

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Trademark/Trade Name Assignment and License Agreement		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Texas Genco Holdings, Inc.		11/24/2004	CORPORATION: TEXAS
RECEIVING PARTY DATA			
Name:	GC Power Acquisition LLC		
Street Address:	12301 Kurland Drive, 4th Floor		
City:	Houston		
State/Country:	TEXAS		
Postal Code:	77034		
Entity Type:	Limited Liability Company: DELAWARE		
PROPERTY NUMBERS Total: 4			
Property Type	Number	Word Mark	
Serial Number:	78209163	TEXAS GENCO	
Registration Number:	2879202	TEXAS GENCO	
Registration Number:	2879201	TEXASGENCO	
Registration Number:	2866626	TEXAS GENCO	
CORRESPONDENCE DATA			
Fax Number:	(212)455-2502		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	(212) 455-2254		
Email:	ksolomon@stblaw.com		
Correspondent Name:	Robyn Rahbar, Esq		
Address Line 1:	Simpson Thacher & Bartlett LLP		
Address Line 2:	425 Lexington Avenue		
Address Line 4:	New York, NEW YORK 10017		
NAME OF SUBMITTER:	Robyn Rahbar		
Signature:	/rr/		

OP \$115.00 78209163

TRADEMARK

Date:

01/03/2005

Total Attachments: 13

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TRADEMARK / TRADE NAME ASSIGNMENT AND LICENSE AGREEMENT

This Trademark / Trade Name Assignment and License Agreement (this "Agreement") is made and entered into as of November 24, 2004 (the "Effective Date"), by and among Texas Genco Holdings, Inc., a Texas corporation ("TGN"), and GC Power Acquisition LLC, a Delaware limited liability company ("GC Power LLC"). GC Power LLC and its subsidiaries are sometimes referred to herein individually as a "GC Power Entity" and, collectively, as "GC Power Entities." TGN and GC Power Entities are sometimes referred to herein individually as a "Party" and, collectively, as the "Parties." Each of TGN and GC Power LLC, in its capacity as a licensing Party hereunder is sometimes referred to as the "Licensor" and in its capacity as a licensee Party hereunder is sometimes referred to as the "Licensee."

WHEREAS, TGN and GC Power LLC are parties to that certain Transaction Agreement, dated as of July 21, 2004 (the "Transaction Agreement"), along with certain other parties, pursuant to which GC Power LLC shall acquire the Non-STP Assets and Liabilities on the Non-STP Acquisition Closing Date and the STP Assets and Liabilities on the STP Acquisition Closing Date pursuant to the terms and conditions thereof (collectively, the "Transaction").

WHEREAS, TGN is the owner of all right, title, interest and goodwill in and to various service marks and wishes to grant to GC Power Entities the right and license to use its trade name and U.S. registered trademark, TEXAS GENCO (the "Mark") and the logo depicted in Exhibit A hereto (collectively, the "Licensed Marks") to GC Power Entities pursuant to the terms and conditions set forth below;

WHEREAS, GC Power LLC desires to use the Mark as part of the corporate name "Texas Genco Acquisition LLC" or "Texas Genco LLC" and certain other GC Power Entities desire to use the Mark as part of the corporate names "Texas Genco Acquisition Financing Corp." or "Texas Genco Financing Corp." and "Texas Genco Operating Services LLC" (such names collectively referred to herein as the "Names") in connection with the efforts of the GC Power Entities to finance the Transaction (including without limitation all offering circulars, "bank books" and printed materials used or displayed in connection with a "road show," or other investor presentation, and all marketing and promotional efforts in connection therewith), make submissions or filings with any Governmental Authorities in connection with such financing efforts and for the purposes of obtaining regulatory approvals, permits and authorizations and for other organizational matters incidental to the consummation of the Transaction (the "Transaction Efforts");

WHEREAS, TGN wishes to assign to GC Power LLC and GC Power LLC wishes to acquire the Assigned Marks (as defined in Section 2.2(a)) upon the Non-STP Acquisition Closing Date; and

WHEREAS, GC Power LLC wishes to grant to TGN and TGN wishes to so acquire a license to use certain of the Assigned Marks upon the Non-STP Acquisition Closing Date;

NOW THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, TGN and GC Power Entities agree as follows:

ARTICLE I
DEFINITIONS

Capitalized terms used herein that are not otherwise defined shall have the respective meanings given to them in the Transaction Agreement. Whenever used in this Agreement, the terms defined below shall have the indicated meanings:

