increase in the output of the Generating Facility or other material change or modification to the configuration and operation of the Generation Facility, the Parties shall negotiate appropriate revisions to this IA, including as necessary the specifications or requirements set forth in Appendix E as necessary to permit SDG&E to provide revised Interconnection Service in fashion consistent with this IA. Facilities that are required to accommodate such revised Interconnection Service shall provide the ISO with acceptable operating flexibility and meet all applicable requirements for reliable integration within the ISO Controlled Grid.

#### **7.1.3 No Obligation to Provide Transmission or Distribution Service**

Nothing in this IA shall be deemed either expressly or implicitly to obligate SDG&E to provide any electric transmission or distribution service for the transport of electric energy from the Generating Facility.

#### **7.1.4 New or Revised Interconnection Services Subject to ISO Approval**

Wildflower understands that SDG&E is subject to the ISO Tariff and to the TCA and, as a result, SDG&E cannot commit to provide any new or revised Interconnection Service to Wildflower without the approval of the ISO.

### **7.2 Right to Disconnect the Generating Facility During the Term**

#### **7.2.1 Wildflower's Failure to Meet Standards**

SDG&E may, consistent with Standard Operating Procedures and Good Utility Practice, disconnect the Generating Facility from the SDG&E Electric System if, and during the period which, the Generating Facility materially fails to meet the requirements set forth in this IA. Except as described in Section 7.2.1.1, prior to such disconnection SDG&E shall promptly provide written notice to Wildflower detailing Wildflower's failure to adhere to such requirements and provide Wildflower 30 calendar days to correct such deficiency. Except as otherwise provided in Subsection 7.2.1.1, SDG&E shall not disconnect the Generation Facility if Wildflower corrects the deficiencies described in the written notice within 30 calendar days or is diligently working to achieve a cure that reasonably takes additional time.

##### **7.2.1.1 Immediate Disconnection**

If SDG&E reasonably determines that a hazardous condition exists and immediate action is necessary to protect persons, Interconnection Facilities, or the SDG&E Electric System, other customers' facilities, or other interconnected utility systems from material damage or interference caused by the Generating Facility, then SDG&E may immediately disconnect the Generating Facility from the SDG&E Electric System. Immediately following such events, the Designated SDG&E

Switching Center will provide the Generating Facility with a clear explanation of the cause(s) for the action taken and the remedies required to return to normal operation. Within 24 hours SDG&E will also provide a written report to Wildflower explaining any such event.

### **7.2.2 Right to Inspect Wildflower's Operations Logs, Maintenance Records, and Facilities**

Upon reasonable advance notice to Wildflower, SDG&E shall have the right to enter Wildflower's premises at any reasonable times for inspection of Wildflower's (i) operations logs and maintenance records relating to activities which can reasonably be expected to affect operation of the SDG&E Electric System and (ii) control, protective and safety devices. While on Wildflower's premises, SDG&E shall comply with Wildflower's written safety, security and operating conventions, protocols and practices; provided, that Wildflower has provided SDG&E with such written safety, security and operating conventions, protocols and practices, which are consistent with Good Utility Practice. Such inspection shall be at SDG&E's sole cost and expense.

### **7.3 Right to Interrupt Interconnection Service**

#### **7.3.1 Unscheduled Interruptions**

Upon reasonable advance notice to Wildflower, SDG&E may temporarily interrupt or reduce Interconnection Service to the Generating Facility, or temporarily separate the SDG&E Electric System, or the Interconnection Facilities, from the Generating Facility, if SDG&E reasonably determines at any time that: (i) an Emergency condition exists and the action is necessary or desirable to protect or maintain SDG&E System Integrity; (ii) the operation of the Interconnection Facilities, or SDG&E Electric System is suspended, interrupted or interfered with as a result of Uncontrollable Force; or (iii) it has been so instructed by the ISO, in accordance with the TCA, or by any duly authorized regulatory or governmental agency. In the event of such interruption or reduction in Interconnection Service, SDG&E shall restore full Interconnection Service on a basis comparable to the restoration of other public service and safety facilities, and, in any event, as directed by the authorized emergency response officials. Should SDG&E determine that such interruption or reduction in service will be of a prolonged nature, SDG&E and Wildflower shall confer and attempt to agree on the earliest reasonable time by which full service can be restored.

#### **7.3.2 Interruption by Protective Devices**

SDG&E utilizes automatic protective devices in order to assist in maintaining SDG&E System Integrity. SDG&E is to maintain these devices in reasonable working order. In the event of any interruption resulting from the operation of protective devices, Interconnection Service will be restored consistent with Standard Operating Procedures and Good Utility Practice.

#### **7.3.3 Maintenance Interruptions**

**7.3.3.1** SDG&E may interrupt Interconnection Service to the Generating Facility to perform necessary maintenance on the Interconnection Facilities or the SDG&E Electric System; provided, that such interruptions are consistent with Standard Operating Procedures and Good Utility Practice. SDG&E shall reasonably attempt to coordinate such maintenance interruptions with Wildflower and shall provide Wildflower with as much advance notice as possible but in no event shall the notice be less than 3 Business Days except where SDG&E determines an Emergency exists or may exist which requires quicker action to correct, in which case SDG&E shall provide as much advance notice to Wildflower of the interruption as is reasonably possible.

7.3.3.2 SDG&E normally conducts maintenance interruptions during normal business hours on a Business Day, between 6:30 AM and 4:00 PM. In the event that Wildflower desires the proposed maintenance interruption to occur during non-business hours, SDG&E will make reasonable efforts to accommodate Wildflower, but in all events reserves the right to charge Wildflower the additional cost for work performed. SDG&E will provide Wildflower with an estimate of the additional cost and if Wildflower still desires the work to be performed during non-normal business hours and SDG&E does perform the work, SDG&E shall charge Wildflower the actual additional costs of the work, the amount of which shall not exceed the cost estimate.

#### 7.4 Right to Install Facilities

##### 7.4.1 Installation of Facilities

In the event SDG&E determines that it is necessary, consistent with Standard Operating Procedures and Good Utility Practice, in order to accommodate generator interconnections and transmission or distribution services, for SDG&E to install new or modify existing SDG&E-owned facilities, including, but not limited to, such facilities located at the Border substation, and implement operating procedures (collectively, the facilities and procedures shall be referred to hereinafter as the "Facilities") and such Facilities adversely affect and do not benefit the Interconnection Capacity or the Generating Facility, SDG&E shall promptly notify Wildflower. The Parties shall work together, in good faith, to agree upon the nature, scope, and costs for such facilities and procedures reasonably necessary to address such adverse affect. If the Parties cannot agree on such facilities and procedures and associated costs and benefits and procedures, then the dispute shall be resolved through procedures set forth in Section 16.10 (Dispute Resolution); provided, SDG&E may install and implement such facilities and procedures prior to the resolution of such dispute, but only if the dispute involves the costs and benefits of such facilities and procedures and not design or engineering matters, and SDG&E takes all reasonably available means to minimize the time and amount of disruption of Interconnection Services to Wildflower. The Parties agree that SDG&E and not Wildflower shall be solely responsible for all costs associated with any facilities and measures determined pursuant to this subsection that are required to address any adverse affect on Wildflower.

##### 7.4.2 Costs Incurred by Wildflower as a Result of the Installation and Operation of Facilities

To the extent Wildflower may reasonably be required to modify its Generating Facility as a result of Facilities to be installed by SDG&E, SDG&E and not Wildflower shall be solely responsible for all costs reasonably incurred by Wildflower to accommodate such Facilities but only to the extent such Facilities adversely affect Wildflower. The Parties shall work together, in good faith, to agree upon the extent and costs of such facilities and operating procedures so needed by Wildflower. If the Parties cannot agree on the need or cost of such facilities and operating procedures, then the dispute shall be resolved through procedures set forth in Section 16.10; provided that until such dispute is resolved either by mutual agreement or the dispute resolution procedures SDG&E shall not place into commercial operation the Facilities.

##### 7.4.3 SDG&E's Right to Install Protective Devices on Wildflower-Owned Facilities

SDG&E may install at its cost automatic protective devices on Wildflower-owned facilities that SDG&E determines in its reasonable judgment are required to assist in maintaining SDG&E System Integrity; provided that such protective devices do not damage, or impair the operation of Wildflower's facilities.

## **8. WILDFLOWER 'S RIGHTS AND OBLIGATIONS**

### **8.1 Wildflower 's Right to Deliver Energy and Ancillary Services to the SDG&E Electric System**

Wildflower shall have the sole and exclusive right to deliver energy and ancillary services from the Generating Facility into the SDG&E Electric System through the Interconnection Facilities; provided, at no time shall Wildflower deliver energy and ancillary services at a rate that exceeds the Interconnection Capacity specified in Appendix E; nor shall Wildflower deliver energy and ancillary services into the SDG&E Electric System unless it has arranged for transmission service pursuant to Section 7.1.2.

#### **8.1.1 Consequences of Exceeding Interconnection Capacity**

It is the intent of the Parties that power deliveries to the SDG&E Electric System shall not exceed the Interconnection Capacity specified in Appendix E at any time. In the event that energy and ancillary service deliveries exceed the Interconnection Capacity, the Parties, at either Party's request, shall meet to determine the reason that the Interconnection Capacity was exceeded. If the Parties determine that such an event was not due to Uncontrollable Force or an Emergency and is reasonably likely to occur again in the future, then a new higher Interconnection Capacity shall be established. SDG&E shall have the right to require that a study be conducted pursuant to the ISO Tariff and SDG&E's Transmission Owner Tariff, at Wildflower's expense, to determine if additional facilities, including upgrades to the SDG&E transmission and distribution systems, are required to accommodate the increased Interconnection Capacity. If the Parties fail to agree within 30 calendar days after the initial meeting, that the Interconnection Capacity must be increased, the matter, at either Party's request, shall be resolved through the dispute resolution procedures set forth in Section 16.10. If either Party determines that additional facilities are required, then the Parties shall execute an amended Interconnection Facilities Agreement, as described in Section 5.1, to allow SDG&E to recover the Costs of any such additional facilities. During any period SDG&E and Wildflower have not reached an accommodation whether the event of deliveries in excess of the Interconnection Capacity occurred and is likely to occur again in the future, Wildflower agrees, in the event of material adverse effects resulting therefrom, to operate the Generating Facility in a manner that is consistent with Good Utility Practice and is likely to ensure that energy and ancillary services are not delivered at any time into SDG&E's Electric System in excess of the Interconnection Capacity specified in Appendix E.

