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FILING WITH THE FEDERAL ENERGY REGULATORY COMMISSION

PACIFIC GAS AND ELECTRIC COMPANY

POOF APR 1

~~*ER01-100-000*~~

ER01-100-000

**Coordinated Operations and Interconnection Agreement
by and among
Pacific Gas and Electric Company
Trans-Elect NTD Path 15 LLC
and
Western Area Power Administration
Governing the Coordinated Operations and Interconnection
of the
Existing Path 15 Transmission System and the Project**



FERC Docket No. ER02-1672-000
April 1, 2004

Disk/OSEC



Pacific Gas and Electric Company

ORIGINAL

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March 31, 2004

Honorable Magalie Roman Salas, Secretary
Federal Energy Regulatory Commission
Mail Code: DPR, HO-20.3
888 First Street, N.E., Room 1A
Washington, DC 20426

ER04-700-000

FEDERAL ENERGY REGULATORY COMMISSION

2004 APR - 1 A 8 53

FILED
OFFICE OF THE
SECRETARY

Re: Pacific Gas and Electric Company, Trans-Elect NTD Path 15 LLC and
Western Area Power Administration Coordinated Operations Agreement,
Docket No. ER02-1672-000

Dear Ms. Salas:

Pacific Gas and Electric Company ("PG&E") hereby submits for filing and acceptance, pursuant to Section 205(d) of the Federal Power Act, 16 U.S.C. § 824d, and Section 35.13 (a)(2)(iii) of the Federal Energy Regulatory Commission's ("FERC" or "Commission") rules and regulations, 18 CFR § 35.13 (a)(2)(iii), and in compliance with the June 12, 2002 Commission Order¹ in Docket No. ER02-1672-000, the Coordinated Operations and Interconnection Agreement ("COIA") by and among PG&E, Trans-Elect NTD Path 15 LLC ("Trans-Elect") and Western Area Power Administration ("Western"), (collectively, the "Path 15 Upgrade Participants" or "Parties"). (See Attachment 1). PG&E makes the compliance portion of this filing on behalf of all of the Path 15 Upgrade Participants. All capitalized terms not defined herein shall have the meaning set forth in the COIA.

BACKGROUND

This filing is one of many steps necessary to facilitate the Parties' proposed Path 15 Upgrade Project, which will relieve a frequently congested transmission path in California. The transmission segment known as Path 15 encompasses six high voltage transmission lines that extend approximately 80 miles in the southern portion of PG&E's service area. The Path 15 transmission lines are often constrained because of the need for significant south-to-north transmission to accommodate the movement of energy from generators in Southern California to Northern California. Historically, the flow of electricity in the south-to-north direction across Path 15 has been most congested during

¹ Western Area Power Administration, 99 FERC ¶ 61,306 (2002) ("June 12 Order").



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¹ Western Area Power Administration, 99 FERC ¶ 61,306 (2002) ("June 12 Order").

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fall and winter nighttime hours, resulting in higher costs of power in Northern California and lost opportunities to transmit needed power among the regions.

On May 17, 2001, the National Energy Policy Report recommended that President George W. Bush direct the Secretary of Energy to authorize Western to explore ways to relieve the Path 15 congestion through transmission expansion. Western selected Trans-Elect and PG&E, out of a group of eight interested entities, to participate in this endeavor. The goal of the Path 15 Upgrade Project is to promote reliability, enhance power transfer capability between Northern and Southern California, and to promote a more competitive electrical market in the West. The key result of the Path 15 Upgrade Project, as developed by the Path 15 Upgrade Participants, will be a projected increase in capability from 3900 MW to 5400 MW for northbound power deliveries. The Path 15 Upgrade Project is also expected to increase capability for southbound deliveries.

On April 30, 2002, Western filed with the Commission a Letter Agreement (the "LA"), on behalf of itself, Trans-Elect and PG&E. The LA provides the framework for the development of the Path 15 Upgrade Project by, among other things, (i) establishing the general governance terms for the development of the project, (ii) establishing obligations of each Party with respect to the funding and construction of each Party's portion of the project, (iii) specifying subsequent agreements for the Parties to enter into, and (iv) identifying each Party's preferred and expected rate methodology. As part of its directives in the June 12 Order, the Commission required the Path 15 Parties to provide clarification on the non-rate issues raised by intervenors in the LA filing. The Path 15 Upgrade Participants provide such clarification in this letter.

In its June 12 Order the Commission accepted the LA effective the same date as that order and endorsed the construction of the Path 15 Upgrade Project. The Commission states in the June 12 Order, "The need for additional transmission facilities in California, particularly along Path 15, has not abated since issuance of the Removing Obstacles Orders,² which sought, among other things, to promote just this result -- the timely construction of additional transmission facilities." In September 2003, Commissioner Wood, in addressing the federal role in electricity reliability after the August 2003 blackouts, highlighted the Path 15 Upgrade Project as an example of a transmission development project for which the Commissioner has acted to "provide incentives for development of transmission infrastructure." Commission Wood referred specifically to the return on equity and accelerated depreciation authorized by the Commission with

² Removing Obstacles to Increased Electric Generation and Natural Gas Supply in the Western United States, 94 FERC ¶ 61,272, reh'g denied, 95 FERC ¶ 61,225, order on requests for reh'g and clarification, 96 FERC ¶ 61,155, further order on requests for reh'g and clarification, 97 FERC ¶ 61,024 (2001) ("Removing Obstacles Orders").

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respect to the construction of the new Path 15 transmission line as provided in the June 12 Order.

The California Independent System Operator Corporation ("CAISO") has also been supportive of the Path 15 Upgrade Project. In its press release summarizing its June 25, 2002 board meeting approving the upgrade to Path 15, the CAISO states:

"The project will relieve a choke point in the California Grid that costs millions of dollars a year to mitigate, and directly contributed to two days of rotating blackouts in January 2001."

"This is a big improvement for California's Grid," said ISO Board Chairman, Michael Kahn. "Not only will this lead to economic benefits for consumers, the upgrade means we'll have a more reliable grid, and a far better way to move megawatts up and down the state."

"The added capacity will significantly reduce electricity costs in California, saving approximately \$100 million per year in normal conditions, and more than \$300 million during a dry year when Path 15 helps mitigate the lack of hydro electric resources in Northern California."

The expected completion date of the Project is December 2004. As will be described in further detail in the course of this letter, to date the Path 15 Parties have entered into the necessary agreements to govern the construction, maintenance, and interconnection of the New Transmission Line into the Existing Transmission System, as such terms are defined below. PG&E is in the process of upgrading the relevant substations, which will provide the terminals to connect the New Transmission Line. Trans-Elect has secured the financing necessary to fund the construction of the New Transmission Line. Trans-Elect has signed a Participating Transmission Owner Agreement with the CAISO and has agreed to turn over its operational interest in the New Transmission Line to the CAISO. Western is taking the appropriate measures to turn over operational control for its interest in the New Transmission Line to the CAISO.

THE PURPOSE AND NATURE OF THE FILING

(a) Description of the Agreements

As part of the April 30, 2002 filing, the Path 15 Parties informed the Commission that additional documents would be filed, including a Participation Agreement, which was renamed the Construction and Coordination Agreement, and the COIA.

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(b) Description of the COIA

The COIA provides for the interconnection and coordinated operations of the Path 15 Upgrade Project with PG&E's existing transmission system in an orderly and reliable manner. Western has circulated the COIA among the intervenors in Docket ER02-1672-000 for comments prior to making this filing. Western received comments from three organizations and has addressed those comments. (See Attachment 3).

The COIA is necessary to establish the coordinated terms and conditions for: (i) the interconnection of Western's new 500-kV transmission line ("New Transmission Line") with the existing Path 15 transmission system, consisting of the Los Banos-Gates 500-kV line, the Los Banos-Midway 500-kV line, the Gates-Panoche #1 230 kV line, the Gates-Panoche #2 230 kV line, the Gates-McCall 230-kV line and the Gates-Gregg 230-kV line and the substation facilities at Gates and Los Banos ("Existing Transmission System" or "ETS"); and (ii) the coordinated operation of the combined New Transmission Line and ETS (the "System"). One of the principal functions of the COIA is to establish each Party's responsibilities with respect to the facilities that it owns and controls. PG&E, as the owner of the Gates and Los Banos Substation facilities, is responsible, in coordination with the control area operator (currently the CAISO), for conducting facility switching and operating the Remedial Action Schemes. PG&E and Western each bear the operation, maintenance and replacement costs and responsibilities for their respective facilities without on-going cost sharing. Trans-Elect will provide funds in advance to Western to cover the operation, maintenance, and replacement costs of the facilities that Western owns.

A general description of some of the COIA's key provisions follows.

- 1. Effective Date.** The Path 15 Parties are requesting that FERC allow the COIA to become effective on July 1, 2004.
- 2. Term.** The term and termination are set forth in Section 6 of the COIA. The COIA does not have a fixed termination date, rather it may be terminated as follows: (i) by any party by giving one year's advance notice with termination being conditioned upon FERC approval of such termination and a replacement agreement that provides for continued interconnection and coordinated operation of the System, (ii) upon mutual agreement of the Parties, (iii) upon the end of the useful life of the Existing Transmission System or New Transmission Line or both, (vi) automatically in the event that prior to completion of the Path 15 Upgrade Project the Parties terminate the Construction and Coordination Agreement; provided that termination will not be effective until FERC receives notice of and accepts such termination, (v) by

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five years advance notice, which may be given after January 1, 2050, with FERC approval of the termination, or (vi) as required by law.