- 1.1 “Assigned Marks” shall have the meaning set forth in Section 2.2(a).
- 1.2 “Effective Date” of this Agreement shall have the meaning set forth in the preamble hereto.
- 1.3 “Licensed Marks” shall have the meaning set forth in the recitals hereto.
- 1.4 “Logo” shall have the meaning set forth in the recitals hereto.
- 1.5 “Mark” shall have the meaning set forth in the recitals hereto.
- 1.6 “Names” shall have the meaning set forth in the recitals hereto.
- 1.7 “Party” and “Parties” shall have the meaning set forth in the preamble hereto.
- 1.8 “Person” shall mean any natural person, entity or government authority.
- 1.9 “Term” shall have the meaning set forth in Section 8.1 below.
- 1.10 “Territory” shall mean the world, including without limitation use on the Internet on a website that is directed towards U.S. or non-U.S. residents and including use and display of the Licensed Marks outside the United States.
- 1.11 “Transaction” shall have the meaning set forth in the recitals hereto.
- 1.12 “Transaction Agreement” shall have the meaning set forth in the recitals hereto.
- 1.13 “Transaction Efforts” shall have the meaning set forth in the recitals hereto.

ARTICLE II

GRANT OF RIGHTS

2.1 TGN hereby grants to GC Power Entities a non-exclusive, royalty-free, non-assignable, non-sublicensable license to use in connection with the Transaction Efforts, during the Term, in the Territory (i) the Licensed Marks and (ii) the Mark as part of the Names. Prior to the Non-STP Acquisition Closing Date, GC Power Entities may not use the Licensed Marks (including using the Mark as part of the Names) in any manner or fashion other than in connection with the Transaction Efforts. TGN hereby explicitly retains the right to use the Licensed Marks in any manner anywhere in the world (including the Territory) during the Term.

2.2 Closing Assignment and License.

a. Effective upon the Non-STP Acquisition Closing Date, TGN hereby assigns to GC Power LLC all of its right, title and interest in and to its trade name and U.S. registered trademark, TEXAS GENCO, the U.S. trademark registrations, domain names, corporate names and logo set forth on Exhibit B (the "Assigned Marks") together with all goodwill of the business associated therewith and symbolized thereby and all common-law rights relating thereto. The Parties intend that this assignment be viewed as self-executing, effective upon the Non-STP Acquisition Closing Date, without the execution of further documents on such date. However, without limiting the generality of Section 5.2, at GC Power LLC's request, TGN shall use commercially reasonable efforts to take all necessary actions and execute all necessary additional documents to validate and perfect the above assignment and vest the above rights with GC Power LLC.

b. Effective simultaneously with the assignment in Section 2.2(a) upon the Non-STP Acquisition Closing Date, GC Power LLC hereby grants to TGN a non-exclusive, royalty-free, non-assignable, non-sublicensable license to use the Licensed Marks (including as part of its corporate and trade names) in connection with the goods and services not transferred to GC Power LLC as part of the Non-STP Acquisition, for use in the Territory consistent with such use in past practice in respect of the STP Assets and Liabilities for a period starting on the Non-STP Acquisition Closing Date and ending on the earlier of (i) the STP Acquisition Closing Date or (ii) termination of the Transaction Agreement in respect of the STP Acquisition. During such license term, TGN shall use the Marks in accordance with such quality standards and specifications as may be established by GC Power LLC from time to time, it being understood that TGN's goods and services as of the Non-STP Acquisition Closing Date shall be deemed to comport with the quality standards applicable to this license.

2.3 During the Term, TGN agrees to provide to GC Power Entities or their designees any necessary or desirable written consents to GC Power Entities' use of the Names or Licensed Marks required in order to effect name changes or new incorporations or formations of entities involving the Licensed Marks or Names before any Governmental Authorities.

ARTICLE III

OWNERSHIP OF THE MARKS

3.1 Prior to the assignment in Section 2.2(a), GC Power LLC acknowledges for itself and on behalf of the GC Power Entities, as between the Parties, TGN's ownership of the Assigned Marks, and agrees that they will do nothing inconsistent with such ownership and that all use of the Licensed Marks by GC Power Entities shall inure to the benefit of and be on behalf of TGN. After the assignment in Section 2.2(a), TGN acknowledges, as between the Parties, GC Power LLC's ownership of the Assigned Marks, and agrees that it will do nothing inconsistent with such ownership and that all use of the Licensed Marks by TGN shall inure to the benefit of and be on behalf of GC Power LLC.