### **8.2 Generating Facility Must Meet Standards**

#### **8.2.1 Generating Facility to Meet Applicable Laws and Good Utility Practice**

Wildflower shall be fully responsible for designing new generating facilities or additions to the existing Generating Facility in accordance with Good Utility Practice. Wildflower is also fully responsible for installing, owning, operating and maintaining the Generating Facility or any new generating facility or additions in accordance with all applicable laws, rules and regulations of governmental agencies having jurisdiction and in accordance with Good Utility Practice.

#### **8.2.2 Generating Facility to Comply with SDG&E Interconnection Handbook; Maintenance by Wildflower of Facilities**

New generating facilities or additions to the existing Generating Facility shall be designed and constructed in accordance with the SDG&E Interconnection Handbook, and Wildflower shall have obtained the necessary approvals from each Governmental Authority and the ISO, as

applicable. Such facilities shall be designed, constructed and operated in accordance with the SDG&E Interconnection Handbook, except as provided in Appendix F. SDG&E shall provide Wildflower with the latest revisions of the SDG&E Interconnection Handbook that SDG&E may make from time to time. Wildflower shall be responsible for assuring that its operating personnel at all times have the latest versions of the SDG&E Interconnection Handbook. Wildflower shall maintain its facilities in accordance with SDG&E's established maintenance practices and Good Utility Practice.

#### **8.2.3 Wildflower Shall Provide Transmission Planning Data**

Wildflower is obligated to provide SDG&E with steady state and dynamic data for the Generating Facility as required by the SDG&E Interconnection Handbook and the WSCC.

#### **8.2.4 Wildflower Shall Operate Protective Devices**

Wildflower shall operate protective and safety devices as required by the SDG&E Interconnection Handbook for safe parallel operation of the Generating Facility with the SDG&E Electric System.

#### **8.2.5 Duty to Minimize Disturbances**

Wildflower agrees to plan and operate its Generating Facility related apparatus in a manner that reasonably minimizes electrical disturbances on the Interconnection Facilities and the SDG&E Electric System caused by the operation of Wildflower's Generating Facility.

#### **8.2.6 Power Delivery Standard**

Power delivered to the Interconnection Facilities from the Generating Facility shall be at what is commonly designated as three phase alternating current, at 60 Hertz, and at the normal voltage specified in Appendix E. Normal variations in voltage and frequency shall be permitted pursuant to Standard Operating Procedures and Good Utility Practice.

### **8.3 No Parallel Operation Without Approval**

If Wildflower's Generating Facilities have not been operated for one year or more, Wildflower shall not operate its Generating Facility in parallel with the SDG&E Electric System until the Generating Facility has been inspected by an authorized SDG&E representative and final written approval has been received from SDG&E, which approval shall not be unreasonably withheld, conditioned, or delayed. Any such inspection and approval shall not be deemed or construed as any representation, assurance, guarantee or warranty by SDG&E of the safety, durability, reliability, or compliance as required in Section 8.2, of the Generating Facility and its control, protective and safety devices or the quality of power produced by the Generating Facility.

### **8.4 Wildflower Must Implement Operating Guidelines**

Wildflower shall implement the Standard Operating Procedures, including applicable guidelines included in the SDG&E Interconnection Handbook, provided that such SDG&E Interconnection Handbook is maintained by SDG&E in accordance with applicable requirements of each Governmental Authority and the ISO, as applicable. Wildflower shall ensure that its operating personnel are familiar with the procedures and guidelines in this IA.

### **8.5 Obligation to Maintain Power Factor and Voltage**

Wildflower understands that the voltage of SDG&E's Electric System is not automatically regulated and may vary widely. The voltage levels will fluctuate depending on plant operation and SDG&E Electric System conditions. In accordance with the SDG&E Interconnection Handbook, Wildflower shall install, operate, and maintain the necessary equipment to maintain proper power factor and voltage at the Point of Interconnection. Wildflower shall specify the power factor range of operation at the generator terminals to meet or exceed a minimum bandwidth from 0.90 lag (producing reactive power) to 0.95 lead (absorbing reactive power) at rated power output. Unless otherwise instructed by the ISO or SDG&E, the Generating Facility must be operated in an automatic voltage regulating mode being promptly responsive to changes in transmission voltage and shall follow the voltage set point provided by the Designated SDG&E Switching Center.

#### **8.6 Emergency Disconnection and Interruption Protective Devices**

In an Emergency, Wildflower agrees to expeditiously open the Disconnect Device upon notification from the Designated SDG&E Switching Center that such action is needed, pursuant to Standard Operating Procedures and Good Utility Practice, to preserve reliability or prevent unsafe conditions. Wildflower shall utilize protective devices in order to protect its Generating Facility. Wildflower is to maintain these devices in reasonable working order. In the event of interruption, the Generating Facility will be restarted consistent with Good Utility Practice.

#### **8.7 Clearance Point Request by SDG&E**

Consistent with the requirements for responding to an Emergency or undertaking work, as provided in Sections 7.2.1.1, 7.3.1, 7.3.3 and 8.6, Wildflower must open its Disconnect Device if SDG&E reasonably requests a Clearance Point. A qualified SDG&E employee will observe that the Disconnect Device is open, lock it with a SDG&E lock, and attach a field-out "Hold-Out" tag to indicate it is a Clearance Point. Such lock shall be removed promptly upon cessation of the need for opening the Disconnect Device.

#### **8.8 Routine Tests and OK-On-Or-Near Authorizations**

When conducting a routine test or an OK-On-Or-Near Authorization, Wildflower agrees to follow the procedures set forth in Appendix B.

#### **8.9 Obligation to Maintain Insurance**

The obligations of the Parties to maintain insurance are set out in Appendix A.

#### **8.10 Obligation to Provide Access Rights**

##### **8.10.1 SDG&E Access Rights**

Wildflower agrees to grant SDG&E all reasonably necessary easements and rights-of-way, including adequate and continuing access rights, on property of Wildflower to transport, install, operate, maintain, replace, and remove Interconnection Facilities and any equipment that may be provided, owned, operated and maintained by SDG&E on the property of Wildflower in connection therewith. Wildflower agrees to grant such easements and rights-of-way to SDG&E at no cost and in a form satisfactory to SDG&E (utilizing reasonable commercial principals) and capable of being recorded in the office of the County Recorder.

##### **8.10.2 Wildflower Access Rights**

Wildflower shall have access to the Interconnection Facilities in an emergency to perform any remediation or abatement pursuant to Section 16.29 in accordance with the provisions of Section 16.29. While in the Border substation, Wildflower shall comply with the SDG&E Standard Operating Procedures, established maintenance practices and written safety and security conventions, protocols and practices, which are consistent with Good Utility Practice.

**8.11 Review and Disclaimer**

Review, if any, by SDG&E of the design, construction, operation, or maintenance of the Generating Facility, including modifications thereto, shall not constitute any representation as to the economic or technical feasibility, operational capability, or reliability of such facilities. Wildflower shall in no way represent to any third party that any such review by SDG&E of such facilities, including but not limited to any review of the design, construction, operation, or maintenance of such facilities by SDG&E, is a representation by SDG&E as to the economic or technical feasibility, operational capability, or reliability of such facilities. Wildflower is solely responsible for economic and technical feasibility, operational capability, and reliability of Wildflower's Generating Facility.

**9. OPERATING COMMUNICATIONS AND NOTIFICATIONS**

**9.1 Designated Representatives**

The Parties shall provide for operating communications through their respective designated representatives as follows:

| SDG&E                             | Wildflower                |
|-----------------------------------|---------------------------|
| Operations Shift Supervisor       | Dispatch Desk             |
| _____                             | _____                     |
| Title                             | Name or Title of Operator |
| Mission Control Center            | 858-320-1500              |
| _____                             | _____                     |
| Designated SDG&E Switching Center | Telephone Number          |
| 619-296-5411                      | Larkspur Site Supervisor  |
| _____                             | _____                     |
| Telephone Number                  | Alternate Operator        |
| _____                             | 619-720-812               |
| _____                             | _____                     |
| _____                             | Telephone Number          |

**9.2 Communication with the Designated SDG&E Switching Center**

**9.2.1 Advance Notice of Generating Unit Synchronizing Events**

Wildflower shall advise the Designated SDG&E Switching Center in advance of its intent to synchronize a Generating Facility and coordinate with SDG&E in conformance with the Standard Operating Procedures and Good Utility Practice. The Designated SDG&E Switching Center must provide a permissive close control signal before the respective generator breaker close circuit is enabled, allowing Wildflower to synchronize and close the generator breaker.

**9.2.2 Maintenance of Operating Communications With SDG&E**



Wildflower shall maintain operating communications with the Designated SDG&E Switching Center. The operating communications shall include, but not be limited to, advising the Designated SDG&E Switching Center promptly, and whenever possible in advance of any separation from the SDG&E Electric System and any scheduled and unscheduled shutdowns, equipment clearances, and changes in levels of operating voltage or power factors. Such communications shall also include daily operating reports as provided below in Section 10.