3. **Establishing Interconnection.** Neither PG&E nor Western will have an obligation to interconnect the New Transmission Line to the Existing Transmission System until (i) the Path 15 Upgrade Project is complete and (ii) the elements of an energization plan, which will be jointly developed by PG&E and Western, have been met. PG&E and Western will coordinate the implementation of the energization of the New Transmission Line.
4. **Operation.** The COIA provides numerous procedures and mechanisms to ensure that the Parties fulfill their obligations with respect to the operation of the New Transmission Line while maintaining the integrity of the Existing Transmission System. Sections 10 through 12 of the COIA address issues pertaining to the continuity of the interconnection, unacceptable operating conditions and systems operations. The Parties intend on turning over the operational control of the New Transmission Line and their respective scheduling capability shares to the CAISO. Accordingly, all scheduling, transmission, ancillary services, and other activities associated with the use of the New Transmission Lines for commercial transactions will comply with CAISO protocols and will require separate arrangements with the CAISO. Except for limited use at points of interconnection to PG&E's Gates and Los Banos Substations, the COIA does not provide for any transmission service or any related ancillary services for the receipt or delivery of power from the System on PG&E's electric system or the CAISO controlled grid.

With limited exceptions, the Existing Transmission System and the New Transmission Line will be operated in parallel continuously. All Parties are required to operate and maintain their portion of the Path 15 transmission system in accordance with Good Utility Practice, including applicable control area, NERC, and WECC operating criteria. Each Party has agreed to take corrective action, in accordance with Good Utility Practice, to eliminate an Unacceptable Operating Condition that (a) occurs on the portion of the System that it owns and controls and (b) the CAISO has not been able to eliminate. Unacceptable Operating Conditions would include, but not be limited to, excessively low or high voltage or transmission line loadings in excess of safe limits, per the CAISO's operating instructions.

5. **Allocation of Capacity.** The COIA provides for the rating of the System as a single coordinated transmission system and for the allocation of the transfer capability resulting from the Path 15 Upgrade Project between the New Transmission Line and the ETS, as it may be reduced by operating limitations.

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The WECC Path Rating process has established (a) the South-to-North rating of the System as 5400 MW and (b) the North-to-South rating of the System at 3265 MW (Section 13). Using the WECC Path Rating, the Parties have allocated the rated system transfer capability as follows: (i) the South-to-North transfer share of the existing system will be 3900 MW and the Project transfer share will be 1500 MW and (ii) the North-to-South transfer share of the existing system will be 2130 MW and the Project's transfer share will be 1135 MW (Section 14).

The amount of increased scheduling capability created by the Path 15 Project Upgrade is allocated on a pro rata basis between (a) the ETS rated system and transmission capacity and (b) the Project rated system transmission capacity. The Parties have initially allocated the scheduling capability on the New Transmission Line as follows: 72% to Trans-Elect, 18% to PG&E, and 10% to Western.³ Section 15.3 of the COIA provides that during the 18 month period following interconnection the Parties may review the actual Operating Transfer Capability to determine whether the maximum achievable South-to-North or North-to-South operational Transfer Capability is consistently materially less than targeted and the procedures to address such inconsistency.

6. **Modifications.** Section 16 identifies the requirements and protocols for the Modifications to the System, including notification to other Parties, required system impact studies, and resolution of issues raised in connection with the proposed modification. A Party may only modify the portion of the System that it owns and must endeavor to minimize the reduction of Rated System Transfer Capability and Available Scheduling Capability in accordance with the protocols set forth in Section 16. In the event that a Party that modifies the System adversely impacts another, the Party making the modification shall be required to mitigate the adverse impact through compensation or other comparable means.

(c) Description of the CCA

The LA contemplated that the parties would enter into a "Participation Agreement," which sets forth the terms of the development and ongoing administration of the Path 15 Upgrade Project. As the parameters of the Project evolved and the Parties' respective roles became better defined, the Parties determined that the title Construction

³ The final allocation will be based on the ratio of the contribution made by a participant to the project, either in terms of funding or actual work performed; however, in no event will Western's share of the scheduling capability of the New Transmission Line be less than ten percent.

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Coordination Agreement (“CCA”) (see Attachment 2) better expressed the purpose of the agreement. The CCA is an essential element in the actual construction and pre-operational testing of the Path 15 Upgrade Project. Specifically, the CCA, as amended by the Clarification Letter entered into by and among Western, PG&E, and Trans-Elect, dated September 12, 2003 (“Clarification Letter”), establishes the Parties’ obligations to coordinate their respective duties in the construction of the Path 15 Upgrade Project, the ownership percentages of the capacity on the New Transmission Line, the respective payment obligations of the Parties with respect to Project costs, the coordinated operations (including curtailment sharing) with the Existing System, and the project work products and project scope. The CCA also establishes an oversight committee to assist in this coordination effort and to promote Project construction efficiency. The CCA is critical to this public/private consortium for financing the needed investment to alleviate transmission constraints on this major transmission path. The CCA does not contain terms and conditions for service or rates and is not FERC jurisdictional; therefore the CCA is being provided *for informational purposes only*.

COMPLIANCE WITH THE JUNE 12, 2002 ORDER.

In its June 12 Order, the Commission required the Path 15 Parties, in a subsequent filing, to address various intervenors’ non-rate concerns. In this section, the Path 15 Parties address the concerns raised by various intervenors. In addition, the Path 15 Parties have contacted the attorneys of CAISO, the Transmission Agency of Northern California (“TANC”), the City of Redding (“Redding”), City of Palo Alto (“Palo Alto”), Silicon Valley Power, (“SVP”), MSR Public Power (“MSR”), Turlock Irrigation District (“Turlock”), San Diego Gas & Electric Company (“San Diego”), Southern California Edison (“Edison”) and other entities who raised comments or concerns. Furthermore, Western provided a draft copy of the COIA to such intervenors and sought their input and comment. After discussions, with the intervenors, the Path 15 Upgrade Parties accepted certain suggestions. In particular the comments received from TANC, Turlock, and Edison are addressed in Western’s July 21, 2003 letter to various intervenors. (See Attachment 3).

Pursuant to the June 12 Order, the Path 15 Parties provide the following clarification.

In the June 12 Order, the Commission noted that certain intervenors⁴ had concerns that the Path 15 Upgrade would affect transmission customers’ existing rights on Path 15 and the integrity of the Existing Transmission System. The Parties have included a number of provisions and standards in the COIA to address the intervenors concerns. With regard to the rights of existing transmission customers, Section 15.3 identifies the Parties’ intent

⁴ TANC, MSR, Redding, SVP, Palo Alto, Turlock, San Diego, CAISO, NCPA and Edison.

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that the ETS ASC shall be no less than the megawatt amount of what the ETS ASC share would have been without the construction of the Project under comparable pre-construction operating conditions.

To the extent that the integrity of Existing Transmission System and energization of the New Transmission Line may impact existing transmission customers, the Parties have set forth necessary procedures throughout the COIA to ensure that the Project will be operated in accordance with Good Utility Practice and that the ETS will not be adversely affected. For instance, as noted above, Section 10.3 of the COIA provides that the Project shall be operated, maintained and modified in accordance with Good Utility Practice, including applicable Control Area Operator, NERC and WECC operating criteria and PG&E and Western operating instructions and standard operating practice. Section 9.4 of the COIA addresses the coordination of the energization plan (which would include review of necessary clearances during energization) with the CAISO. In addition, PG&E, as operator of the Existing Transmission System, will coordinate any clearances needed during construction with the CAISO. Section 12.4.2 of the COIA provides that the Parties shall meet applicable industry and Control Area performance and reliability standards consistent with Good Utility Practice including "Operating and maintaining the Project and the ETS in order to minimize Electric System disturbances."

The Commission next notes in the June 12 Order that certain interveners⁵ have concerns that the Path 15 Upgrade Parties may be attempting to circumvent the CAISO Tariff. The Path 15 Upgrade Parties fully anticipate compliance with the CAISO Tariff. In fact, as noted above and in Section 5 of the COIA, the Path 15 Upgrade Parties intend to execute all necessary documents with the CAISO to turn over the operational control of these facilities. PG&E is currently a Participating Transmission Owner ("PTO"). Because they will each receive transmission ownership interests as a result of the Path 15 Upgrade Project, Trans-Elect has submitted its application with the CAISO to become a PTO and has signed a Transmission Control Agreement with the CAISO, which the CAISO subsequently filed with FERC in August 2003. In December 2003, Western filed a conditional application with the CAISO to turn over Western's entitlements and operational control of the New Transmission Line to the CAISO in 2004. Western is currently negotiating a Transmission Control Agreement with the CAISO. Western will work with the CAISO to seek a waiver pursuant to the FERC's Order of May 30, 2003, 103 FERC ¶61,260, as further described below. The Transmission Control Agreement and PTO Agreement that Western is expected to enter into will be filed with the Commission after they are negotiated and executed. Any affected entity will have the opportunity to participate in these proceedings. In the event the Path 15 Upgrade Parties seek any exception from any provision of the CAISO Tariff, a new filing will be made

⁵ Edison.