ARTICLE IV

QUALITY CONTROL

4.1 Prior to the assignment in Section 2.2(a), GC Power Entities agree to use the Licensed Marks in the Territory only in accordance with such quality standards and specifications as may be established by TGN and communicated to GC Power Entities from time to time, it being understood that TGN has evaluated GC Power Entities' ability to undertake the proposed Transaction Efforts and determined that as of the Effective Date such proposed undertaking comports with the quality standards applicable to this Agreement. GC Power Entities recognize the substantial goodwill associated with the Licensed Marks and, prior to the assignment in Section 2.2, will not permit the quality of the Transaction Efforts with which GC Power Entities are permitted to use the Licensed Marks to deteriorate so as to affect adversely the goodwill associated with the Licensed Marks. TGN acknowledges that financing efforts are inherently uncertain, and GC Power Entities' inability to raise funds successfully will not, in and of itself, violate the foregoing obligation. Prior to the assignment in Section 2.2(a), GC Power Entities shall not cause any action or permit or fail to prevent any action that is deemed to injure, harm or dilute the distinctiveness or goodwill in and to the Licensed Marks. Prior to the assignment in Section 2.2(a), TGN may monitor GC Power Entities' use of the Licensed Marks upon reasonable notice to ensure compliance with this section in connection with the Transaction Efforts.

4.2 After the assignment in Section 2.2(a), TGN agrees to use the Licensed Marks in the Territory only in accordance with such quality standards and specifications as may be established by GC Power LLC and communicated to TGN from time to time, it being understood that, as of the Effective Date, TGN's current operation of the businesses that will use the Licensed Marks pursuant to Section 2.2(b) comports with the quality standards applicable to this Agreement. TGN recognizes the substantial goodwill associated with the Licensed Marks and, after the assignment in Section 2.2(a), will not permit the quality of its business operations to deteriorate so as to affect adversely the goodwill associated with the Licensed Marks. After the assignment in Section 2.2(a), TGN shall not cause any action or permit or fail to prevent any action that is deemed to injure, harm or dilute the distinctiveness or goodwill in and to the

Licensed Marks. After the assignment in Section 2.2(a), GC Power LLC may monitor TGN's use of the Licensed Marks upon reasonable notice to ensure compliance with this section.

ARTICLE V

USE OF MARKS

5.1 Each Party shall cooperate in the execution of any documents and the taking of other actions that the other Party reasonably requests to perfect the requesting Party's sole and exclusive ownership of the Licensed Marks and/or Assigned Marks, or to assist the requesting Party in otherwise protecting its rights therein and thereto.

5.2 Prior to the assignment in Section 2.2(a), GC Power Entities shall not (a) claim or assert any right of ownership in or to the Licensed Marks and shall not initiate any litigation, administrative proceeding, regulatory, or other action concerning the Licensed Marks; (b) register the Licensed Marks anywhere in their own names, or on behalf of any other Person; or (c) associate the Licensed Marks with any article or service other than the Transaction Efforts. Prior to the assignment in Section 2.2(a), should use of the Licensed Marks vest title thereto in GC Power Entities by operation of law, then GC Power Entities shall immediately assign and transfer such title to TGN for no additional consideration. GC Power Entities agree that prior to the assignment in Section 2.2(a), GC Power Entities shall be responsible for complying with and assuring compliance with all laws and regulations applicable to their performance of the Transaction Efforts relating to their use of the Licensed Marks.

5.3 After the assignment in Section 2.2(a), TGN shall not (a) claim or assert any right of ownership in or to the Assigned Marks and shall not initiate any litigation, administrative proceeding, regulatory, or other action concerning the Assigned Marks; (b) register the Assigned Marks anywhere in their own names, or on behalf of any other Person; or (c) associate the Licensed Marks with any article or service other than as expressly permitted herein. After the assignment in Section 2.2(a), should use of the Licensed Marks vest title thereto in TGN by operation of law, then TGN shall immediately assign and transfer such title to GC Power LLC for no additional consideration. TGN agrees that after the assignment in Section 2.2(a), TGN shall be responsible for complying with and assuring compliance with all laws and regulations applicable to its operations relating to its use of the Licensed Marks.

ARTICLE VI

INFRINGEMENT OF MARKS

6.1 In the event that Licensee learns that the Licensed Marks are being infringed, used improperly or used without authority by any third party, it shall promptly notify the Licensor in writing of such action. The Licensor shall decide in its sole and exclusive discretion what action to take or not to take in response, and the Licensee shall take no action in response to any such use or infringement unless instructed in writing to do so by Licensor. Licensor shall have the right to act to terminate any third-party infringement, including, without

limitation, prosecuting a lawsuit or other legal proceeding at its own expense, and Licensor may retain in full any recovery it may receive as a result of its actions to terminate such infringement. Licensee shall fully cooperate with Licensor in any such action taken by Licensor including without limitation agreeing to be joined as party plaintiffs and approving any reasonable settlement agreement achieved by Licensor and shall be reimbursed by Licensor for all reasonable out-of-pocket expenses incurred in connection therewith.