#### 9.2.3 Prompt Notification of Changes

Wildflower promptly shall notify the Designated SDG&E Switching Center of, and any changes in, the following:

- (a) The current names and 24-hour phone numbers of the personnel responsible for operating and maintaining the Generating Facility;
- (b) Any Emergency situation or any request that SDG&E de-energize a portion of the SDG&E Electric System or the Interconnection Facilities under its control;
- (c) Any changes in the mechanical or electric condition of the Generating Facility or Generator Step-up Facilities that may materially affect the reliability of either the Generating Facility or SDG&E System Integrity;
- (d) Discovery of any misoperation or inoperable condition of a SDG&E-required interconnection relay or circuit breaker;
- (e) Discovery of any circuit breaker that was operated by a SDG&E-required interconnection relay along with the relay targets that caused the circuit breaker to operate; and
- (f) Plans to manually separate from the SDG&E Electric System or the Interconnection Facilities and the times of actual manual parallels and separations. Emergency separations shall be reported as soon as conditions permit.

#### 9.3 Oral Communications

All oral operating communications shall be conducted through the Designated SDG&E Switching Center. Wildflower agrees to maintain 24 hour direct phone service so that SDG&E can give instructions to Wildflower or its designated operator.

#### 9.4 Telemetry Requirements

[Reserved]

#### 9.5 Operating Agreements

The Parties may enter into a separate agreement describing specific operating procedures regarding the Generating Facility.

**10. OPERATION AND MAINTENANCE OF GENERATING FACILITY AND GENERATOR STEPUP FACILITIES**

**10.1 Daily Operating Log**

Wildflower shall keep a written daily operations log for the Generating Facility. The log shall include information on unit availability, maintenance outages, circuit breaker trip operations, and any significant events related to operations of the Generating Facility.

**10.2 Power Factor and Voltage Instructions**

Wildflower will receive, from time to time, voltage set-point (or plant power factor) instructions from the Designated SDG&E Switching Center. Wildflower shall operate the Generating Facility to maintain the specified voltage set-point (or plant power factor). If Wildflower is unable to maintain the specified voltage set-point (or plant power factor), it shall promptly notify the Designated SDG&E Switching Center.

**10.3 Daily Operating Report**

Wildflower shall electronically transmit a daily report, when applicable, including information required by Section 10.4 to the Designated SDG&E Switching Center; provided, that Wildflower shall telephone that information daily to the Designated SDG&E Switching Center Representative as provided in Section 9.1 upon receiving notice that the electronic data transmission is not being correctly received.

**10.4 Maintenance Notice**

Under normal conditions, Wildflower shall give as much reasonable advance notice as reasonably possible (a minimum of 5 Business Days) to the Designated SDG&E Switching Center when planning to perform work that may affect the SDG&E Electric System or the Interconnection Facilities. At a minimum, the notice shall include:

- (a) Nature of the work to be performed;
- (b) Date and time the work will begin;
- (c) Date and time the work will be completed;
- (d) Apparatus to be cleared and the Clearance Points required;
- (e) Name and telephone number of the person in charge of the work; and
- (f) Whether or not protective grounds will be installed.

**10.5 Maintenance on Facilities Energized by SDG&E**

**10.5.1 Wildflower May Perform Certain Work**

If Wildflower wishes to perform work on its own facilities which would normally be energized by SDG&E-controlled voltage source(s), Wildflower may request that SDG&E open, lock

and tag SDG&E's associated disconnect device to isolate Wildflower's facilities from SDG&E voltage source(s). SDG&E will also establish the disconnect device(s) as an open Clearance Point(s) and install "Hold-Out" tags as presently set forth in Section 13.1 of SDG&E Standard Operating Procedures).

#### 10.5.2 Wildflower Responsible for its Equipment and Work

SDG&E is not responsible for Wildflower's equipment energized by the Generator Step-up Facilities or by any other means. Wildflower agrees that any work it performs is at its own risk. Wildflower shall take all necessary steps to ensure that work is conducted consistent with Good Utility Practice.

#### 10.6 Coordinated Maintenance Planning

To the extent possible, the Parties will cooperate and coordinate on planning of scheduled outages for the Generating Facility and the Interconnection Facilities in accordance with the Standard Operating Procedures and Good Utility Practice.

#### 10.7 Remedial Action Scheme Requirements

For certain contingency situations on the SDG&E Electric System, the generation output from the Generating Facilities will result in an overload condition on electric facilities in the area. To remedy such overload condition and maintain system reliability Wildflower consents to SDG&E initiating a remedial action scheme. Depending upon the contingency that occurs, the remedial action scheme ("RAS") may cause the tripping of one or both of the Wildflower generating units. The RAS will remain in effect for the minimum time deemed necessary by SDG&E to remedy an overload condition and restore system reliability.

Designated SDG&E Switching Center shall notify Wildflower Designated Representative whenever a related RAS scheme is armed or disarmed.

A table of remedial actions that result from the application of the RAS is attached as Appendix E (E.2.3) of this IA. Appendix E may be modified from time to time upon the mutual agreement of both Parties after consultation with the ISO.

### 11. METERING

#### 11.1 Delivery Meters

All real and reactive power deliveries to the SDG&E Electric System from Wildflower's Generating Facility shall be metered at each Point of Interconnection with meters meeting all of the requirements of the ISO Tariff. In addition, meters and metering equipment shall meet the requirements of the SDG&E Interconnection Handbook. Any conflicts with regard to metering standards that may arise between this IA, the SDG&E Interconnection Handbook and the ISO Tariff shall be resolved consistent with the ISO Tariff. Power deliveries shall be metered at voltage specified for the Point of Interconnection in Appendix E.2.1.

#### 11.2 Requirements for Meters and Meter Maintenance

The Responsible Meter Party's metering equipment located at the Point of Interconnection shall measure and record real and reactive power flows and shall be capable of recording

flows in both directions. Such "in" and "out" bi-directional meters shall be designed to prevent reverse registration and shall measure and continuously record such deliveries. Meters, metering transformers and devices shall be maintained and tested annually by the Responsible Meter Party in accordance with applicable metering maintenance and testing standards and guidelines.

### **11.3 Meter Access**

#### **11.3.1 Access to Meter-Related Facilities**

The Party that owns meter-related facilities, such as metering transformers and devices, shall grant reasonable access to allow the other Party to use such meter-related facilities for the other Party's own meters; provided that the other Party shall compensate the owning Party for actual costs incurred related to such access.

#### **11.3.2 Reading and Maintaining Meters**

If required, the other Party shall grant the Responsible Meter Party such reasonable access to the other Party's facilities as may be required for meter reading and/or the proper operation and maintenance of all revenue metering facilities.

### **11.4 Auxiliary Metering**

Auxiliary energy usage supplied to the Generating Facility through SDG&E's tie line TL6935 when the Generating Facility is not in service, shall be metered for SDG&E billing purposes utilizing metering equipment installed at the appropriate locations on Wildflower's 12 kV auxiliary buses as shown in appendix E6.

## **12. MAINTENANCE OF INTERCONNECTION EQUIPMENT OWNED BY WILDFLOWER**

### **12.1 Modifications to the Interconnection or Protection Devices**

Wildflower agrees to obtain SDG&E's prior written approval before materially modifying its existing interconnection or protection devices that have previously been approved by SDG&E; provided, SDG&E's approval shall not be unreasonably withheld, conditioned, or delayed. Modifications include, but are not limited to, the application of new or revised settings. Wildflower shall notify SDG&E in writing, at least 60 calendar days prior to such modification, unless lesser time is necessitated under the circumstances in conformance with Good Utility Practice.

### **12.2 Testing of Interconnection Facilities**

SDG&E-required Interconnection Facilities owned by Wildflower shall be periodically tested and maintained by qualified personnel in accordance with the manufacturer's specifications. Wildflower shall at SDG&E's election permit SDG&E to observe such tests. Copies of equipment test reports shall be maintained by Wildflower and, upon request, forwarded to SDG&E for review.

### **12.3 Relay Requirements**

#### **12.3.1 Relays**

Before the Generating Facility operates in parallel with SDG&E, all SDG&E-required interconnection relays shall be verified and made available for review by SDG&E. If a relay is removed for maintenance or repair, the Designated SDG&E Switching Center shall be notified. If the relays are removed for any reason, SDG&E reserves the right to inspect the Generating Facility before parallel operation may resume.

#### 12.3.2 Nameplates

Laminoid or equivalent forms of nameplates or labels shall be installed by Wildflower adjacent to all SDG&E-required interconnection relays. Each relay nameplate shall include the device number and the relay's function.

### 13. REFERENCES

The following reference materials, all of which are subject to revision or being superseded from time to time in SDG&E's sole discretion, are available for use by Wildflower and its operating personnel. Copies may be requested from the Designated SDG&E Switching Center:

13.1 SDG&E Standard Operating Procedures: ATP7005, as it may be modified or superceded from time to time in SDG&E's sole discretion, is a document describing approved SDG&E clearance procedures and OCP7505, as it may be modified or superceded from time to time in SDG&E's sole discretion, is a document describing instructions for obtaining clearances.

13.2 SDG&E Interconnection Handbook: A handbook, developed by SDG&E pursuant to TCA Section 10.3.1 that is entitled "Technical Standards For Load And Non-SDG&E Owned Generator Interconnections", describing technical requirements for wholesale generators and loads connected to the SDG&E Electric System, as it may be modified or superseded from time to time in SDG&E's sole discretion. SDG&E's standards contained in the handbook are, and shall be maintained, consistent with Good Utility Practice and Applicable Reliability Criteria. Where there is conflict or inconsistency between the terms and conditions of this IA and the SDG&E Interconnection Handbook, the terms and conditions of this IA shall apply.