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that addresses those specific exceptions, e.g., pursuant to the guidance provided by the Commission's May 31, 2003 Order in Docket ER03-608-000, Western will be working with the CAISO and the existing Participating TOs to seek a waiver from the ISO Tariff that will allow Western to turn over only the Path 15 Upgrade.⁶

The Commission further notes that certain interveners⁷ find Section 9.4.4 of the LA to be unclear. Though the Path 15 Upgrade Parties believe the issue with respect to Section 9.4.4 is now moot, the Parties nonetheless shall clarify that provision. Section 9.4 of the LA, which establishes certain threshold conditions applicable to "some or all of the Parties before signing a definitive agreement or providing additional funding for the Project." In particular, Section 9.4.4 of the LA required "CAISO board approval indicating support for all changes to the CAISO's Tariff or an order by the Commission requiring the CAISO to accept the changes requested by Trans-Elect for the revenue recovery mechanism for the Project." The Parties agree that the language, though admittedly unclear, was intended to provide that failure to meet any of the conditions in Section 9.4 of the LA would not have precluded a party to that agreement from executing the applicable definitive agreement, which in this case was the CCA; rather if all of the conditions were met, the parties to the LA would have been required to execute the CCA. Nonetheless, with the Commission and the CAISO board approving the Path 15 Upgrade Project, the Parties believed it was appropriate to execute the CCA. Accordingly, when the Parties executed the CCA, the threshold conditions in Section 9.4 of the LA became ineffective.

Finally, the Commission notes in the June 12 Order that the California Public Utilities Commission ("CPUC") raises numerous issues relating to the Project. The Parties believe that the majority of the issues have been resolved with the settlement agreement executed between Trans-Elect and the CPUC filed with the Commission on June 20, 2003 in Docket No. ER02-1672-000 and the CPUC's May 22, 2003 Decision 03-05-083 allowing PG&E to participate in the federal Path 15 Project. (See Attachment 4.) The Path 15 Upgrade Parties understand that the only remaining issues deal with the application of the Removing Obstacles Order to PG&E. By filing dated July 8, 2003, the CPUC withdrew its rehearing request of the June 12 Order as it relates to both Western and Trans-Elect. The PG&E issues are currently pending on appeal before the D.C. Circuit in Case No. 02-1358.

⁶ California Independent System Operator Corp., 103 FERC ¶ 61,260 (2003).

⁷ CAISO and Edison.

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REQUEST FOR WAIVERS AND EXPEDITED CONSIDERATION

PG&E respectfully requests that the Commission grant any necessary waivers of its rules and regulations necessary for acceptance of this filing. The Path 15 Upgrade Parties are making this filing providing details on the coordinated operations and interconnection of the project. No cost of service information is being provided with this filing because the COIA only establishes the terms and conditions for the coordination, operations and interconnection of the Path 15 Upgrade Project and the Parties are not seeking the approval of any rates in connection with the COIA. Each Path 15 Upgrade Participant will provide its cost of service associated with its Path 15 Upgrade Project costs in a future filing, if applicable. Therefore, for this filing, the Path 15 Upgrade Parties request a waiver of Section 35.13, 18 CFR § 35.13, as it relates to the provision of cost of service and the associated statements.

For the reasons discussed in the body of this letter, the Path 15 Upgrade Parties also ask the Commission to accept the COIA expeditiously and without modification so as not to delay the completion of the Path 15 Upgrade Project within the scheduled timeline.

ABBREVIATED FILING REQUIREMENTS APPLY

The COIA does not provide rates for services and therefore no sales or revenues result from this agreement. Because the COIA is essentially administrative in nature and does not provide for rates, PG&E is filing the COIA under the abbreviated filing requirements of Section 35.13(a)(2)(iii) and therefore is submitting only the information required in paragraphs (b) and (c) of Section 35.13 of the Commission's rules and regulations (18 CFR § 35.13(a)(2)(iii)).

CONCURRENCE

By execution of COIA, Western and Trans-Elect have concurred with the terms of the agreement that are the subject of this filing.

NO IMPROPER EXPENSES OR COSTS

No expenses or costs associated with this filing have been alleged or judged, in any judicial or administrative proceeding, to be illegal, duplicative or unnecessary costs that are demonstrably the product of discriminatory employment practices.

RATE SCHEDULE DESIGNATIONS

PG&E requests that the COIA, as proposed herein and included in its entirety as Attachment 1, be designated as PG&E Rate Schedule FERC No. 230. This Rate

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Schedule is designated in accordance with the Commission's Order No. 614, issued March 31, 2000, in FERC Docket No. RM99-12-000, 90 FERC ¶ 61,352.

SERVICE

Copies of this filing have been served upon Western, Trans-Elect, the CAISO, the CPUC and the parties to this proceeding. In addition, copies of this filing are available for public inspection in a convenient form and place during normal business hours at PG&E's General Office, located at 77 Beale Street in San Francisco, California.

ENCLOSURES

Enclosed for filing are six copies of the following documents:

1. Certificate of Service;
2. A notice suitable for publication in the Federal Register and a diskette containing such notice;
3. Attachment 1 — The proposed COIA;
4. Attachment 2 — The CCA, as amended;
5. Attachment 3 — Western's July 21, 2003 Letter to Various Intervenors;
6. Attachment 4 — CPUC Decision 03-05-083, and
7. Supporting documents pursuant to Sections 35.13(a)(2)(iii), 35.13(b), and 35.13(c).

CORRESPONDENCE

PG&E requests that all correspondence, pleadings, and other communications concerning this filing be served upon the following:

Mark D. Patrizio
Tanya Y. Murphy
Attorneys
Pacific Gas and Electric Company
77 Beale Street, B30A
San Francisco, CA 94105-9612
(415) 973-6404

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PG&E also requests an additional copy of any correspondence and orders be sent to:

Robert J. Doran, Mail Code B13L
Manager of FERC Rates and
Regulation
Pacific Gas and Electric Company
77 Beale Street, Room 1345
Post Office Box 770000, B13L
San Francisco, CA 94177

Kevin Dasso
Pacific Gas & Electric Company
123 Mission St, H12A
San Francisco, CA 94105

Western requests that all correspondence and orders be addressed to:

Koji Kawamura
Western Area Power Admin.
P.O. Box 281213
12155 W. Alameda Pkwy
Lakewood, CO 80228

James D. Keselburg
Regional Manager
Western Area Power Admin.
114 Parkshore Drive
Folsom, CA 95630-4710

Trans-Elect requests that all correspondence be addressed to:

Douglas O. Waikart
David S. Berman
Wright & Talisman P.C.
1200 G Street, NW
Ste. 600
Washington, DC 20005

Perry Cole
Trans-Elect NTD Path 15 LLC
3420 N. Hillcrest
Butte, MT 59701

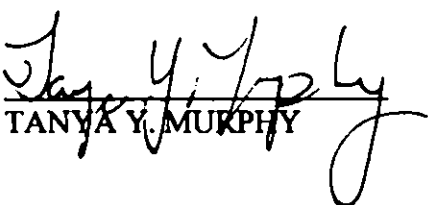
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PG&E hereby submits an additional copy of the first page of this transmittal letter and respectfully requests that the Commission acknowledge receipt of this document by returning this copy endorsed as filed in the enclosed stamped, pre-addressed envelope.

Respectfully submitted,

MARK D. PATRIZIO
TANYA Y. MURPHY

By 
TANYA Y. MURPHY

Attorneys for
Pacific Gas and Electric Company
Post Office Box 7442
San Francisco, California 94120
Telephone: (415) 973-6404

Attachments and Enclosures

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that I have on this day caused to be served by U.S. Mail, a copy of the foregoing document upon all parties designated on the official service list in this proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure and the following:

Randolph L. Wu
General Counsel
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94103

Dated at San Francisco California, this 31st day of March, 2004.


Joanne M. Myers

PACIFIC GAS AND ELECTRIC COMPANY
77 Beale Street, Room 1323, B13L
San Francisco, CA 94105
(415) 973-3397

**NOTICE SUITABLE FOR
PUBLICATION IN THE FEDERAL REGISTER**

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Pacific Gas and Electric Company)
)
) Docket No. _____

**NOTICE OF FILING
(_____, 2004)**

Take notice that on _____, 2004, Pacific Gas and Electric Company ("PG&E") tendered for filing a Coordinated Operations and Interconnection Agreement ("COIA") between PG&E, Trans-Elect NTD Path 15 LLC ("Trans-Elect") and Western Area Power Administration ("Western"). PG&E, on behalf of itself Western and Trans-Elect, provide further information in this filing in compliance with the June 12, 2002 Commission Order¹ in Docket No. ER02-1672-000.