ARTICLE VII

DISCLAIMER OF WARRANTIES AND INDEMNITIES

7.1 Without limiting or modifying the representations, warranties or indemnities in the Transaction Agreement in any manner, nothing contained in this Agreement shall be construed as (i) a warranty or representation by Licensor as to the validity, scope or enforceability of the Licensed Marks; (ii) a warranty or representation that any use by Licensee of the Licensed Marks permitted hereunder will not infringe any mark of any third party; or (iii) an agreement to defend Licensee against actions or suits of any nature brought by any third parties regarding the Licensed Marks, subject to Section 7.2.

7.2 GC Power LLC agrees to indemnify and hold TGN and its affiliates and their respective officers, directors, employees, agents and representatives harmless against any third-party actions, claims, damages, injuries, settlements, liabilities, fees, losses, costs and expenses, including reasonable attorneys' fees and disbursements, arising from or relating to any breach by any GC Power Entity of this Agreement or any representation, warranty, obligation or agreement under this Agreement. Nothing in this Agreement shall be construed as a waiver of any GC Power Entity's indemnity rights at common law.

ARTICLE VIII

TERM AND TERMINATION

8.1 The rights granted under Section 2.1 shall become effective upon the Effective Date and shall terminate upon the earlier of (i) the Termination Date as defined in the Transaction Agreement, (ii) the Non-STP Acquisition Closing Date as defined in the Transaction Agreement, or (iii) the date on which the Mark is no longer used as part of the Names, unless terminated sooner in accordance with Sections 8.2, 8.3 or 8.4 of this Article VIII (the period from the Effective Date until termination, the "Term"). The rights granted under Section 2.2(b) shall become effective and shall terminate as set forth in Section 2.2(b).

8.2 Section 2.1 or Section 2.2(b), as applicable, of this Agreement may be immediately terminated by the Licensor if Licensee materially breaches any provisions of this Agreement and such breach is not cured within 30 days after written notice of such default is given by Licensor to such Licensee, or within such additional period of time as Licensor agrees is reasonably necessary to cure such default, not to exceed 120 days.

8.3 Section 2.1 or Section 2.2(b), as applicable, of this Agreement may be immediately terminated by Licensor if a Licensee (i) becomes insolvent, (ii) makes an assignment for the benefit of creditors, (iii) files or becomes subject to a filing for reorganization, receivership or bankruptcy under the insolvency or bankruptcy laws of its jurisdiction of organization or operation, and such filing remains undismissed for 60 days, or (iv) is dissolved, liquidated, wound up or otherwise ceases or is compelled to cease business.

8.4 Section 2.1 or Section 2.2(b), as applicable, of this Agreement may be immediately terminated by Licensor upon a "Change of Control" of Licensee at any time thereafter. For purposes of this Agreement, "Change of Control" means a change in control of Licensee after the Effective Date in any circumstance where such Licensee or any person or entity owning or controlling such Licensee is a party to a merger, consolidation, sale of assets, sale of any equity or other reorganization, as a consequence of which fifty percent (50%) or more of the control, ownership or management of such Licensee, as it was prior to such event occurring, is no longer directly or indirectly held by the Persons indirectly controlling, owning and managing Licensee as of the date hereof.

8.5 Upon the termination of the licenses in Section 2.1 or Section 2.2(b) (unless, with respect to GC Power Entities, the assignment in Section 2.2(a) has occurred, in which case, the obligations of this Section 8.5 shall not apply to GC Power Entities), the Licensee shall permanently cease and discontinue, effective upon the date of such termination, all use of the Licensed Marks in the Territory, and Licensor may take (or require such Licensee to take) all commercially reasonable actions needed to evidence such discontinuance of use; (b) within 90 days after the termination date, Licensee shall deliver to Licensor a letter certifying that it has terminated all use of the Licensed Marks, including but not limited to, the use of the Licensed Mark as part of its relevant Name, and any inventory of marketing materials of Licensee bearing the Licensed Marks has been destroyed; (c) all costs relating to the filing or recordation of documents evidencing the termination of Licensee's permitted use will be borne by Licensee; and (d) Licensee will take all action necessary (at Licensee's expense) to authorize, no later than any investors' meeting immediately preceding the anticipated termination date, an amendment to the organizational documents of Licensee to remove the Licensed Mark from Licensee's Names.