### 14. SIGNIFICANT REGULATORY CHANGE

#### 14.1 Notification

If, at any time during the term of this IA, either Party becomes aware of a Significant Regulatory Change (whether actual or proposed), and if such change may reasonably be expected to materially affect either Party's or both Parties' obligations or operations under this IA, such Party shall provide written notice to the other Party promptly, but no later than 30 calendar days after becoming aware of such Significant Regulatory Change. The notice shall contain a description of the Significant Regulatory Change and its impact on this IA, including expected time schedules. If either Party believes that it will be necessary to amend this IA to address the anticipated change, then the Parties shall proceed timely to meet and confer in accordance with Section 14.2 hereof and shall use reasonable efforts to timely negotiate an appropriate amendment to this IA.

#### 14.2 Amendment of Agreement

##### 14.2.1 Meet to Discuss Need for Amendment

Following notification under Section 14.1, the Parties shall meet to discuss whether an amendment to this IA is necessary to address the Significant Regulatory Change. Such amendment, if any, shall be limited in scope to what is necessary to allow this IA to accommodate the Significant Regulatory Change identified in the notice issued pursuant to Section 14.1.

#### 14.2.2 Process to Amend Agreement

If the Parties agree that such an amendment to this IA is necessary, the Parties will proceed to negotiate in good faith such amendment. If the Parties have not reached agreement within 60 calendar days of the date of the first meeting, any unresolved issues shall be resolved through dispute resolution procedures set forth in Section 16.10. Notwithstanding the above, if any issues remain unresolved as of 90 calendar days before the Significant Regulatory Change is scheduled to take place or if the Significant Regulatory Change is anticipated to take place at an earlier date, then with respect to the unresolved issues, (i) SDG&E may, but is not required to, unilaterally file an amendment to this IA with FERC pursuant to Section 205 of the FPA, provided that Wildflower shall retain and may exercise its rights under the FPA to protest or oppose such filing, and (ii) Wildflower may, but is not required to, unilaterally file a complaint under Section 206 of the FPA asking FERC to amend this IA, and SDG&E may exercise its right to protest or oppose such filing.

#### 14.2.3 Inability to Agree That Amendment Is Necessary

If within 30 calendar days of the date on which notice was provided in accordance with Section 14.1 hereof, the Parties cannot agree that an amendment to this IA is necessary to allow this IA to accommodate the Significant Regulatory Change, they shall submit such dispute to resolution proceedings pursuant to Section 16.10 (Dispute Resolution), provided, however, that if such dispute is not resolved as of 90 calendar days before the Significant Regulatory Change is scheduled to take place or a Party reasonably believes that the Significant Regulatory Change is anticipated to take place at an earlier date, then (i) SDG&E may, but is not required to, unilaterally file an amendment to this IA with FERC, provided that Wildflower shall retain and may exercise its rights under the FPA to protest or oppose such filing, and (ii) Wildflower may, but is not required to, unilaterally file a complaint under Section 206 of the FPA asking FERC to amend this IA, and SDG&E may exercise its right to protest or oppose such filing.

### 15. BILLING AND PAYMENT

#### 15.1 Billing

SDG&E shall bill Wildflower, and Wildflower shall bill SDG&E, for any costs contemplated pursuant to the IA. Wildflower shall pay SDG&E for such costs at:

San Diego Gas & Electric  
P.O. Box 25110  
Santa Ana, California 92799-5110

SDG&E shall pay Wildflower for such costs at:

Wildflower Energy LP  
c/o InterGen N.A.  
909 Fannin Street, Suite 2200  
Houston, TX 77010  
Attn: Accounts Payable

A party may change the place where payment is made by giving the other party 30 calendar days advance notice thereof as provided in Section 16.21.

#### 15.2 Payment Due Date

The payment of any bill shall be due absent a good faith dispute as to sums due and must be received by the billing party not later than the 30th calendar day following the day on which the billed party receives the bill or, if that 30th day is a Saturday, Sunday or legal holiday, the next Business Day. Such date shall be referred to as the "Payment Due Date". A bill shall be deemed delivered on the third Business Day after the postmarked date unless a copy of the bill is delivered by electronic facsimile, in which case it shall be deemed delivered on the same day. If a party has a question concerning a bill, it may immediately review the back-up data used in preparation of the bill which both parties shall retain for 3 years from the last day of each calendar year and following final payment under this IA.

#### 15.3 Estimated Bills

If charges under this IA cannot be determined accurately for preparing a bill, a Party shall use its best estimates in preparing the bill and such estimated bill shall be paid by the other Party. Any estimated charges shall be labeled as such and the billing Party shall, upon request, document the basis for the estimate used. Estimated bills shall be prepared and paid in the same manner as other bills under this IA. The billing Party shall prepare an adjusted bill pursuant to Section 15.5 when final and complete billing information becomes available.

#### 15.4 Disputed Bills

If a Party disputes all or any portion of a bill, the billed party shall pay the undisputed amount on or before the Payment Due Date. The billed Party shall, on or before the Payment Due Date, notify the billing Party, in writing, of the amount in dispute and the specific basis for the dispute. The Parties shall endeavor to resolve any billing dispute within 30 calendar days of the billing party's receipt of the billed Party's notice of a dispute (or such extended period as the Parties may establish). If the Parties cannot agree, either Party may initiate dispute resolution pursuant to Section 16.10 (Dispute Resolution). A dispute between either Party and any third party shall not be a proper basis for withholding payment. Payments to the billing Party of the billed Party's obligations arising under this IA are not subject to any reduction, whether by offset, payments into escrow, or otherwise, except for routine adjustments or corrections as may be agreed to by the Parties or as expressly provided in this IA.

#### 15.5 Adjusted Bills

When final and complete billing information becomes available and a charge is determined accurately or billing errors are identified and corrected, the billing Party shall promptly prepare and submit an adjusted bill to the billed Party, and any additional payments by the billed Party shall be made in accordance with the provisions of this Section 15.5. Refunds by the billing Party shall be paid to the billed party not later than 30 calendar days after the date of the adjusted bill.

## **16. GENERAL PROVISIONS**

### **16.1 Appendices Included**

The following Appendices to this IA, as they may be revised from time to time by written agreement of the Parties or by order of FERC, are attached hereto and are incorporated by reference as if fully set forth herein:

**Appendix A - Insurance**

**Appendix B - Routine Test Guidelines and OK-On-Or-Near Authorization Procedures**

**Appendix C - Dispute Resolution and Arbitration**

**Appendix D - Elections Made By Wildflower**

**Appendix E - Generating Facility Information and Interconnection Capacity**

**Appendix F - SDG&E Interconnection Handbook Waivers**

### **16.2 Auditing**

Upon reasonable advance written notice each Party shall have the right to audit, at its own expense and during normal business hours, the relevant records of the other Party (including the relevant records of Wildflower's meters) for the limited purpose of determining whether the other Party is meeting its obligations under this IA. Such audits shall be limited to only those records reasonably required to determine compliance with this IA, and each Party agrees to disclose the information obtained in such audit only to those persons, whether employed by such Party or otherwise, that are directly involved in the administration of this IA. Each Party agrees that under no circumstances will it use any information obtained in such an audit for any purposes other than the determination of SDG&E's compliance with the terms of this IA and verification of the propriety of any charges assessed to Wildflower hereunder. Each Party's right to audit shall extend for a period of 3 years from the last day of each calendar year and following final payment under this IA. Records and related back-up data shall be maintained for a period of 3 years from the last day of each calendar year and following final payment under this IA to facilitate such audits.

### **16.3 Adverse Determination or Expansion of Obligations**

#### **16.3.1 Adverse Determination**

If, after the effective date of this IA, FERC or any other regulatory body, agency or court of competent jurisdiction determines that all or any part of this IA, its operation or effect is unjust, unreasonable, unlawful, imprudent or otherwise not in the public interest, each Party shall be relieved of any obligations hereunder to the extent necessary to comply with or eliminate such adverse determination. Any obligations not so affected shall remain in full force and effect. The Parties shall promptly enter into good faith negotiations in an attempt to achieve a mutually agreeable modification to this IA to address any such adverse determination.

#### **16.3.2 Expansion of Obligations**



If, after the effective date of this IA, FERC or court of competent jurisdiction orders or determines that this IA should be interpreted, modified, or significantly extended in such a manner that SDG&E or Wildflower may be required to incur significant new or different obligations to the other Party not contemplated by this IA, then the Parties shall be relieved of their obligations to the extent lawful and necessary to eliminate the effect of that order or determination, and the Parties shall attempt to renegotiate in good faith the terms and conditions of the IA to restore the original balance of benefits and burdens contemplated by the Parties at the time this IA was made.

### 16.3.3 Renegotiation

If, within 3 months after an order or decision as described in Sections 16.3.1 and 16.3.2, the Parties either: (i) do not agree that a renegotiation is feasible or necessary; or (ii) the Parties cannot agree to amend or supersede this IA, then: (a) either Party may submit the dispute for resolution in accordance with procedures set forth in Section 16.10; or (b) if such matter is not submitted for resolution under subsection (a) above within 10 days of the completion of the referenced 90 day period, either Party may unilaterally file a replacement interconnection agreement with FERC pursuant to Section 205 of the FAP, with Wildflower reserving the right to protest such replacement interconnection agreement. The effect of termination, and the rights of the Parties thereunder, shall be as provided in Section 6.2 of this IA..

## 16.4 Transfers and Assignments

### 16.4.1 Consent Required

No transfer or assignment of either Party's rights, benefits or duties under this IA shall be effective without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, such prior written consent is not required for (A) assignments stemming from interests that arise by reason of any deed of trust, mortgage, indenture or security agreement heretofore granted or executed by either Party or to be executed by Wildflower in connection with its financing or any subsequent refinancing; (B) a transfer or assignment by Wildflower to an affiliate in connection with such financing or refinancing; or (C) an assignment by SDG&E to an affiliate. Any attempted or purported transfer made other than in accordance with this Section 16.4.1, either voluntarily or by operation of law, shall be void and of no effect.