The COIA provides for the interconnection and operations of the Path 15 Upgrade Project with the existing transmission system in an orderly and reliable manner, including the allocation of transfer capability between the Project and the existing transmission system.

PG&E has requested certain waivers.

Copies of this filing have been served upon, the California Public Utilities Commission and the California Independent System Operator Corporation and all parties on the official service list in Docket ER02-1672-000.

Any person desiring to be heard or to protest this filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211 and 385.214). All such motions or protests should be filed in accordance with Section 35.8 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at <http://www.ferc.gov>, using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866)208-3676, or for TTY, contact (202)502-8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR § 385.2001(a)(1)(iii) and the instructions on the Commission's

¹ Western Area Power Administration, 99 FERC ¶ 61,306 (2002) (June 12 Order).

web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Magalie R. Salas
Secretary

Comment Date: _____

ATTACHMENT 1

**Coordinated Operations and Interconnection Agreement
by and among
Pacific Gas and Electric Company
Trans-Elect NTD Path 15 LLC
And
Western Area Power Administration**

**Governing the Coordinated Operations and Interconnection
of the
Existing Path 15 Transmission System and the Project**

PG&E's Designated Rate Schedule for Filing

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Coordinated Operations and Interconnection Agreement
by and among
Pacific Gas and Electric Company
Trans-Elect NTD Path 15 LLC
and
Western Area Power Administration
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of the
Existing Path 15 Transmission System and the
Project

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**COORDINATED OPERATIONS AND INTERCONNECTION
AGREEMENT**

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APPENDICES

APPENDIX A	NOTICES
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**COORDINATED OPERATIONS AND INTERCONNECTION
AGREEMENT**

1 PARTIES:

This Coordinated Operation and Interconnection Agreement is entered into by and among Pacific Gas and Electric Company (PG&E), Trans-Elect NTD Path 15 LLC (Trans-Elect) and the Western Area Power Administration (Western).

2 RECITALS:

This Agreement is made with reference to the following facts, among others:

- 2.1 The Parties signed a Memorandum of Understanding for the Path 15 Project (MOU) and the Secretary of Energy approved the Path 15 Upgrade Project (Project) as described in the MOU on October 16, 2001.
- 2.2 The Parties entered into the Letter of Agreement on April 25, 2002 (LOA), thereby fulfilling certain requirements of the October 16, 2001, MOU and entered into the Construction Coordination Agreement (CCA) on December 30, 2002, representing their further intentions to continue to develop the Project.
- 2.3 The Parties are constructing the Project to interconnect to and operate in parallel with the Existing Path 15 Transmission System (ETS).
- 2.4 One of the primary purposes of the Project is to enhance the Transfer Capability between PG&E's Los Banos and Gates substations.
- 2.5 The Project relies on use of some or all of the ETS Remedial Action Schemes (RAS) to achieve the Transfer Capability of the System as set forth in the Project Design Objectives.
- 2.6 The California Independent System Operator (CAISO) presently operates the Control Area that includes the ETS and the Project within its electrical boundaries and establishes the procedures for the scheduling of power transfers within its Control Area.
- 2.7 PG&E is a party to the Transmission Control Agreement (TCA) under which

1 the CAISO obtains certain operational control of the ETS and PG&E's
 2 Available Scheduling Capability (ASC) Share.
 3 2.8 The Parties desire to establish these Interconnection and coordination
 4 terms and conditions in order to assure that the System will be
 5 interconnected and operated in an orderly and reliable manner, including
 6 the allocation of the transfer capability created by the Project, and so as to
 7 avoid, mitigate, or compensate for any significant Adverse Impacts to the
 8 Project or the ETS consistent with Good Utility Practice.

9
10 3 AGREEMENT:

11 In consideration of the covenants and conditions herein, the Parties agree as
12 follows:

13
14 4 DEFINITIONS:

15 Whenever used in this Agreement, the following terms, when initially capitalized,
16 shall have the meanings set forth in this Section 4. The singular of any definition
17 shall include the plural and the plural shall include the singular.

18 4.1 Adverse Agency Action: An "Adverse Agency Action" shall exist: (i)
19 immediately upon the issuance of a decision, order, or ruling, of the
20 California Public Utilities Commission, or its regulatory successor ("CPUC"),
21 a CPUC Commissioner, or a CPUC Administrative Law Judge ordering
22 PG&E not to participate in the Project, or (ii) immediately upon the issuance
23 of a decision, order or ruling of the CPUC, a CPUC Commissioner, or a
24 CPUC Administrative Law Judge ordering any Party to apply for a
25 Certificate of Public Convenience and Necessity and/or a Permit to
26 Construct for the Path 15 Project. The issuance of a proposed decision or
27 an alternate decision is not an Adverse Agency Action.

28 4.2 Adverse Impact: A demonstrably and materially detrimental effect on or
29 change to the operation or use of an Electric System. Operation or use of

1 an Electric System includes, but is not limited to, the following: the
 2 operation or use of or rights to use any element of such Electric System or
 3 any purchased or exchanged electric transmission service; reliability,
 4 continuity and safety of service or the stability of the system; the useful life
 5 of equipment or facilities; maintenance; the operation of all or any portion of
 6 the system; and the plans or procedures of the owner of such Electric
 7 System to serve its customers at the lowest reasonable Cost and otherwise
 8 comply with all applicable laws and regulatory directives. Notwithstanding
 9 the forgoing, no loss of revenue to any Party which results solely from
 10 another Party's or third party's decision not to purchase any electric service
 11 from such Party shall be deemed to be an Adverse Impact.

12 4.3 Available Scheduling Capability (ASC): The maximum amount of power
 13 that can be scheduled over the System in each direction, taking into account
 14 the ASC and all other factors that affect scheduling capability, such as
 15 unscheduled flow, as determined in accordance with Section 15.

16 4.4 ASC Share: An allocation of a portion of the ASC to the Existing Path 15
 17 Transmission System (ETS) and the Project, calculated pursuant to Section
 18 15.

19 4.5 Assignment: Any transfer of rights, title, interests and obligations under this
 20 COIA, the CCA, the LA and the MOU or any portion of a Party's share of the
 21 Project.

22 4.6 Available System Transfer Capability (ASTC): The portion of Rated System
 23 Transfer Capability (RSTC) that is physically capable of transmitting power
 24 based on operating conditions as determined by the Control Area Operator.

25 4.7 Business Day: Business day shall mean any day except a Saturday,
 26 Sunday or a federal holiday. A Business Day shall open at 8:00 am and
 27 close at 5:00 pm local time for the relevant Party's place of business. The
 28 relevant Party's place of business shall be the address set forth in Appendix
 29 A.

- 1 4.8 California Independent System Operator (CAISO): The public benefit
- 2 corporation formed by California Assembly Bill 1890 with the responsibility
- 3 for managing the use of certain transmission systems within the State of
- 4 California and which is also the control area operator of much of the
- 5 electrical transmission grid in California, including the ETS and the Project
- 6 as of the date of execution of this Agreement.
- 7 4.9 Clearances: The disconnecting and de-energizing, and reconnecting and
- 8 re-energizing, of equipment to ensure the safety of electric utility customers,
- 9 employees, and equipment and to maintain reliable service.
- 10 4.10 Commercial Operations Date: The date established by the Parties upon
- 11 which the Project is available for commercial use, having been determined
- 12 by the Parties to be substantially complete and available to operate reliably
- 13 consistent with the Project Design Objectives.
- 14 4.11 Comprehensive Plan of Service: The plan of service provided in Appendix
- 15 C, which describes the Project facilities, design objectives, power system
- 16 studies, remedial action schemes, and the operating data requirements of
- 17 the Project.
- 18 4.12 Construction Coordination Agreement: That certain agreement, dated
- 19 December 30, 2002, entered into by and among the Parties for the
- 20 coordination of their respective Path 15 Upgrade Project construction
- 21 responsibilities.
- 22 4.13 Control Area: An electric power system (or combination of electric power
- 23 systems) to which a common automatic generation control scheme is
- 24 applied in order to: i) match, at all times, the power output of the generating
- 25 units within the electric power system(s), plus the energy purchased from
- 26 entities outside the electric power system(s), minus energy sold to entities
- 27 outside the electric power system, with the demand within the electric power
- 28 system(s); ii) maintain scheduled interchange with other Control Areas,
- 29 within the limits of Good Utility Practice; iii) maintain the frequency of the

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electric power system(s) within reasonable limits in accordance with Good Utility Practice; and iv) provide sufficient generating capacity to maintain operating reserves in accordance with Good Utility Practice.

4.14 Control Area Operator: The operator of a Control Area. Unless otherwise stated, this term shall refer to the operator of the Control Area in which the System is located.

4.15 Cost(s): All just and reasonable, necessary and prudent expenses or capital expenditures, including, but not limited to those incurred for operation, maintenance, facility additions, betterments, or replacements, engineering studies, adverse impact identification, contract modification, administrative and general expenses, taxes, and depreciation, as determined in accordance with the FERC Uniform System of Accounts as such may be amended or superceded from time to time, and costs of capital. The appropriate components of Costs, as defined herein, shall be applied for the particular circumstances associated with the incurrence of costs.

