

STATE OF MINNESOTA, } ss. **233869**  
COUNTY OF MURRAY, }

I hereby certify that the within instrument was filed in this office for record on the 14<sup>TH</sup> day of MAY A.D. 2009 at 9:00 o'clock A M, and was duly recorded as Document No. 233869

James V. Johnson  
County Recorder

No. of Pages:  Well Cert. NOT REQ'D  
11  Well Cert. Rec'd

### TRANSMISSION AND ACCESS EASEMENT

This Transmission and Access Easement (the "Agreement") is entered into this 14<sup>th</sup> day of April, 2009, by and between Valley View Transmission, LLC, a Minnesota limited liability company ("Grantee"); and Ronald Griffin and Charlotte Griffin, husband and wife (collectively "Grantor").

### RECITALS

1. Grantee is engaged in the business of constructing, owning and operating a wind energy transmission system, substation and related electrical equipment and facilities for wind energy generation facilities.
2. Grantor is the owner in fee of real property located in the Northeast Quarter of Section 17, Township 105 North, Range 43 West of the Fifth Principal Meridian, Murray County, Minnesota (the "Grantor Property").
3. Grantee proposes to install underground transmission lines and road between wind generation facilities located on property adjacent to the Grantor Property across the Grantor Property and to acquire an easement for that purpose from Grantor. Grantor is willing to convey such an easement to Grantee.

NOW, THEREFORE, in consideration of the above premises and the mutual promises and other consideration described below, the adequacy and receipt of which is acknowledged, the parties agree as follows.

### AGREEMENT

#### ARTICLE I – GRANT OF EASEMENT

##### 1.1 Grant of Easement

(a) Grantor hereby grants, conveys and sells to Grantee the right, privilege and easement to construct, install, bury, maintain, use, operate, repair, replace and remove electric transmission lines and all related structures, equipment, poles, underground

conduit, ground connectors, cables, wires, supports, fixtures, and other improvements necessary or useful in the use, operation, and maintenance of the described lines and related equipment, including an access road (collectively the "Transmission Facilities"), through, over, under and across the land described on Exhibit A (the "Easement Property"). This easement shall include the right to place or erect reasonable monuments to define the boundaries of the Easement Property.

(b) Grantor further grants Grantee the right to cut, trim and remove trees, brush, shrubbery, roots, undergrowth, and other natural obstructions to the Transmission Facilities or which otherwise would cause any impediment or risk to such facilities or their safe and economical operation. Grantee shall have the right to remove any manmade structures, improvements or fixtures from the Easement Property only with the prior written consent of Grantor.

(c) Grantor also grants, conveys and sells to Grantee the right to ingress to and egress from the Easement Property and Grantee's wind generation facilities adjacent to the Easement Property from any public or private road adjacent to or abutting the Easement Property from the east, south or north, including over any property of Grantor lying between such road and the Easement Property for the purposes described herein, including the surveying and location of the Transmission Facilities, such right to be exercised in the manner which shall cause the least practicable damage to the Easement Property and adjacent roadways, and the least inconvenience to Grantor. Grantor shall have no liability for any damages caused by Grantee to any such road, and Grantee shall be solely liable for any such damage that it causes. Grantor is not obligated by this Agreement to construct any new road or to maintain or repair any existing private roadway. Grantor and Grantee agree that Grantee may construct a permanent access road on the Easement Property for the purpose of access to and ingress to and egress from Grantee's wind generation facilities adjacent to the Easement Property from any public or private road adjacent to or abutting the Easement Property from the east, south or north. Grantee shall be solely responsible for maintaining any road which it constructs solely for its own purposes. Grantee may erect a gate, fence or other reasonable barrier across Grantee's access road at the intersection of the access road with any other public or private road to prevent access by others to Grantee's facilities.

## 1.2 Rights of Grantor

Subject to the easement rights granted to Grantee by this Agreement, Grantor reserves and retains the right to cultivate, use and occupy the Easement Property for farming, ranching, conservation or other agricultural purposes. Grantor may not excavate within the Easement Property or construct or install any improvements, structures or fixtures without the prior written consent of Grantee, and shall not plant any trees or other large plants whose growth may interfere with the Transmission Facilities or Grantee's rights under this Agreement.