### 16.4.2 Assignee's Continuing Obligation

Any successor to or transferee or assignee of the rights or obligations of a Party, whether by voluntary transfer, judicial sale, foreclosure sale or otherwise, shall be subject to all terms and conditions of this IA to the same extent as though such successor, transferee, or assignee were an original Party.

## 16.5 Captions

All indices, titles, subject headings, section titles and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning of the contents or scope of the IA. All references in this IA to sections are sections of this IA, unless otherwise indicated.

## 16.6 Construction of the Agreement

Each Party and their respective counsel have contributed to the preparation of this IA. Accordingly, no provision of this IA shall be construed against any Party because that Party or its counsel drafted the provision.

#### **16.7 Control and Ownership of Facilities**

The SDG&E Electric System shall at all times be and remain in the exclusive ownership, possession and control of SDG&E, and nothing in the IA shall be construed to give Wildflower any right of ownership, possession or control of all or any portion of the SDG&E Electric System. All facilities installed hereunder shall, unless otherwise agreed by the Parties, at all times be and remain the property of SDG&E, notwithstanding that they may be affixed to premises owned or leased by or under license to Wildflower.

#### **16.8 Cooperation and Right of Access and Inspection**

Each Party shall give to the other all reasonably necessary permission to enable it to perform its obligations under the IA. Each Party shall give the other Party the right to have its contractors, employees and/or representatives, when accompanied by the contractors, employees and/or representatives of the other Party, enter its premises at reasonable times and in accordance with reasonable rules and regulations for the purpose of inspecting the property and equipment of the Party in a manner which is reasonable for assuring the performance of the Parties' obligations under the IA.

#### **16.9 Default**

**16.9.1 A Party will be in default under the EIFA if, at any time:**

(A) the Party fails to make any payment due the other Party in accordance with this IA and does not make such payment to the other Party within 30 calendar days after receiving written notice from the other Party of such failure; or

(B) (1)(a) the Party fails in any material respect to comply with, observe or perform any term or condition of this IA; (b) any representation or warranty made herein by the Party fails to be true and correct in all material respects; or (c) the Party fails to provide to the other Party reasonable written assurance of its ability to perform fully and completely any of its material duties and responsibilities under this IA within 30 calendar days after receiving any reasonable request for such assurances from the other Party; and

(2)(a) the Party fails to correct or cure the situation within 30 calendar days after receiving written notice from the other Party, or (b) if the situation cannot be completely corrected or cured within such thirty-day period, the Party fails to either (i) commence diligent efforts to correct or cure the situation within such thirty-day period or (ii) completely correct or cure the situation within 90 calendar days after receiving written notice from the other Party.

**16.9.2 Remedies Upon Default.** If a Party defaults under this IA in accordance with this Section 16.9, the other Party may (A) act to terminate this IA by providing written notice of termination to the defaulting Party, and/or (B) take whatever action at law or in equity as may appear necessary or desirable to enforce the performance or observance of any rights, remedies, obligations, agreements, or covenants under this IA. Any termination sought under this Section 16.9.2 shall not take effect until FERC either authorizes any request by either Party seeking termination of this IA or accepts any written notice of termination.

**16.9.3 Performance of Other Party's Obligations.** If either Party (the "Defaulting Party") fails to carry out its obligations under this IA and such failure could reasonably be expected to have a material adverse impact on the SDG&E Electric System, the Interconnection Facilities, the Generating Facility, or the regional network, the other Party, following 10 calendar days prior written notice (except in cases of an Emergency, in which case only such notice as is reasonably practicable in the circumstances is required), may, but will not be obligated to, perform the obligations of the Defaulting Party (including, without limitation, maintenance obligations), in which case the Defaulting Party will, upon presentation of an invoice therefor, reimburse the other Party for all actual and reasonable costs and expenses incurred by it in performing said obligations of the Defaulting Party (including, without limitation, costs associated with its employees and the costs of appraisers, engineers, environmental consultants and other experts retained by said Party in connection with performance of the Defaulting Party's obligations), together with interest calculated in accordance with Section 15.7.

**16.9.4 Remedies Cumulative.** No remedy conferred by any of the provisions of this IA is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

#### **16.10 Dispute Resolution**

The Parties shall make reasonable efforts to resolve all disputes arising under this IA expeditiously and by good faith negotiation. Where this IA specifically calls for resolution of disputes pursuant to this Section 16.10, the Parties shall pursue dispute resolution according to the procedures set forth in Appendix C. In all other circumstances the procedures in Appendix C may optionally be used to resolve disputes upon agreement by both Parties. In the event that a matter is submitted to arbitration under Appendix C, the Parties shall be bound by the determination of the arbitrator(s). In the event the Parties are unable to resolve the dispute by application of the procedures in Appendix C, a Party may pursue its claim, if any, in any other appropriate forum.

#### **16.11 Governing Law**

This IA shall be interpreted, governed by and construed under the laws of the State of California, as if executed and to be performed wholly within the State of California.

#### **16.12 Indemnity**

##### **16.12.1 Definitions**

As used in this Section 16.12, with initial letters capitalized, whether in the singular or the plural, the following terms shall have the following meanings:

loss which:

16.12.1.1 Accident - Personal injury, death, property damage, or economic

- (a) is sustained by a Third Party ("Claimant");
- (b) arises out of delivery of, or curtailment of, or interruption to electric service, including but not limited to abnormalities in frequency or voltage; and
- (c) results from either or both of the following:
  - (i) engineering, design, construction, repair, supervision, inspection, testing, protection, operation, maintenance, replacement, reconstruction, use, or ownership of either the SDG&E Electric System, the Interconnection Facilities, or Wildflower's Generating Facility; or
  - (ii) the performance or non-performance of either Party's obligations under the IA.

16.12.1.2 Indemnitee — A Party defined in Section 16.12.2(b).

16.12.1.3 Indemnitor — A Party defined in Section 16.12.2(b).

#### 16.12.2 Indemnity Duty

If a Claimant makes a claim or brings an action against a Party seeking recovery for loss, damage, costs or expenses resulting from or arising out of an Accident, the following shall apply:

- (a) That Party shall defend any such claim or action brought against it, except as otherwise provided in this Section 16.12.2.
- (b) A Party ("Indemnitor") shall hold harmless, defend and indemnify, to the fullest extent permitted by law, the other Party, its directors or members of its governing board, officers and employees (collectively "Indemnitees"), upon request by the Indemnitee, for claims or actions brought against the Indemnitee allegedly resulting from Accidents caused by acts or omissions of the Indemnitor. In so doing, the Indemnitor shall not settle or consent to the entry of judgment in an action without the consent of the Indemnitee, which consent shall not be unreasonably withheld.
- (c) No Party shall be obligated to defend, hold harmless or indemnify the other Party, its directors or members of its governing board, officers and employees for Accidents resulting from the latter's negligence or willful misconduct.
- (d) If a Party successfully enforces this indemnity, the Party against which enforcement is required shall pay all costs, including

reasonable attorneys' fees and other reasonable litigation expenses, incurred in such enforcement.

#### **16.13 Interpretation**

This IA is not intended to modify any SDG&E tariff or rule filed with the FERC. In case of conflict between this IA and any SDG&E or ISO Tariff, the ISO Tariff shall govern. This IA represents the entire understanding between the Parties hereto relating to the parallel operation of the Generating Facility with the SDG&E Electric System, and supersedes any and all prior proposals or agreements, whether written or oral, that may exist between the Parties, provided that the EIFA governs with respect to the initial installation and construction of the Interconnection Facilities and the ongoing charges for operation and maintenance of such Interconnection Facilities. Where there is conflict or inconsistency with the express terms in this IA and any documents referenced by this IA excluding the above referenced SDG&E and ISO tariffs, the terms of this IA shall supersede such conflicting terms. If there is a conflict between the express terms in this IA and the EIFA, the terms of this IA shall supersede such conflicting terms as to matters related to the operation and maintenance of the Interconnection Facilities and the Generating Facility and the right of SDG&E to install additional facilities.

#### **16.14 Judgments and Determinations**

When the terms of this IA provide that an action may or must be taken, or that the existence of a condition may be established based on a judgment or determination of a Party, such judgment shall be exercised or such determination shall be made reasonably and in good faith, and where applicable in accordance with Standard Operating Procedures or Good Utility Practice, and shall not be arbitrary or capricious.

#### **16.15 Liability**

##### **16.15.1 To Third Parties**

Nothing in this IA shall be construed to create any duty to, any standard of care with reference to, or any liability to, any Third Party.

##### **16.15.2 Between the Parties**

Except for its willful misconduct or negligence, or with respect to breach of this IA, or with respect to the indemnity duty under Section 16.12, no Party, nor its directors or members of its governing board, officers, employees or agents shall be liable to another Party for any loss, damage, claim, cost, charge, or expense arising from or related to this IA. Notwithstanding the foregoing, neither Party, nor its directors or members of its governing board, officers, employees or agents shall be liable to the other Party for any consequential, special or indirect damages.

##### **16.15.3 Protection of a Party's Own Facilities**

Each Party shall be responsible for protecting its facilities from possible damage by reason of electrical disturbances or faults caused by the operation, faulty operation, or non-operation of another Party's facilities, and such other Party shall not be liable for any such damage so caused.

##### **16.15.4 Liability for Interruptions**

Neither Party shall be liable to the other, and each Party hereby releases the other and its directors, officers, employees and agents from and indemnifies them, to the fullest extent permitted by law, for any claim, demand, liability, loss or damage, whether direct, indirect or consequential, incurred by either Party, which results from the interruption or curtailment of power flows on or ancillary services to be provided through, the Interconnection Facilities undertaken pursuant to (i) this IA, (ii) Standard Operating Procedures and Good Utility Practice, or (iii) ISO directives.

#### **16.16 Modification**

This IA may be amended or modified only by a written instrument signed by the authorized representatives of both Parties, except as may otherwise herein be expressly provided.