4.16 Electric System: All physically connected properties and other assets, now or hereafter existing, owned or controlled by a single entity, and used for or pertaining to the generation, transmission, transformation, distribution, or sale of electric power and energy, including all additions, extensions, expansions, and improvements, of such entity and their properties and assets. To the extent an entity, excluding subsidiaries of such entity, is not the sole owner of an asset or property, only that entity's ownership interest in such asset or property shall be considered to be part of its Electric System.

4.17 Energization Plan: A detailed description of the procedures and standards used to install and test appropriate equipment and facilities of the Project, referenced in Section 9, which must be completed before the Project is ready for Interconnected Operation.

- 1 4.18 Existing Path 15 Transmission System (ETS): The existing PG&E owned
- 2 Path 15 transmission system, consisting of the Los Banos-Gates 500-kV
- 3 line, the Los Banos-Midway 500-kV line, the Gates-Panoche #1 230-kV line,
- 4 the Gates-Panoche #2 230-kV line, the Gates-McCall 230-kV line and the
- 5 Gates-Gregg 230-kV line, the associated substations and the existing
- 6 Remedial Action Scheme.
- 7 4.19 Federal Electric Regulatory Commission (FERC): The Federal Electric
- 8 Regulatory Commission or its successor regulatory agency, if any.
- 9 4.20 Federal Power Act: That Federal law, originally enacted as Title II of the
- 10 Public Utilities Act of 1925, as amended, which provides, *inter alia*, for
- 11 Federal regulation of transmission and sale at wholesale of electric power
- 12 and energy in interstate commerce, codified at 16 U.S.C. Sections 824 et
- 13 seq. (1992), as it may be amended.
- 14 4.21 Gates Substation: The 500/230-kV substation owned and operated by
- 15 PG&E, which interconnects with the Project at 500-kV and is the southern
- 16 terminus of the Project.
- 17 4.22 Good Utility Practice: Any of the practices, methods, and acts engaged in
- 18 or approved by a significant portion of the electric utility industry during the
- 19 relevant time period, or any of the practices, methods, and acts which, in the
- 20 exercise of reasonable judgment in light of the facts known at the time the
- 21 decision was made, could have been expected to accomplish the desired
- 22 result at a reasonable Cost consistent with good business practices,
- 23 reliability, safety, and expedition. Good Utility Practice is not intended to be
- 24 any one of a number of the optimum practices, methods, or acts to the
- 25 exclusion of all others, but rather to be acceptable practices, methods, or
- 26 acts generally accepted in the region.
- 27 4.23 Interconnection: The physical connection of the facilities of one Electric
- 28 System to the facilities of another Electric System.
- 29 4.24 Interconnected Operation: The operation in parallel of the System as

- 1 provided in Section 10, following satisfaction of the requirements of Section
- 2 9.
- 3 4.25 Interconnection Facilities: Those facilities at PG&E's Los Banos and Gates
- 4 substations, which are essential, as determined by the Parties, for safe and
- 5 reliable Interconnected Operation of the Project to the ETS.
- 6 4.26 Interconnection Work: All activities, authorized or approved by the Parties,
- 7 necessary or useful for the planning, engineering, acquisition, installation,
- 8 and testing of Interconnection Facilities.
- 9 4.27 Interest Rate: That charge calculated in accordance with the methodology
- 10 specified for interest on refunds per FERC Regulation 19 (a)(2)(iii) (18
- 11 C.F.R.§35.19(a)(2)(iii)(2003), as may be amended from time to time).
- 12 4.28 Letter of Agreement (LA): The agreement entered into by the Parties on
- 13 April 25, 2002, that fulfills certain requirements of the October 16, 2001,
- 14 MOU and represents the Parties' intent to continue to participate in the
- 15 Project and their commitment to jointly develop additional contractual
- 16 documents as set forth in Section 9.1 thereof.
- 17 4.29 Los Banos Substation: The PG&E 500/230-kV AC substation located near
- 18 Los Banos, California, owned and operated by PG&E which interconnects
- 19 with the Project at 500-kV and is the northern terminus of the Project.
- 20 4.30 Memorandum of Understanding (MOU): The Agreement signed October 16,
- 21 2001, by PG&E, Western and Trans-Elect, Inc. among others.
- 22 4.31 Modification: The addition, or modification, of generating facilities, loads,
- 23 power control devices or transmission lines to any portion of a Party's
- 24 Electric System.
- 25 4.32 NERC: North American Electric Reliability Council, or its successor.
- 26 4.33 NERC Operating Policies: The NERC operating policies, which, for
- 27 purposes of this Agreement, include the NERC Reliability Criteria for
- 28 Interconnected Systems Operation, as they may be amended or
- 29 superseded by NERC.

- 1 4.34 Nomogram: A graph representing operating conditions, typically the power
- 2 transfer quantities that define the Simultaneous maximum power transfer
- 3 capability among interacting Electric Systems located in or connected to
- 4 different electrical load serving regions.
- 5 4.35 Non-Simultaneous: A term describing a power transfer rating which was
- 6 developed using power system study assumptions which did not take into
- 7 consideration all other interacting transmission lines being operated at their
- 8 highest rated power transfer values at the same time.
- 9 4.36 Operating Emergency: An unexpected event or circumstance, or series of
- 10 events or circumstances, that has caused or is reasonably anticipated to
- 11 cause a sudden loss or interruption of a facility of the System or any other
- 12 electric generating or transmitting facilities and that, in the judgment of
- 13 either PG&E or the Control Area Operator, requires immediate action to:
- 14 4.36.1 Preserve, maintain, or reestablish the safety, reliability, integrity, or
- 15 operability of, the Control Areas, the Electric System, or such other
- 16 facilities as have been affected;
- 17 4.36.2 Avoid a hazard to the property, health, or safety of employees or
- 18 the public;
- 19 4.36.3 Minimize or avoid loss of load or the inability to furnish any other
- 20 electric service; or
- 21 4.36.4 Maintain the frequency or voltage within the Control Area.
- 22 4.37 Participating TO: A transmission owner that has placed its transmission
- 23 assets or rights under the CAISO's operational control pursuant to a
- 24 Transmission Control Agreement.
- 25 4.38 Parties: PG&E, Trans-Elect, and Western and including, as the context may
- 26 require, Trans-Elect, Inc. as Trans-Elect's predecessor in interest.
- 27 4.39 Path 15 Upgrade Project (Project): A new 500-kV transmission line and
- 28 associated substation facilities which extend between the Los Banos
- 29 Substation and the Gates Substation, including 230-kV and 115-kV

- 1 reconfigurations, and RAS modifications, all as further described in the
2 Comprehensive Plan of Service.
- 3 4.40 Project Design Objectives: The operating conditions and characteristics for
4 which the Project has been designed, as set forth in the Comprehensive
5 Plan of Service.
- 6 4.41 Project Power System Studies: Those studies referred to in the
7 Comprehensive Plan of Service.
- 8 4.42 Rated System Transfer Capability (RSTC): The Non-Simultaneous rated
9 Transfer Capability of the System as determined by the Parties from time to
10 time in accordance with Section 13.
- 11 4.43 Remedial Action Schemes (RAS): The facilities and associated automated
12 procedures that are designed in accordance with Good Utility Practice to
13 maintain reliable operation of the Control Area after a disturbance.
- 14 4.44 RSTC Share: The allocation of RSTC between the ETS and the Project.
- 15 4.45 Significant Regulatory Change: A Significant Regulatory Change occurs
16 when the FERC, the CPUC, the California Energy Commission, the
17 California Legislature, the executive of a state or federal government, or the
18 United States Congress issues an order or decision or adopts or modifies a
19 tariff, or enacts a law that substantially prevents any Party from performing
20 its functions under this Agreement or the CCA.
- 21 4.46 Simultaneous: A term describing a power transfer rating developed using
22 power system study assumptions where all other affected transmission lines
23 are operated at their highest rated power transfer values at the same time.
- 24 4.47 System: The combined Project and the Existing Path 15 Transmission
25 System (ETS).
- 26 4.48 Transfer Capability: That amount of electric power in megawatts that can
27 be transferred in a designated direction on the System between the Los
28 Banos Substation and the Gates Substation using the Transmission
29 Network in a reliable manner in accordance with Good Utility Practice.