## 1.3 Duration; Survival of Covenants

The duration of the easement and related rights granted by this Agreement shall be thirty years, and the commencement of the term shall be April 1, 2009. The parties acknowledge that the covenants, conditions, rights and restrictions in favor of Grantee pursuant to this Agreement including, but not limited to, the easement described in Section 1.1, and Grantee's use of and benefit from those covenants, conditions, rights and restrictions, may constitute a portion of a larger wind energy project with which the Easement Property will share structural and transmission components, ingress and egress, utility access, and other support, all of which are specifically designed to be interrelated and integrated in operation and use for the full life of the project, and that the covenants, conditions, rights and restrictions in favor of Grantee pursuant to this Agreement shall not be deemed nominal, invalid, inoperative or otherwise be disregarded while any portion of the project remains operational.

#### 1.4 Continuing Nature of Obligations

(a) The easement and related rights granted by Grantor in this Agreement to Grantee are an easement in gross for the benefit of Grantee, its successors and assigns, as owner of the rights created by the easement. The easement and other rights granted by Grantor in this Agreement are independent of any lands or estates or interest in lands, there is no other real property benefiting from the easement granted in this Agreement and, as between the Easement Property and other tracts of property on which Grantee may locate transmission or wind generation facilities, no tract is considered dominant or servient as to the other.

(b) The burdens of the easement and all other rights granted to Grantee in this Agreement shall run with and against the Easement Property and shall be a charge and burden on the Easement Property and shall be binding upon and against Grantor and its successors, assigns, permittees, licensees, lessees, employees and agents. The Agreement and easement shall inure to the benefit of Grantee and its successors, assigns, permittees, licensees and lessees.

### **ARTICLE II – PAYMENT**

#### 2.1 Easement Payment

In consideration of the easement and related rights granted by Grantor in this Agreement, Grantee agrees to pay Grantor Five Thousand Dollars (\$5,000.00) within thirty days of the execution of this Agreement. Grantor shall not be entitled to any further payment and shall have no right or interest in the electricity transmitted through the Transmission Facilities or any related rights to payments to Grantee arising from the generation, transmission or sale of such electricity.

#### 2.2 Damages

The parties anticipate and acknowledge that Grantor may suffer damage to crops, tile, fences, and other property or improvements on the Easement Property during Grantee's

construction, installation, maintenance and operation of Grantee's access road and Transmission Facilities on the Easement Property. Grantee shall pay Grantor fair compensation for any such losses or damage, and, if the parties cannot reach agreement as to an amount which would constitute fair compensation, the issue shall be submitted to a mutually acceptable local crop insurance adjuster or similar person with expertise on the value and scope of lost crops for resolution. After construction is complete, Grantee shall not be responsible to pay Grantor any losses of income, rent, business opportunities, profits or other losses arising out of Grantor's inability to grow crops or otherwise use the Easement Property.

2.3 Conservation Programs

To the extent Grantor must remove any of the Easement Property from participation in the Conservation Reserve Program or similar program to accommodate, or as a result of, the Transmission Facilities or Easement Property, and Grantor incurs any penalties or reimbursement obligations as a consequence, Grantee agrees to reimburse Grantor the amount of such penalties and obligations or pay the amounts on behalf of Grantor. Grantor shall notify Grantee of any such penalties or reimbursement obligations as soon as practicable upon becoming aware of those penalties or obligations.

**ARTICLE III - GRANTEE'S COVENANTS**

Grantee covenants, represents and warrants to Grantor as follows:

3.1 Liens

Grantee shall keep the Easement Property free and clear of all liens and claims of liens for labor, materials, services, supplies and equipment performed on or furnished to Grantee or any Transmission Facilities on the Easement Property in connection with Grantee's use of the Easement Property. Grantee may contest any such lien, but shall post a bond or utilize other available means to remove any lien that is created during the contested proceeding. Grantee agrees to otherwise remove any lien or encumbrance for which it is responsible pursuant to this paragraph within 60 days of the creation of any such lien or encumbrance.

3.2 Permits and Laws

Grantee and its designees shall at all times comply with all federal, state and local laws, statutes, ordinances, rules, regulations, judgments and other valid orders of any governmental authority with respect to Grantee's activities pursuant to this Agreement and shall obtain all permits, licenses and orders required to conduct any and all such activities.

3.3 Grantee's Improvements

Grantee covenants and agrees that all transmission lines to be installed by Grantee on the Easement Property shall be placed underground.

3.4 Hazardous Wastes

Grantee shall not use, dispose of or release on the Easement Property or cause or permit to exist or be used, stored, disposed of or released on the Easement Property as a result of Grantee's operations, any substance which is defined as a "hazardous material," "hazardous substance," "toxic substance" or "solid waste" in any federal, state or local law, statute or ordinance, except in such quantities as may be required in its normal business operations and only if such use is not harmful to Grantor and is in full compliance with all applicable laws.