#### **16.17 No Dedication of Facilities**

Any undertaking by either Party under any provision of this IA is rendered strictly as an accommodation and shall not constitute the dedication by Wildflower of any part or all of the Generating Facility or by SDG&E of any part or all of the SDG&E Electric System to the other, the public, or any Third Party. Any such undertaking by any Party under a provision of or resulting from, this IA shall cease upon the termination of that Party's obligations under this IA.

#### **16.18 No Obligation to Offer Same Service To Others**

By entering into this IA to interconnect with Wildflower and filing it with FERC, SDG&E does not commit itself to furnish any like or similar undertaking to any other Person.

#### **16.19 No Precedent**

This IA establishes no precedent with regard to any other entity or IA. Nothing contained in this IA shall establish any rights to or precedent for other arrangements as may exist, now or in future, between SDG&E and Wildflower for the provision of any interconnection arrangements or any form of electric service.

#### **16.20 No Transmission, Distribution or Ancillary Services Provided**

Under this IA, SDG&E does not undertake to provide any transmission service, distribution service, or Ancillary Services using any part of the SDG&E Electric System for Wildflower or any Third Party, or to act as a Scheduling Coordinator or in any other capacity as an intermediary for Wildflower with others. Nothing in this IA shall be construed to preclude Wildflower from seeking transmission, distribution, or other services under a separate arrangement with SDG&E, or pursuant to any tariff for such service which SDG&E may have on file with FERC or CPUC, or on the basis of other rights that may exist in law or regulation.

#### **16.21 Notices**

Except as provided in Sections 9 and 10 above and in Appendix C, all notices or other communications herein provided to be given or which may be given by either Party to the other shall be deemed to have been duly given if delivered by electronic facsimile transmission with confirmed receipt, or when made in writing and delivered in person or deposited in the United States mail, postage prepaid, certified mail, return receipt requested and addressed as follows:

**To SDG&E:**

**Manager, Energy Supply Management  
San Diego Gas & Electric Company  
8306 Century Park Court CP41D  
San Diego, CA 92123-1593**

**James F. Walsh, III, Esq.  
Sempra Energy  
101 Ash Street  
San Diego, CA 92101-3017**

**To Wildflower:**

**Vice President of Operations  
Wildflower Energy LLP  
c/o InterGen N.A.  
909 Fannin Street, Suite 2200  
Houston, TX 77010**

**J. David Honeycutt  
Wildflower Energy LLP  
c/o InterGen N.A.  
909 Fannin Street, Suite 2222  
Houston, TX 77010**

Either Party may change any address or location for notices and other communications by giving notice to the other Party as provided in this Section 16.21.

#### **16.22 Non-waiver**

Failure by either Party to enforce any right or obligation with respect to any matter arising in connection with this IA shall not constitute a waiver as to that matter or any other matter.

#### **16.23 Reservation of Rights**

##### **16.23.1 Rate Changes**

Nothing contained herein shall be construed as affecting in any way the right of SDG&E to unilaterally make application to the FERC for a change in rates under Section 205 of the FPA and pursuant to the FERC's Rules and Regulations promulgated thereunder. Wildflower shall have the right to protest and object to such change in rates and otherwise to exercise any and all rights it may have with respect thereto, including its rights under Section 206 of the FPA. Nothing contained herein shall be construed as affecting in any way the right of Wildflower to unilaterally make application to the FERC for a change in rates under Section 206 of the FPA. The term "rates" as used herein shall mean all rates, terms and conditions contained in this IA. A change in rates may include, but not be limited to, not only changes in rates and charges but also in the underlying methodology by which such rates and charges are developed.

##### **16.23.2 FPA Disputes**

The Parties agree that each Party expressly reserves all of its rights under the FPA, including the right to seek resolution by FERC of disputes arising under Sections 202(b) and/or 210 of the FPA; provided, however, that the Parties may mutually agree to resolve such dispute through procedures set forth in Section 16.10.

#### **16.24 Rules and Regulations**

SDG&E and Wildflower may each establish and, from time to time, change such reasonable procedures, rules, or regulations as they shall determine are necessary in order to establish the methods of operation to be followed in the performance of this IA; provided that any such procedure, rule, or regulation shall not be inconsistent with the provisions of this IA. If a Party objects to a procedure, rule, or regulation established by the other Party, it will notify the other Party and the Parties will endeavor to modify the procedure, rule, or regulation in order to resolve the objection. If the Parties

cannot reach agreement, either Party may seek to resolve such dispute through procedures set forth in Section 16.10.

#### 16.25 Severability

If any term, covenant or condition of this IA or its application is held to be invalid as to any person, entity or circumstance, by FERC or any other regulatory body, or agency or court of competent jurisdiction, then such term, covenant or condition shall cease to have force and effect to the extent of that holding. In that event, however, all other terms, covenants and conditions of this IA and their application shall not be affected thereby, but shall remain in full force and effect unless and to the extent that a regulatory agency or court of competent jurisdiction finds that a provision is not separable from the invalid provision(s) of this IA.

#### 16.26 Uncontrollable Force

In the event of the occurrence of an Uncontrollable Force which prevents a Party from performing any of its obligations under this IA such Party shall (i) immediately notify the other Party in writing of such Uncontrollable Force and an estimate of the date on which the Party claiming the existence of an Uncontrollable Force believes the Uncontrollable Force will cease, (ii) not be entitled to suspend performance of any greater scope or longer duration than is required by the Uncontrollable Force, (iii) use commercially reasonable efforts to overcome the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance hereunder, (iv) keep the other Party apprised of such efforts on a continual basis, and (v) provide written notice of the resumption of performance hereunder. No Party will be considered in default as to any obligation under this IA if prevented from fulfilling the obligation due to the occurrence of an Uncontrollable Force.

#### 16.27. Confidentiality

##### 16.27.1 Confidential Information

- (a) Shall mean any confidential, proprietary or trade secret information of a plan, specification, pattern, procedure, design, device, list concept, policy or compilation relating to the present or planned business of a Party which is designated in good faith as Confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection or otherwise, except that the real-time in-plant data, shall be considered Confidential Information without the need for designation. Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by either of the Parties to the other prior to the execution of the IA.
- (b) Each Party will hold in confidence any and all Confidential Information unless (1) compelled to disclose such information by judicial or administrative process or other provisions of law or as otherwise provided for in this IA, or (2) to meet obligations imposed by FERC or by a state or other federal entity or by membership in NERC, the California ISO or a regional transmission organization. Information required to be disclosed



under (b)(1) or (b)(2) above, does not, by itself, cause any information provided by one Party to the other Party to lose its confidentiality. To the extent it is necessary for either Party to release or disclose such information to a third party in order to perform that Party's obligations herein, such Party shall advise said third party of the confidentiality provisions of the IA and use all reasonable efforts to require said third party to agree in writing to comply with such provisions.

- (c) During the term of the IA, and for a period of 2 years after disclosure hereunder, except as otherwise provided in this Section 16.27, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

#### 16.27.2 Scope

Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis prior to receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving party, after due inquiry was under no obligation to the disclosing party to keep such information confidential; (4) was independently developed by the receiving party without reference to Confidential Information of the Disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or breach of this Agreement; or (6) is required, in accordance with Section 16.27.1 of this IA, to be disclosed by any federal or state government or agency or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this IA. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Party that it no longer is confidential.

#### 16.27.3 Order of Disclosure

If a court or a government agency or entity with the right power, and apparent authority to do so requests or requires either Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Party with prompt notice of such request(s) or requirement(s) so that the other Party may seek an appropriate protective order or waive compliance with the terms of this IA. The notifying Party shall have no obligation to oppose or object to any attempt to obtain such production except to the extent requested to do so by the disclosing Party and at the disclosing Party's expense. If either Party desires to object or oppose such production, it must do so at its own expense. The disclosing Party may request a protective order to prevent any confidential information from being made public. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use reasonable effort to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

#### 16.27.4 Use of Information or Documentation

Each Party may utilize information or documentation furnished by the disclosing Party and subject to Section 16.27 in any proceeding in an administrative agency or court of competent jurisdiction addressing any dispute arising under this IA, subject to a confidentiality agreement with all participants (including, if applicable, any arbitrator) or a protective order.

#### 16.27.5 Remedies Regarding Confidentiality

The Parties agree that monetary damages by themselves will be inadequate to compensate a Party for the other Party's breach of its obligations under Section 16.27. Each party accordingly agrees that the other Party is entitled to equitable relief, by way of injunction or otherwise, if it breaches or threatens to breach its obligations under Section 16.27.

#### 16.28 Insurance

Both Parties shall obtain insurance in conformance with the requirements set forth in Appendix A.

#### 16.29 Environmental Compliance and Procedures

Each Party shall notify the other Party, orally, promptly upon discovery of any release, spill, leak, discharge, disposal of, pump, pour, emit, empty, inject, leach, dump, or allow to escape into or through the environment ("Release") of any hazardous substance by it on the property or facilities of the other Party, or which may migrate to, or adversely impact the property, facilities or operations of, the other Party. Such oral notification shall be followed by written notification within 48 hours. The Party responsible for the Release of any hazardous substance on the property or facilities of the other Party, or which may migrate to, or adversely impact the property, facilities or operations of the other Party shall be responsible, as required by applicable environmental laws, for (i) performing any and all remediation or abatement activity, and (ii) submitting all reports or filings relevant to the Release. In addition, the Party responsible for the Release shall provide promptly copies to the other Party of all such reports or filings as well as any orders, letters, reports or decisions issued by any court or regulatory body in connection with the Release. Reasonable advance written notification (except in emergency situations, in which oral, followed by written notification, shall be provided as soon as practicable) shall be provided by any Party performing any remediation or abatement activity on the property or facilities of the other Party, or which may adversely impact the property, facilities, or operations of, the other Party. Except in emergency situations, such remediation or abatement activity shall be performed only with the prior written consent of the Party owning the affected property or facilities, which consent shall not be unreasonably withheld, delayed or conditioned and provided that the Parties each agree to provide reasonable access to the Party responsible for the Release to enable the timely performance of any required abatement and remediation. The Parties agree to coordinate in good faith to reasonably achieve any required abatement and/or remediation while at the same time minimizing any interference with the affected property, facilities or operations of the other party. In addition, the Parties agree to coordinate, to the extent necessary, the preparation of site plans, reports or filings required by law or regulation. In complying with their obligations under this Agreement, the Parties further agree to comply with all applicable environmental laws.