- 1 4.49 Transmission Control Agreement (TCA): As authorized by the CAISO Tariff,
- 2 the Transmission Control Agreement, executed by the CAISO and
- 3 Participating TO's establishes the terms and conditions under which each
- 4 Participating TO will discharge its respective duties and responsibilities, as
- 5 may be modified from time to time. PG&E is a Participating TO and has
- 6 entered into a TCA with the CAISO. To the extent that functions assumed
- 7 by PG&E under the TCA are later assigned to the CAISO, references to
- 8 such functions being performed pursuant to the TCA shall be deemed to be
- 9 references to the CAISO Tariff.
- 10 4.50 Transmission Network: The interconnected Electric Systems represented in
- 11 the power system studies of Transfer Capability, which include the overall
- 12 WECC power system, the System, and the Electric Systems of all Parties
- 13 and third parties, as represented in such power system rating or operating
- 14 studies.
- 15 4.51 Unacceptable Operating Condition: A condition of significant magnitude on
- 16 the System, which is inconsistent with Good Utility Practice, and whose
- 17 prompt elimination or reduction is in accordance with Good Utility Practice.
- 18 Unacceptable Operating Conditions include, but are not limited to, the
- 19 following:
- 20 4.51.1 excessively low or high voltages; and
- 21 4.51.2 transmission line or equipment loadings in excess of safe limits
- 22 established in the operating instructions provided pursuant to
- 23 Section 10.3.
- 24 4.52 Willful Action:
- 25 4.52.1 Action taken or not taken by or on behalf of a Party at the direction
- 26 of its members, directors, members of its governing body or bodies,
- 27 authority or authorities, officers or employees having management
- 28 or administrative responsibility, or agents acting in comparable
- 29 capacity, which is either of the following:

1 arrangements, this agreement establishes the physical points of Interconnection of
 2 the Project to the ETS and the allocation of scheduling capability between the ETS
 3 and the Project. Except for the limited use at the points of Interconnection
 4 described in Section 8.6, this Agreement does not provide any transmission
 5 service or related ancillary service for the receipt and delivery of power to or from
 6 the System on the PG&E Electric System or the CAISO controlled grid, including
 7 the scheduling of power transactions using the ASC Share, or any other operations
 8 between or among the Parties. In the event the Interconnection Facilities are built
 9 under terms of the Special Facilities Agreement, as may be necessary due to an
 10 Adverse Agency Action or a default, withdrawal or removal of PG&E under the
 11 CCA, various portions of this COIA must be modified accordingly. Further, this
 12 Agreement contemplates that each Party will bear the operation, maintenance, and
 13 replacement or modernization Costs of the Project facilities it owns as described in
 14 Appendix B. The allocation of transmission rights of the Parties related to the
 15 Project as determined by the process set forth in Section 15 of the CCA following
 16 the completion of the Project shall not be modified to reflect Costs incurred for
 17 replacement, repair or modernization or modifications performed after the Project
 18 has been placed in commercial operation. Nothing in this Agreement is intended
 19 to render any Party incapable of recovering its Project related Costs. This
 20 Agreement provides for a sharing of curtailments among the Project and the
 21 Existing Path 15 Transmission System and where a Party's allocation of ASC
 22 Share is not relinquished to control of the CAISO or other regional transmission
 23 organization approved by FERC, such Party shall make load available to meet
 24 RAS requirements on a pro-rata basis.

25
26 **6 EFFECTIVE DATE AND TERM:**

27 6.1 Effective Date: This Agreement is effective on the date specified by the
28 FERC, subject only to modifications effected by filings with, or regulatory
29 action by, the FERC as provided in Section 26 of this Agreement.

1 6.2 Term: This Agreement shall terminate the earlier of:

2 6.2.1 As mutually agreed by the Parties;

3 6.2.2 By one year advance notice given by any Party, provided that

4 termination on such one year notice shall be conditioned upon FERC

5 approval of (i) a replacement agreement that provides for the

6 Interconnection and coordinated operation of the ETS and the Project

7 and (ii) termination of this Agreement; provided that if FERC does not

8 grant the necessary approvals within the one year notification period,

9 then termination shall be effective immediately upon the grant of such

10 approvals;

11 6.2.3 The useful life of either the ETS, the Project or both;

12 6.2.4 By five years advance notice given by any Party after January 1,

13 2050, provided that termination on such five year notice shall be

14 conditioned upon FERC approval of termination of this Agreement;

15 provided further that if FERC does not grant the necessary approvals

16 within one year following the end of the five year notification period,

17 then termination shall be effective immediately upon the grant of such

18 approvals;

19 6.2.5 In the event that the CCA is terminated by the parties thereto and in

20 accordance with the terms thereof prior to completion of the Project,

21 this Agreement shall terminate; provided that the effectiveness of

22 such termination shall be subject to satisfaction of all requirements to

23 notify FERC of such termination, pursuant to 18 C.F.R. § 35.15

24 (2002); further provided that PG&E shall provide written notice to

25 Trans-Elect and Western confirming the Parties' agreement to

26 terminate the Agreement per this Section 6.2.5 at least thirty (30)

27 days prior to notifying FERC of such termination; or

28 6.2.6 As specified by a binding and enforceable order or action by a

29 governmental entity with competent jurisdiction over any one of the

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Parties.

7 ADMINISTRATION:

7.1 Representation: To secure prompt and orderly cooperation and consultation or exchange of information between and among the Parties concerning administrative and technical matters that may arise in connection with this Agreement, each Party shall designate one representative and one alternate representative. Each alternate shall have the authority to represent the primary representative, in such representative's absence. The representative and the alternate shall have the authority to make binding decisions on behalf of its respective Party. All actions taken by the representatives must be by mutual agreement. Any notice of a routine character in connection with service or communications necessary under this Agreement or in connection with operation of facilities of the Project shall be given in such a manner as the Parties or their authorized representatives may determine from time to time, unless otherwise provided in this Agreement.

7.2 Designation of Representatives: As soon as practical after this Agreement is executed, and in no event more than 60 calendar days thereafter, each Party shall give written notice to all other Parties of its designated representative and alternate representative.

7.3 Changes of Representatives: Upon written notice to all other Parties, a Party may at any time change its designated representative and alternate representative.

7.4 Meetings: Each Party may call meetings upon reasonable advance notice to all other Parties. A written agenda incorporating any items proposed by such Party shall be supplied for such meetings. Meetings may be conducted in person, by telephone, or by any other mutually agreed upon method.

1 7.5 Failure to Agree: In the event that the Parties' representatives do not reach
 2 agreement on any action or determination brought to them after a
 3 reasonable opportunity to discuss such action or determination, such action
 4 or determination shall be resolved in accordance with dispute resolution
 5 procedures contained in Section 20.
 6

7 **8 POINTS OF INTERCONNECTION:**

8 8.1 Los Banos Substation: The Project facilities that terminate at PG&E's Los
 9 Banos Substation shall be physically connected at the points at which the
 10 Project's 500-kV transmission line conductor attaches to the Los Banos
 11 500-kV take-off structure located in PG&E's Los Banos Substation.

12 8.2 Gates Substation: The Project facilities that terminate at PG&E's Gates
 13 Substation shall be physically connected at the points at which the Project's
 14 500-kV transmission line conductor attaches to the Gates 500-kV take off
 15 structure located in PG&E's Gates Substation.

16 8.3 Contractual Transaction Point at Los Banos Substation: The contractual
 17 transaction point for the purpose of determining access to the CAISO
 18 Controlled Grid for ASC Share allocated to Project rightsholders shall be
 19 deemed to be at the 500-kV bus in PG&E's Los Banos Substation.

20 8.4 Contractual Transaction Point at Gates Substation: The contractual
 21 transaction point for the purpose of determining access to the CAISO
 22 Controlled Grid for ASC Share allocated to Project rightsholders shall be
 23 deemed to be at the 500-kV bus in PG&E's Gates Substation.

24 8.5 Ownership at Point of Interconnection: Ownership of facilities at each of the
 25 points of change in ownership of Project facilities shall be as described in
 26 Appendix B.

27 8.6 Use of Points of Interconnection: The rightsholders of the ASC Share
 28 allocated to the Project shall have the right to transact with third parties, at
 29 no Cost, at the 500-kV bus in the Los Banos Substation and the 500-kV bus

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in the Gates Substation for the use of such Project ASC Share, subject to the provisions set forth in this Agreement. Nothing in this Section shall be construed to preclude PG&E from including the Costs of the 500-kV bus in PG&E's Los Banos and Gates Substations in its transmission system rates charged to its transmission system customers.

9 ESTABLISHING THE INTERCONNECTION:

9.1 Criteria for Interconnection and Interconnected Operation: Neither PG&E nor Western shall have any obligation to interconnect the ETS or any part of the Project and to commence Interconnected Operation until they have determined, as provided in this Section 9, that the Project is completed, and both the Energization Plan specified in Section 9.2 and the critical elements specified in Section 9.3, taken as a whole and including their manner of implementation have been satisfied. Western, or such other entity designated by Western, shall be responsible for determining, to the reasonable satisfaction of PG&E, that: substantially all 500-kV line facilities of the Project, have been completed, in accordance with the Comprehensive Plan of Service and are capable of Interconnected Operation in accordance with Good Utility Practice. PG&E shall be responsible for determining to the reasonable satisfaction of Western, that it has substantially completed all Interconnection Facilities and that they are capable of Interconnected Operation in accordance with Good Utility Practice, and that the Energization Plan and critical elements as specified in Sections 9.2 and 9.3 have been satisfactorily developed and implemented or otherwise completed as agreed by the Parties. No Party shall have any rights or obligations to one another under Sections 10 through 15 of this Agreement with respect to the operation or maintenance of the System, Project, Existing System, or Interconnection Facilities, until such time as all of the requirements of this Section 9 have been met to the satisfaction of

1 Western and PG&E and Interconnected Operation of the Project with the
 2 ETS has commenced.

3 9.2 Energization Plan: PG&E and Western shall jointly develop and agree on
 4 an Energization Plan and how it is to be implemented in order to establish
 5 the criteria for determining when the Project and Interconnection Facilities
 6 are completed and Interconnected Operations may begin reliably, consistent
 7 with the terms and conditions of this Section 9, with the Comprehensive
 8 Plan of Service, and with Good Utility Practice. The minimum elements of
 9 such Energization Plan shall include:

10 9.2.1 A description for each item of equipment and facility precise
 11 enough to identify it uniquely, its exact location, its operating
 12 parameters as installed for the Project, procedures for testing its
 13 operation and the performance standards applicable to such
 14 testing, and the schedule for its installation and testing in relation to
 15 all other items and completing the Interconnection with the PG&E
 16 Electric System.