3.5 Insurance

Grantee shall obtain and maintain in force policies of insurance covering the Transmission Facilities and Grantee's activities on the Easement Property at all times including specifically comprehensive general liability insurance with coverage sufficient to cover all reasonable risks associated with Grantee's facilities and activities. Grantee shall increase such insurance coverage when necessary to take into account inflation and changes in business conditions. Such insurance coverage for the Transmission Facilities and Easement Property may be provided by an affiliate and as part of a blanket policy that covers other facilities or properties as well. Any such policies shall name Grantor as an additional insured and shall provide for 30 days prior written notice to Grantor of any cancellation or material change. Grantee shall provide Grantor with copies of certificates of insurance evidencing this coverage upon request by Grantor.

3.6 Prior Easements

Grantee acknowledges that there are or may be prior easements, rights-of-way, and liens on or against the Easement Property. Grantee shall coordinate its activities under this Agreement with other persons possessing rights under such easements, rights-of-way and liens so as not to interfere with such rights or persons or to create liability for Grantor under any such easements, rights-of-way or liens.

**ARTICLE IV – GRANTOR COVENANTS**

Grantor covenants, represents and warrants to Grantee as follows:

4.1 Title and Authority

Grantor is the sole owner of the Easement Property in fee simple and each person or entity signing the Agreement on behalf of Grantor has the full and unrestricted authority to execute and deliver this Agreement and to grant the easements and rights granted herein. All persons having any ownership interest in the Easement Property (including spouses) are signing this Agreement as Grantor. When signed by Grantor, this

Agreement constitutes a valid and binding agreement enforceable against Grantor in accordance with its terms. There are no encumbrances or liens against the Easement Property except as disclosed by Grantor to Grantee or which are reflected in an abstract or title report for the Easement Property provided to Grantee prior to execution of the Agreement.

#### 4.2 Quiet Enjoyment

Grantee shall have the quiet use and enjoyment of the Easement Property in accordance with the terms of this Agreement without any interference of any kind by Grantor or any person claiming through Grantor. Grantor and its activities on the Easement Property and any grant of rights Grantor makes to any other person shall not interfere with any of Grantee's activities pursuant to this Agreement, and Grantor shall not interfere with any of Grantee's activities pursuant to this Agreement.

#### 4.3 Hazardous Materials

Grantor shall not use, store, dispose of or release on the Easement Property or cause or permit to exist or be used, stored, disposed of or released on the Easement Property as a result of Grantor's activities, any substance which is defined as a "hazardous substance," "hazardous material," "toxic substance" or "solid waste" in any federal, state or local law, statute or ordinance, except in such quantities as may be required in its normal business operations and only if such use is not harmful to Grantee and is in full compliance with all applicable laws.

#### 4.4 Cooperation

Grantor shall cooperate with Grantee to obtain non-disturbance and subordination agreements from any person or entity with a lien, encumbrance, mortgage, lease, easement or other exception to Grantor's fee title to the Easement Property to the extent necessary to eliminate any actual or potential interference by any such lienholder with any rights granted to Grantee under this Agreement. Grantor shall also cooperate with Grantee to obtain and maintain any permits needed for the Transmission Facilities; and Grantor shall also provide Grantee with such further assurances and shall execute any estoppel certificates, consents to assignments or additional documents which may be reasonably necessary for recording purposes or requested by Grantee or any of its lenders provided that Grantee shall reimburse Grantor for any reasonable costs and expenses, including attorney's fees, incurred in reviewing any such documents.

#### 4.5 Ownership of Transmission Facilities

Grantor acknowledges all Transmission Facilities constructed, installed or placed on the Easement Property by Grantee pursuant to this Agreement shall be the sole property of Grantee and Grantor shall have no ownership or other interest in any Transmission Facilities on the Easement Property.

## **ARTICLE V – ASSIGNMENT; ENCUMBRANCE OF EASEMENT**

### **5.1 Right to Encumber**

(a) Grantee may at any time mortgage all or any part of its interest in the easement and rights under this Agreement and/or enter into a collateral assignment of all or any part of its interest in the Agreement or rights under this Agreement to any entity providing financing to Grantee (“Lender”) without the consent of Grantor. Any Lender shall have no obligations under this Agreement until such time as it exercises its rights to acquire Grantee’s interests subject to the lien of Lender’s mortgage by foreclosure or otherwise assumes the obligations of Grantee directly.

(b) Grantor and Grantee agree that, once all or any part of Grantee’s interests in the Agreement are mortgaged or assigned to a Lender, they will not modify or terminate this Agreement without the prior written consent of the Lender.