17. EXECUTION

The signatories hereto warrant and represent that they have been appropriately authorized to enter into this IA on behalf of the Party for whom they sign. This IA may be executed in one or more counterparts at different times, each of which shall be regarded as an original and all of which, taken together, shall constitute one and the same IA.

**SAN DIEGO GAS & ELECTRIC COMPANY**

**Wildflower Energy LP**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

James Avery \_\_\_\_\_  
Name Name

Senior Vice President \_\_\_\_\_  
Title Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## **APPENDIX A**

### **Insurance**

**A.1 Each Party shall maintain during the performance hereof:**

**A.1.1 Commercial General Liability Insurance for bodily injury, personal injury, and property damage in limits, of combined single limit or equivalent for the result of any one (1) occurrence, of not less than \$5,000,000. Such insurance shall provide coverage at least as broad as the Insurance Service Office (ISO) 1986 Commercial General Liability Coverage "occurrence" form, with no coverage deletions.**

**A.1.2 Workers' Compensation insurance for statutory benefits limits of the applicable Labor Code(s) and Workers' Compensation law(s) and Coverage B - Employer's Liability with limits of \$1,000,000 each accident for Bodily Injury by accident, \$1,000,000 each employee for Bodily Injury by disease, and \$1,000,000 policy limit for Bodily Injury by disease.**

**A.1.3 Commercial or Business Automobile Liability insurance, covering use of all owned, leased, non-owned or hired automobiles with a combined single limit of not less than \$1,000,000 each accident.**

**A.1.4 Such insurance described in Section A.1.1, A.1.2 (Employers Liability only), and A.1.3 above, by endorsement to the policy(ies), shall include each Party as an additional insured, shall contain a severability of interest or cross-liability clause and shall provide that each Party shall not by reason of its inclusion as an additional insured incur liability to the insurance carrier for payment of premium for such insurance.**

### **A.2 Additional Insurance Provisions**

**A.2.1 Evidence of coverage described above in Section 1 shall state that coverage provided is primary in respect of operations carried out pursuant to this IA and is not excess to or contributing with any insurance or self-insurance maintained by the other Party for events arising out of the performance or non-performance of the insured Party's obligations under this Agreement.**

**A.2.2 Each Party shall furnish the required certificates and endorsements to the other prior to commencing operation.**

**A.2.3 Each Party waives its rights of recovery against the other for any loss or damage covered by such policy(ies) to the extent that such loss or damage is reimbursed under such policy(ies). Such insurance shall be endorsed to include a Waiver of Subrogation in favor of the other party and evidence of such Waiver of Subrogation shall be noted on the certificates of insurance.**

**A.2.4 Such insurance shall provide for 30 calendar days written notice to each Party prior to cancellation, termination, alteration or material change of such insurance, and 10 calendar days written notice for non-payment of premium.**

**A.2.5 Failure of either Party to comply with the above insurance terms and conditions, or the complete or partial failure of an insurance carrier to fully protect and indemnify the other Party or its**

affiliates, or the inadequacy of the insurance shall not in any way lessen or affect the obligation or liabilities of each Party to the other.

**A.2.6 All insurance certificates, endorsements, cancellations, terminations, alterations, and material changes of such insurance shall be issued and submitted to the following:**

**For Sempra Energy acting on behalf of San Diego Gas & Electric Company:**

**Director, Risk Management Department**

**101 Ash Street**

**San Diego, CA 92101-3017**

**For Wildflower Energy LP:**

**Wildflower Energy LP**

**c/o InterGen N.A.**

**909 Fannin Street, Suite 2200**

**Houston, TX 77010**

**Attn: Tom Doyle**

## APPENDIX B

### Routine Test Guidelines and OK-On-Or-Near Authorization Procedures

#### B.1 Routine Test Guidelines

The following routine test guidelines apply to the Generating Facility

B.1.1 Wildflower shall secondary bench test individual relays by applying the appropriate currents, voltages or frequencies. The relays must be tested at their specified settings to verify the following:

B.1.1.1 Operating point at which relay will actuate.

B.1.1.2 Time delay for at least three (3) separate operating points, if applicable.

B.1.1.3 Phase angle characteristic of directional impedance relays.

B.1.1.4 All relays must meet the following tolerance: as applicable under test conditions:

| <u>Item</u> | <u>Range</u> |
|-------------|--------------|
| Current     | ± 5%         |
| Voltage     | ± 5%         |
| Time        | ± 5%         |
| Frequency   | ± 0.3 Hz     |
| Phase Angle | ± 5 Degrees  |

B.1.2 Wildflower shall check each protective relay to confirm that the appropriate breaker and/or main breaker is tripped by the relay contact. Wildflower will provide an acceptable loop test routine to prove the appropriate breaker and/or main breaker is tripped by the relay contact. Wildflower will not trip breakers as part of the loop check.

B.1.3 Wildflower shall check all current voltage and frequency relays when energized to confirm that the proper secondary quantities are applied.

#### B.2 OK-On-Or-Near Authorization Procedures

B.2.1 Wildflower agrees to the following conditions regarding an OK-On-Or-Near Authorization requested by SDG&E.

**B.2.1.1 Wildflower shall not re-energize the affected circuits, whether manually or automatically, without first receiving the approval of the Designated SDG&E Switching Center.**

**B.2.1.2 Wildflower agrees to install and maintain permanent warning signs on the Generating Facility's main control panel and at each remote operating location where Wildflower has remote closing capability. The warning signs shall instruct personnel to contact SDG&E before re-closing the circuit.**

## APPENDIX C

### Dispute Resolution and Arbitration

#### C.1 Negotiation and Mediation

As provided in Section 16.10, the Parties agree to seek settlement of all disputes arising under this IA by good faith negotiation before resorting to other methods of dispute resolution. In the event that negotiations have failed, but before initiating arbitration proceedings under this Appendix C, the Parties may by mutual assent decide to seek resolution of a dispute through mediation. If this occurs, the Parties shall meet and confer to establish an appropriate timetable for mediation, to pick a mediator, and to decide on any other terms and conditions that will govern the mediation.

#### C.2 Technical Arbitration

C.2.1 The Parties agree that it is in the best interest of both Parties to seek expedited resolution of arbitrable disputes that are technical in nature. Technical disputes may include, without limitation, disputes centered on engineering issues involving technical studies, the need for and associated costs of any work or facilities contemplated by this IA, the Interconnection Capacity, and the need for Facilities as that term is defined in Section 7.4.1. Such technical issues may be resolved through expert application of established technical knowledge and by reference to Good Utility Practice and industry standards.

C.2.2 The Party initiating arbitration pursuant to Section C.3 below shall indicate in its notice to the other Party whether it regards the dispute to be technical in nature. If both Parties agree that a dispute is technical in nature, then the Parties shall meet and confer to develop an appropriate timetable and process for expedited resolution of the dispute by a neutral expert, or "technical arbitrator". If the Parties cannot agree that a dispute is technical in nature, or if they cannot agree on a neutral arbitrator, then the Parties shall submit the dispute to arbitration under the procedures set forth in Section C.3 below.

#### C.3 Arbitration

##### C.3.1 Notices And Selection Of Arbitrators

In the event that a dispute is subject to arbitration under Section 16.10, the aggrieved Party shall initiate arbitration by sending written notice to the other Party. Such notice shall identify the name and address of an impartial person to act as an arbitrator. Within 10 Business Days after receipt of such notice, the other Party shall give a similar written notice stating the name and address of the second impartial person to act as an arbitrator. Each Party shall then submit to the two named arbitrators a list of the names and addresses of at least three persons for use by the two named arbitrators in the selection of the third arbitrator. If the same name or names appear on both lists, the two named arbitrators shall appoint one of the persons named on both lists as the third arbitrator. If no name appears on both lists, the two named arbitrators shall select a third arbitrator from either list or independently of either list. If the two named arbitrators cannot agree on the selection of the third arbitrator, the third arbitrator shall be appointed by the Chief Judge of the United States District Court for the Southern District of California upon the joint request of the two named arbitrators. Each arbitrator selected under these procedures shall be a person experienced in the construction, design, operation or regulation of electric power transmission facilities, as applicable to the issue(s) in dispute.