8.6 Upon termination of any license pursuant to Section 2.1 or Section 2.2(b), the provisions of Articles IV, V and VI, insofar as they relate to such license, shall also terminate in respect of such license. Sections 2.2(a), 3.1, 8.5, 8.6, Articles 7 and 9 shall survive termination of either or both licenses.

ARTICLE IX

MISCELLANEOUS

9.1 The Parties agree that they are independent contractors and not as an employee, servant, or agent of or joint venturer with the other Party. Except as specifically provided herein, no Party shall have authority to bind or otherwise render another Party liable in any way, whether by agreement, contract, or representation, written or oral, or by instrument or

action of any kind. Unless otherwise specifically provided for herein, the obligations undertaken by each Party and set forth in this Agreement shall be at the expense of the Party which incurred the expense.

9.2 The licenses in this Agreement shall not be assignable (or sublicensable, except to subsidiaries) by a Licensee without the prior written consent of the Licensor, which consent may be granted or refused in Licensor's sole discretion. Any permitted assignments shall not relieve the assigning Party from its obligations under this Agreement. In the event of a permitted assignment, this Agreement shall be binding on the Parties and their respective assigns. Notwithstanding the foregoing, GC Power LLC may sell or assign the Assigned Marks without consent at any time after the Non-STP Acquisition Closing Date, provided that the assignee or buyer assumes the license to TGN in Section 2.2(b).

9.3 All communications required or permitted to be given by one Party to the other hereunder (collectively, "Notice") shall be given in person, by registered mail, or by facsimile to the address and numbers listed in this Section 9.3.

TGN:

Texas Genco Holdings, Inc.
1111 Louisiana Street
Houston, Texas 77002
Telecopy: (713) 207-0141
Attention: David G. Tees

with a copy to

Baker Botts L.L.P.
One Shell Plaza
910 Louisiana Street
Houston, Texas 77002-4995
Telecopy: (713) 229-7701
Attention: J. David Kirkland, Jr.

GC Power Entities:

GC Power Acquisition LLC
c/o Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Telecopy: (212) 455-2502
Attention: David J. Sorkin
Brian M. Stadler

with a copy to

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Telecopy: (212) 455-2502
Attention: David J. Sorkin
 Brian M. Stadler

9.4 Any part or provision of this Agreement which may be held for any reason to be illegal, invalid, unenforceable, or in conflict with the applicable laws or regulations of any jurisdiction shall be ineffective to the extent of such illegality and validity and enforceability or conflict, and shall be replaced with a part or provision that accomplishes, to the extent possible, the original purpose of such part or provision in a valid and enforceable manner without affecting, impairing, or invalidating the remaining provisions in any other jurisdiction, which provisions shall remain binding upon the Parties and in full force and effect.

9.5 Each Party acknowledges that a breach of its obligations under this Agreement would cause the other Party irreparable and significant harm and that, in addition to any other remedies available to it, the non-breaching Party may obtain immediate injunctive relief and/or specific performance, in addition to any other rights and remedies available to the non-breaching Party.


9.6 No right or remedy given to a Party under this Agreement or by applicable law is intended to be exclusive of or constitute a waiver of any other right or remedy. Each right or remedy may be pursued singly, concurrently, successively or otherwise at the sole discretion of either Party.

9.7 This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without reference to the choice of law principles thereof.

9.8 The provisions of this Agreement and the Transaction Agreement represent the entire understanding and agreement between the Parties with respect to the subject matter hereof, and supersede all previous agreements, statements, representations, promises, warranties, covenants, undertakings, or writing related thereto, other than those contained herein. Any changes in or amendments to this Agreement shall be in writing and signed by duly authorized representatives of each of the Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives:

TEXAS GENCO HOLDINGS, INC.

By: 
Name: Richard B. Dauphin
Title: Assistant Corporate Secretary

GC POWER ACQUISITION LLC

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives:

TEXAS GENCO HOLDINGS, INC.

By: _____
Name: _____
Title: _____

GC POWER ACQUISITION LLC

By: Thad Miller
Name: Thad Miller
Title: Chief Legal Officer

051230-0728-02191-NY02-2411414

Exhibit A

Logo



Exhibit B

TEXAS GENCO (U.S. Ser. No. 78/209,163)

TEXAS GENCO (U.S. Reg. No. 2,879,202)

TEXAS GENCO (U.S. Reg. No. 2,879,201)

TEXAS GENCO (U.S. Reg. No. 2,866,626)

Txgenco.com

Texasgenco.com

Texasgenco.net

Texasgenco.org

Texas Genco Holdings, Inc.

Texas Genco GP, LLC

Texas Genco LP, LLC

Texas Genco, LP

Texas Genco II, LP

Texas Genco II GP, LLC

Texas Genco Services, LP

Logo