(c) Grantor agrees that any Lender shall have the right to make any payment and to do any other act or thing required to be performed by Grantee under this Agreement, and any such payment, act or thing performed by Lender shall be effective to prevent any forfeiture of any of Grantee’s rights under this Agreement as if done by Grantee itself.

### **5.2 No Termination Rights**

(a) Grantor acknowledges that it has no right to terminate this Agreement or any of the rights or interests granted to Grantee in the Easement Property, and that Grantor’s sole remedy in the event of an alleged breach by Grantee of its obligations under this Agreement shall be to seek an order for specific performance or an action for damages. Grantor shall not seek an injunction or similar legal or equitable relief which would constrain, impede or prevent Grantee from free use of the easement or from exercising or using any of its rights or interests under this Agreement without first notifying Lender in writing of its intent to do so and providing Lender 30 days in which to remedy the circumstances creating the basis for Grantor’s request for relief. If within such 30 day period the Lender notifies the Grantor that it must foreclose on Grantee’s interest or otherwise take possession of Grantee’s interest under this Agreement in order to effect a remedy, Grantor shall permit the Lender a reasonable period of time necessary for the Lender, with the exercise of due diligence, to foreclose or acquire Grantee’s interest under this Agreement and to perform or cause to be performed all of the covenants and agreements to be performed and observed by Grantee. The time within which Lender must foreclose or acquire Grantee’s interest shall be extended to the extent Lender is prohibited by an order or injunction issued by a court or the operation of any bankruptcy or insolvency law from commencing or prosecuting the necessary foreclosure or acquisition.

(b) The acquisition of all or any part of Grantee’s interests under the Agreement by any Lender through foreclosure or other judicial or nonjudicial proceedings in the nature of foreclosure, or by any conveyance in lieu of foreclosure, shall not require the consent

of Grantor, and upon the completion of the acquisition or conveyance Grantor shall acknowledge and recognize Lender as Grantee's proper successor under this Agreement.

5.3 Specific Performance

Grantor acknowledges and agrees that should Grantor breach any of its obligations hereunder or otherwise fail to permit Grantee to exercise any of the rights and privileges granted herein, Grantee shall have the right to seek specific enforcement of this Agreement, and that Grantee has no adequate remedy at law.

**ARTICLE VI – MISCELLANEOUS**

6.1 Notices

Notices, consents or other documents required or permitted by this Agreement must be given by personal delivery, telecopier or certified mail and shall be sent to the respective parties as follows:

To Grantor:                Ronald and Charlotte Griffin  
                                     359 20<sup>th</sup> Avenue  
                                     Edgerton, MN 56128

To Grantee:                Valley View Transmission, LLC  
                                     293 50<sup>th</sup> Ave.  
                                     Chandler, MN 56122  
                                     Attn: Roger Talsma

6.2 No Third Party Beneficiaries

Except for the rights of Lender set forth above, no provision of this Agreement is intended to nor shall it in any way inure to the benefit of any third party so as to constitute any such person a third party beneficiary under this Agreement, or of any one or more of the terms of this Agreement, or otherwise give rise to any cause of action in any person not a party to this Agreement.

6.3 Entire Agreement

It is mutually understood and agreed that this Agreement constitutes the entire agreement between Grantor and Grantee and supersedes any and all prior oral or written understandings, representations or statements, and that no understandings, representations or statements, verbal or written, have been made which modify, amend, qualify or affect the terms of this Agreement. This Agreement may not be amended except in a writing executed by both parties.

6.4 Governing Law





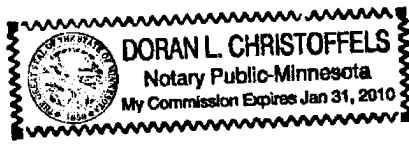
a Minnesota limited liability company

By: Roger Talsma

Its: manager

STATE OF Minnesota )  
 ) ss.  
COUNTY OF Murray )

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of April, 2009 by Roger Talsma, the manager of Valley View Transmission, LLC, a Minnesota limited liability company, on behalf of the company.



Don L. Christoffels  
Notary Public

This instrument was drafted by:  
  
Jeffrey C. Paulson  
Jeffrey C. Paulson & Associates, Ltd.  
7301 Ohms Lane, Suite 325  
Edina, MN 55439  
(952) 835-0055

EXHIBIT A

DESCRIPTION OF EASEMENT PROPERTY

VALLEY VIEW TRANSMISSION, LLC and

RONALD AND CHARLOTTE GRIFFIN

The West 1500 feet of the North 50 feet of the Northeast Quarter of Section 17,  
Township 105 North, Range 43 West of the Fifth Principal Meridian, Murray County,  
Minnesota.