### **C.3.2 Procedures**

**Within 15 Business Days after the appointment of the third arbitrator, or on such other date to which the parties may agree, the arbitrators shall meet to determine the procedures that are to be followed in conducting the arbitration, including, without limitation, such procedures as may be necessary for the taking of discovery pursuant to Sections 2016-2036 of the California Code of Civil Procedure, giving testimony and submission of written arguments and briefs to the arbitrators. Unless otherwise mutually agreed by the parties, the arbitrators shall determine such procedures based upon the purpose of the Parties in conducting an arbitration under Section 16.10 of the IA, specifically, the purpose of utilizing the least burdensome, least expensive and most expeditious dispute resolution procedures consistent with providing each Party with a fair and reasonable opportunity to be heard. If the arbitrators are unable unanimously to agree to the procedures to be used in the arbitration, the arbitration shall be governed by the Commercial Arbitration Rules of the American Arbitration Association.**

### **C.3.3 Hearing and Decision**

**After giving the Parties due notice of hearing and a reasonable opportunity to be heard, the arbitrators shall hear the dispute(s) submitted for arbitration and shall render their decision within 90 calendar days after appointment of the third arbitrator or such other date selected upon the mutual agreement of the Parties. The arbitrators' decision shall be made in writing and signed by any 2 of the 3 arbitrators. The decision shall be final and binding upon the parties; provided, however, under no circumstances are the arbitrators authorized to award any money damages in favor of either Party in rendering a decision and award. Judgment may be entered on the decision in any court of competent jurisdiction upon the application of either Party.**

### **C.3.4 Expenses**

**Each Party shall bear its own costs and the costs and expenses of the arbitrators shall be borne equally by the parties.**

## APPENDIX D

### Elections Made By Wildflower

(check the appropriate line)

#### D.1 Standby Generator

In the interest of safety, Wildflower must promptly notify SDG&E before operating or allowing any Third Party to operate any generation sources capable of parallel operation with the SDG&E Electric System which are interconnected to the Interconnection Facilities. Wildflower shall comply with the requirements identified in the SDG&E Interconnection Handbook, as it may be revised or superseded from time to time, for all such generation sources capable of parallel operation with the SDG&E Electric System. For SDG&E's information and by way of initial compliance with this Section, Wildflower represents to SDG&E that the following is correct:

D.1.1  Wildflower has installed a standby generator.

D.1.2  Wildflower does not have and does not plan to install a standby generator.

D.1.3  While Wildflower does not currently have a standby generator installed, it plans to install a standby generator in the future. Wildflower will notify the Designated SDG&E Switching Center before operating this generator in parallel with the SDG&E Electric System.

Wildflower shall promptly notify SDG&E if the conditions or circumstances indicated above change.

## **APPENDIX E**

### **GENERATING FACILITY INFORMATION AND INTERCONNECTION CAPACITY**

#### **E.1 Generating Facility Information**

**E.1.1 Location of Generating Facility: 9345 1/2 Otay Mesa Rd., San Diego, CA**

**E.1.2 Description of Generating Facility:**

**E.1.2.1 Number of units: 2**

**E.1.2.2 Frequency: 3-phase, 60 Hertz.**

**E.1.2.3 Auxiliary Power Supply Location: 69 kV Backfeed at Border Substation**

**E.1.2.4 Make: General Electric**

**E.1.2.5 Model: LM6000 PC Enhanced Sprint**

**E.1.2.6 Type: Gas Turbine**

**E.1.2.7 Serial No.: NA**

**E.1.2.8 Nameplate Output Rating: Generator: 70MVA**

#### **E.2 Interconnection with the SDG&E Electric System**

**E.2.1 Voltage of the Interconnection 69 kV**

**E.2.2 Interconnection Capacity: 98 MW (Summer months) / 98 MW (Winter)**

**E.2.3 Remedial Action Scheme Requirements**

| Contingency  | Overloaded Line        | Units Subject to RAS Tripping |      |
|--|------------------------|-------------------------------|------|
|  |                        | BD#1                          | BD#2 |
| TL603<br>(SW-NC-SDC-NSMFOT)  | TL614B (SW-NC tap)     | X                             |      |
|  |                        |                               |      |
| TL614 (CS-S-NC-SW)   | TL658 (DI-S)           | X                             | X    |
|  |                        |                               |      |
| TL641 (SY-MG)  | TL642A (SY-MG tap)     | X                             | X    |
|  |                        |                               |      |
| TL644 (SY-SW)  | TL642A (SY-MG tap)     | X                             | X    |
|  | TL642B (SW-MG tap)     |                               |      |
|  |                        |                               |      |
| TL6910 (ML-BD)   | TL649F (BD tap-OL tap) | X                             |      |
|  |                        |                               |      |
| <p>Note: A time delay will be utilized whenever possible between the tripping of units. The overload will be monitored after each unit tripping to determine if the next unit tripping is necessary. Unit runback alternatives may be utilized in place of unit tripping if technically feasible, at Wildflower's expense. Actual RAS functionality as shown in final System Impact Study reports for the facility is subject to modification from time to time by mutual agreement of the Parties</p> |                        |                               |      |

**E.3 Interconnection Facilities**

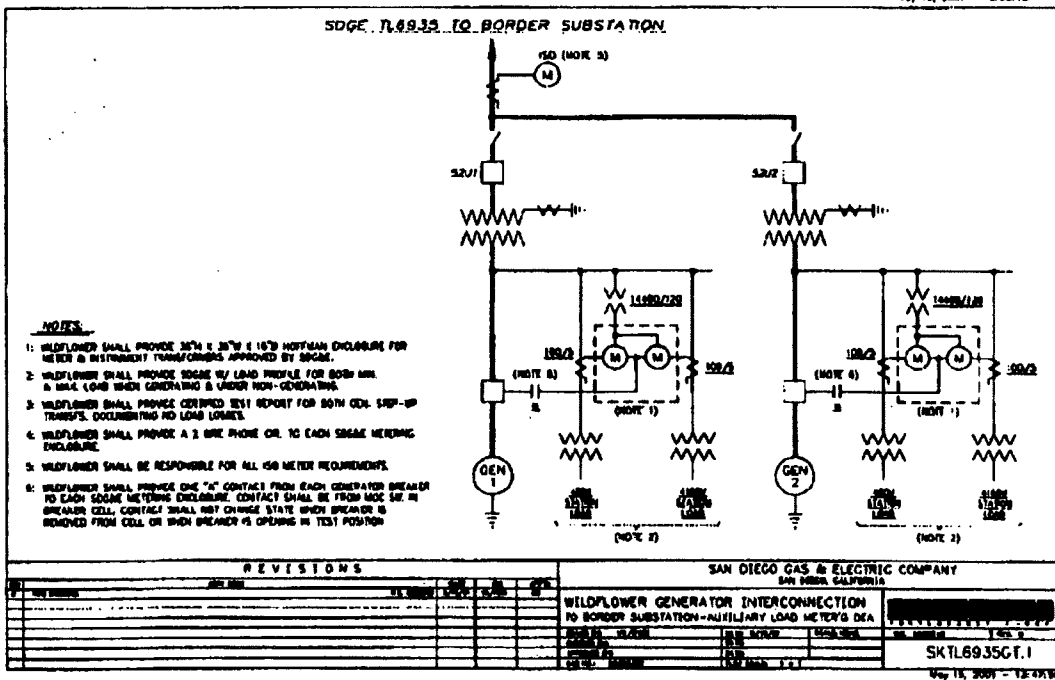
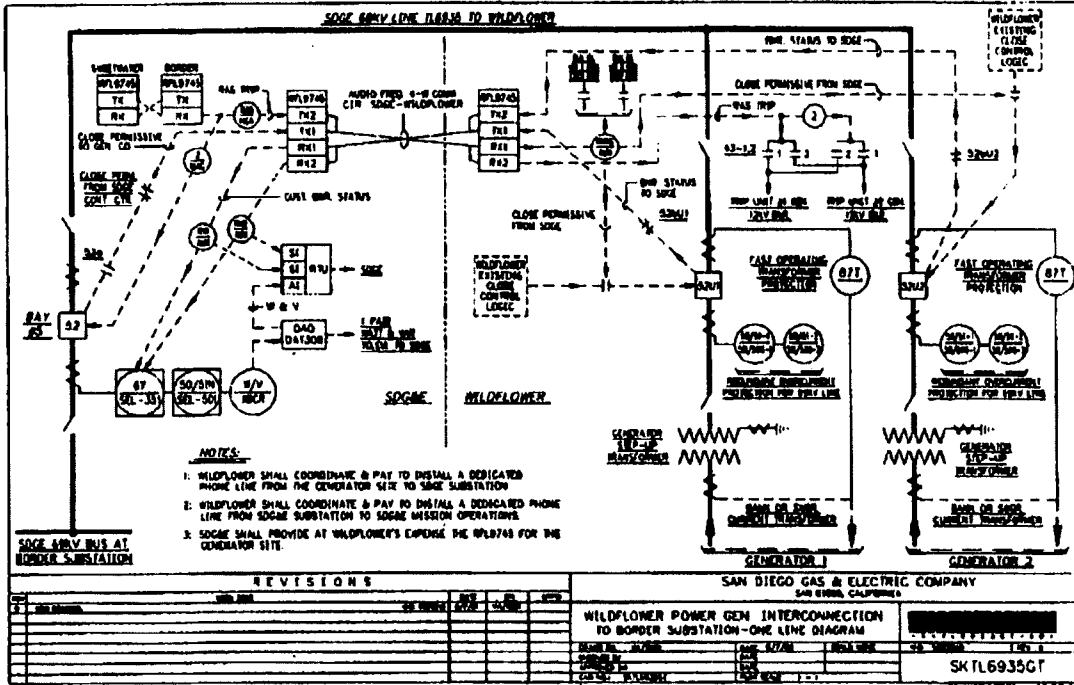
Shown in E.6

**E.4 Points of Interconnection**

The “points of interconnection” are the points where the Wilcflower-owned facilities connect with the Interconnection Facilities and the ISO-Controlled Grid, as shown in Section E.6 below.

**E.5 Reserved**

**E.6: One-line Diagram and Auxillary Load Metering Diagram of Interconnection Facilities Showing SDG&E-Owned Facilities and Wildflower-Owned Facilities**



## **APPENDIX F**

### **SDG&E Interconnection Handbook Waivers**

**Wildflower shall submit requests for waivers from the SDG&E Interconnection Handbook in writing within 1 year of the date of execution of this Agreement. The written request shall provide an explanation of the basis for the requested waiver including a description of the alternative proposed by Wildflower. SDG&E shall perform a timely review of such waiver requests and inform Wildflower in writing of SDG&E's decision. Wildflower may refer any refusal of SDG&E to grant a waiver request to Dispute Resolution pursuant to Section 16.10 of the Agreement.**