17 9.2.2 Installation of all facilities of the Project and the Interconnection
 18 Facilities, including those on PG&E's Electric System, must be
 19 completed substantially in accordance with the Comprehensive
 20 Plan of Service, except as otherwise may be agreed in writing by
 21 the Parties.

22 9.2.3 Detailed written procedures for the testing and verification of
 23 satisfactory test results for all Project components and devices. All
 24 such testing shall be arranged at appropriate times and places with
 25 all Parties being permitted and given reasonable opportunity to
 26 observe and review all tests and test results, including but not
 27 limited to the following: manufacturer testing of all relay sets; field
 28 testing of all relay sets, including logic controllers for the RAS; field
 29 testing of all communications, telemetry and alarm systems.

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9.2.4 Completion of all power system studies relevant to operation of the Project in parallel with the ETS specified by the applicable regional WECC operating studies review group.

9.2.5 Development of and the complete and sufficient installation, and implementation, in accordance with Good Utility Practice, of: (a) a RAS in accordance with Appendix C, Section C.4, including RAS operator instructions, communications and control equipment, remedial action logic tables, controller modifications, and all agreements necessary for the provision of any remedial actions are in full force and effect, and (b) all other necessary operating and maintenance procedures and instructions for the Project, including but not limited to: relay operator instructions; voltage control procedures; Clearance and switching procedures; maintenance scheduling procedures; system emergency restoration procedures; and backup station control procedures.

9.3 Completion of Certain Critical Elements of Energization Plan: In order to establish the satisfactory completion of the necessary elements of the Energization Plan in accordance with the terms of this Agreement, the following non-inclusive list of tasks shall be substantially completed prior to the Interconnection and Interconnected Operation of the Project with the ETS, unless otherwise agreed in writing by the Parties.

9.3.1 Completion of the new Los Banos-Gates 500-kV line section, and energization of the associated Interconnection Facilities at Los Banos and Gates Substations at nominal voltages and all checks, and tests at operating voltage completed.

9.3.2 All Project-related facilities, including all normal and redundant communications, Project RAS, automatic protective devices, telemetry, and monitoring equipment shall be installed and tested to all Parties' reasonable satisfaction.

1 the Operating Emergency, or in any event, for as short a time period as is
 2 consistent with Good Utility Practice;
 3 (3) upon the operation of automatic protective devices, including the Project
 4 RAS, on the circuits that comprise the Interconnection between the Project
 5 and the ETS, which will open the Interconnection until the cause of their
 6 operation has been identified and eliminated; or
 7 (4) if required in order to investigate, inspect, maintain, install new
 8 equipment, repair or replace existing equipment, or for other construction.
 9 Western and PG&E, prior to performing maintenance which may affect the
 10 Interconnection, shall give the Control Area Operator, and the other Party or
 11 Parties reasonable advance notice whenever possible. Whenever possible,
 12 all affected Parties shall consult and attempt to agree with each other as to
 13 the timing of a maintenance outage and recognize that the request is
 14 subject to the Control Area Operators procedures applicable to such
 15 requests.

16 10.2 Standard of Interconnection: The interconnection and parallel operation of
 17 the Project with the ETS shall be in accordance with Good Utility Practice
 18 and in accordance with procedures and policies approved by the Parties in
 19 coordination with the Control Area Operator as provided in the TCA or other
 20 applicable agreement between PG&E and the Control Area Operator.
 21 Before opening the Interconnection for any reason other than an Operating
 22 Emergency or as the result of the operation of automatic protective devices,
 23 Western shall obtain Clearance authorization from PG&E. If operational
 24 urgency makes advance notice of a maintenance outage impractical or
 25 unreasonable, then PG&E will cooperate with Western to obtain such
 26 approvals as may be needed from the Control Area Operator, including
 27 opening the Interconnection; provided this is done in accordance with Good
 28 Utility Practice, and after obtaining proper Clearance authorization from
 29 PG&E and the Control Area Operator when practical.

- 1 10.3 Prudent Operation and Maintenance Required: The Project, the ETS and
2 the Interconnection Facilities shall be operated, maintained and modified in
3 accordance both with Good Utility Practice, including applicable Control
4 Area Operator, NERC and WECC operating criteria, and PG&E's and
5 Western's operating instructions and standard operating practices for
6 voltage control, and with such operating agreements as the Parties may
7 create. In addition to specific obligations under this Agreement, the Parties
8 also shall take all reasonable measures, in accordance with Good Utility
9 Practice, to protect both the Project and the ETS from events which may
10 originate on the Project, the ETS, each other's Electric System and on the
11 Electric Systems of third parties.
- 12 10.4 Maintenance Coordination and Clearances: PG&E and Western shall
13 coordinate all maintenance and operating activities related to the System in
14 order to avoid an Unacceptable Operating Condition and minimize the
15 frequency and duration of outages and the associated reductions in ASTC.
16 Western shall obtain Clearance from PG&E as needed for such activities,
17 and PG&E shall not unreasonably withhold such Clearance. PG&E shall
18 coordinate all Clearances with the Control Area Operator.
- 19 10.5 Corrective Measures: In the event that PG&E determines that the operation
20 or maintenance of the Project is such that its continued interconnection and
21 parallel operation with the ETS would not be consistent with Good Utility
22 Practice, or another Party determines that the operation or maintenance of
23 the ETS is such that the continued interconnection and parallel operation
24 with the Project would not be consistent with Good Utility Practice, either
25 Party shall notify the other Parties and the Control Area Operator. Before
26 taking any action, the Party concerned with continuous parallel operation
27 shall give notice to all Parties and the Control Area Operator, specifically
28 indicating the corrective action(s) needed. If the Parties cannot agree on
29 the specific corrective actions to be taken, the matter shall be addressed

1 through the dispute resolution process in Section 20.

2 10.6 Protective Devices: The Parties shall utilize automatic protective devices,
3 including the RAS, to assist in maintaining the integrity and continuity of the
4 interconnection between the Project and the ETS in accordance with Good
5 Utility Practice. In the event of an interruption to the interconnection and
6 parallel operation of the ETS and the Project due to the operation of such
7 automatic protective devices, PG&E and Western, in coordination with the
8 Control Area Operator, shall restore interconnection and parallel operation
9 as soon as is practicable. PG&E, Western and the Control Area Operator
10 shall use due diligence to promptly identify and eliminate the causes of the
11 separation and restore the Interconnection to parallel operation, or, to assist
12 in maintaining the integrity and continuity of the interconnection between the
13 Project and the ETS.

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15 11 UNACCEPTABLE OPERATING CONDITION:

16 If an Unacceptable Operating Condition occurs on either the Project or ETS as a
17 result of one or more events occurring on the other portion of the System which the
18 Control Area Operator has not relieved through the reduction of ASC or by other
19 means available to it, the Party owning and controlling the portion of the System
20 which is the cause of that condition (Causing Party) shall, in coordination with the
21 Control Area Operator, after any reasonable form of notice from the other Party
22 (Affected Party), provide, promptly and with all due diligence, its own sufficient
23 corrective actions or otherwise obtain such corrective actions from a third party as
24 needed to eliminate the Unacceptable Operating Condition. If the Causing Party
25 does not provide promptly such corrective actions, the Affected Party, in
26 coordination with the Control Area Operator and after giving reasonable notice to
27 the Causing Party, may take such corrective actions as the Affected Party
28 determines are necessary, including but not limited to obtaining corrective actions
29 from a third party, in accordance with Good Utility Practice, to eliminate or mitigate

1 promptly such Unacceptable Operating Condition. If such Causing Party fails to
 2 take or obtain corrective action with all due diligence in order to remedy the
 3 Unacceptable Operating Condition, then the Affected Party taking its own
 4 corrective or mitigation actions or which incurs Costs for actions taken by a third
 5 party to remedy the Unacceptable Operating Condition, shall be reimbursed by the
 6 Causing Party for all demonstrable Costs resulting from such actions. Any
 7 Affected Party incurring Costs for taking its own corrective actions or charged
 8 Costs for corrective actions taken by a third party pursuant to this Section 11 shall
 9 notify the Causing Party as soon as practicable of:

10 (i) the estimated amount and probable duration of any Costs of remedies resulting
 11 from the Unacceptable Operating Condition;

12 (ii) the cause and nature of the Unacceptable Operating Condition; and

13 (iii) the corrective steps being taken to mitigate or eliminate such Unacceptable
 14 Operating Condition.

15 11.1 In the event that (a) Western is the Causing Party with respect to an
 16 Unacceptable Operating Condition as defined in Section 11 above, and (b)
 17 the Unacceptable Operating Condition occurred as a result of the failure of
 18 Trans-Elect to provide Western with funds for reasonable operation,
 19 maintenance, replacement expenses which had been timely requested by
 20 Western pursuant to the CCA, upon the occurrence of both (a) and (b)
 21 Trans-Elect shall be obligated to indemnify Western for any liability arising
 22 under the provisions of Section 11 specifically related to the Unacceptable
 23 Operating Condition. Once Trans-Elect has paid Western the requested
 24 funds for operation, maintenance and replacement, Trans-Elect shall not be
 25 obligated to indemnify Western for any such liability incurred after such
 26 payment, except that Trans-Elect shall indemnify Western for liabilities
 27 which could not be prevented by reasonable diligence on Western's part
 28 due to the time required to contract for services or to obtain necessary
 29 equipment after receipt of the requested funds from Trans-Elect. In order to

1 receive indemnification, Western must provide Trans-Elect documentation
 2 of the Unacceptable Operating Condition, its cause, and the Costs paid to
 3 an Affected Party. None of the foregoing shall relieve Western of its
 4 obligation to operate, maintain and replace the Transmission Line in
 5 accordance with Good Utility Practice.

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7 **12 SYSTEM OPERATIONS:**

8 **12.1 Coordination Rights of Parties:** The System shall be operated as a
 9 coordinated transmission system. For the purpose of loss determinations
 10 and powerflow accounting, power shall be deemed to use the transmission
 11 System on a uniform and pro-rata basis. Allocation of ASC shall be as
 12 described in Section 15. Except to the extent necessary for the sharing of
 13 ASC, or as provided in separate arrangements, no Party shall have a right
 14 to utilize another Party's unused portion of ASC Share, provided that each
 15 Party agrees to make its unused ASC Share available to the CAISO, the
 16 Control Area Operator, or a third party under terms and conditions
 17 acceptable to it and consistent with industry practice as prescribed by
 18 FERC.

19 **12.2 Control Area Operation:**

20 **12.2.1 Project Relationship to Control Area Operations:** Because, the
 21 Project is located in a Control Area not operated by any of the
 22 Parties, the Parties acknowledge that all scheduling, transmission,
 23 ancillary services and other activities associated with the use of the
 24 Project for commercial transactions will require separate
 25 arrangements with the Control Area Operator. The Parties further
 26 acknowledge that no Party has any obligation to any other Party
 27 with regard to services performed by the Control Area Operator.
 28 No Party has any obligation to obtain any service from the Control
 29 Area Operator, any third party transmission service provider, or

1 generation owner or operator for the benefit of the Project, the
 2 System or any Party or any third party. Any Party using its ASC
 3 Share for its own transactions or making its ASC Share available to
 4 third parties is responsible for making arrangements for the
 5 scheduling of its ASC Share including any required transmission or
 6 ancillary services and losses associated therewith with the Control
 7 Area Operator. Each Party turning over the control of its ASC
 8 Share to the CAISO or other applicable Control Area Operator or
 9 other applicable operating entity, is responsible for providing
 10 operating instructions to the Control Area Operator or other
 11 applicable operating entity as may be required by its Transmission
 12 Control Agreement or other applicable agreements.

13 **12.3 PG&E's Role:**

14 **12.3.1 Duties:** PG&E shall, to the extent consistent with its operating
 15 responsibilities as set forth in its Transmission Control Agreement:

16 **12.3.1.1** Coordinate its maintenance schedules and Western's
 17 requested maintenance schedule for the maintenance of
 18 Project facilities with the operation of the System and
 19 with the Control Area Operator;

20 **12.3.1.2** In coordination with the Control Area Operator, perform
 21 the physical switching, direct the removal from, and
 22 restoration to, service of Project facilities pursuant to this
 23 Section;

24 **12.3.1.3** Coordinate Clearances with the Control Area Operator
 25 and other entities;

26 **12.3.1.4** Initiate and direct emergency response procedures,
 27 including the physical switching to isolate inoperable
 28 components of the Project and to restore the remaining
 29 Project facilities to service without undue delay;

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- 12.3.1.5 Review and if it so chooses, participate in preparing seasonal operating studies of the System operating transfer capability;
- 12.3.1.6 Operate the RAS for the System including provision of RAS signals for operation of the existing and Project supplied remedial actions, such as to new retail or other load groups or generators participating in the RAS, if any;
- 12.3.1.7 Provide outage information reporting for all Project facilities to the CAISO as required in Appendix C of the TCA and associated CAISO maintenance procedures. Western shall provide PG&E its Project outage related information for inclusion in such reporting. PG&E's outage information for the System shall be provided to Western, as mutually agreed, for review of the causes of each outage prior to the submission of such information to the CAISO.
- 12.3.1.8 Provide Western with SCADA information of Project operating conditions as specified by the Project operating data requirements set forth in the Comprehensive Plan of Service. The arrangements under which Western will receive such information from PG&E's communication system shall be specified in the Comprehensive Plan of Service.

12.4 Operating and Maintenance Standards and Responsibilities:

12.4.1 Operation, Maintenance, and Replacement Responsibilities:

Western shall be responsible for the operation, maintenance, and replacement, as necessary, of the Project facilities it owns as described in Appendix B.1 and Appendix C. Trans-Elect, as contemplated in Section 6.1 of the Letter of Agreement and the

1 CCA, shall provide advance funds to Western for operation,
 2 maintenance and replacement of the Project facilities that Western
 3 owns. PG&E shall operate, maintain, and replace, as necessary,
 4 the Project facilities it owns as described in Appendix B.1 and
 5 Appendix C. All such operation, maintenance and replacement by
 6 or on behalf of any Party shall be performed in accordance with
 7 Good Utility Practice.

8 12.4.2 Coordination Standards: The Parties shall meet applicable industry
 9 and Control Area performance and reliability standards consistent
 10 with Good Utility Practice, including but not limited to:

11 12.4.2.1 Avoiding the imposition of undue or additional burdens on
 12 the interconnected Electric Systems and their customers;

13 12.4.2.2 Operating in accordance with all applicable Nomograms,
 14 and coordinating all planning and operating matters that
 15 impact the System;

16 12.4.2.3 Operating and maintaining the Project and the ETS in
 17 order to minimize Electric System disturbances; and

18 12.4.2.4 Protecting, to the extent practicable, the Project and the
 19 ETS from events that may originate on the Electric
 20 Systems of other entities.

21 12.4.3 Maintenance Plans: Each of the Parties shall provide to the other
 22 Parties their detailed maintenance program associated with the
 23 Project facilities they are responsible for maintaining. Upon request
 24 a Party shall provide the associated backup information and test
 25 and inspection records. Any changes to the maintenance program
 26 shall be communicated to all Parties before the changes are
 27 implemented.

28 12.4.4 Investigations: All Parties have the right to participate in and
 29 request root cause investigations of any Project facility equipment

1 failures or misoperations.

2 12.5 Inspection: Following reasonable advance notice and scheduling, the

3 Parties shall have the right to inspect the facilities and the associated

4 records of the other Parties related to the System, as is appropriate to

5 ensure performance in accordance with this Agreement. The Party owning

6 the facilities so inspected shall have the right to supervise the inspection.

7 The inspecting Party shall comply with all safety requirements of the Party

8 whose facilities are being inspected.

9 12.6 Operating Emergency Authority: In the event of imminent danger or

10 damage to facilities, due to and for the duration of, an Operating

11 Emergency, an Unacceptable Operating Condition, or as a result of

12 Uncontrollable Forces, as set forth in Section 23 PG&E or the Control Area

13 Operator may take such immediate action as it determines necessary to

14 mitigate or eliminate the Operating Emergency, Unacceptable Operating

15 Condition, or Uncontrollable Force. Such action may include, or result in,

16 without limitation, reductions in ASC in accordance with Section 15 and

17 directing the operation of System facilities in a manner that is reasonable

18 and practical under the circumstances.

19 12.7 Voltage Control and Reactive Support: The voltage control and reactive

20 devices of the Project shall be operated by PG&E in coordination with the

21 Control Area Operator in order to maximize overall Control Area stability

22 limits, meet PG&E's or the Control Area Operator's applicable voltage

23 criteria, minimize losses and maximize transmission capability both within

24 such Control Area and for transfers with other Control Areas.

25 12.8 Restoration Following Outages: Following a partial or full outage of a

26 System facility, the Party or Parties responsible for maintaining the affected

27 facility shall, with due diligence, restore such facility to its normal operating

28 condition and in accordance with Good Utility Practice. Time is of the

29 essence in returning any such facility to its normal operating condition. Out

1 of its own funds, each Party shall maintain or cause to be maintained,
 2 reasonable stocks of spare parts and amounts of emergency funds to
 3 facilitate any such restoration. Lack of such spare parts or emergency
 4 funds to complete the restoration of such facility shall not be a basis for
 5 excusing non-restoration. Any Party may request that the Parties jointly
 6 establish the policies for emergency funds and spare parts. If any Party
 7 fails to exercise due diligence in restoring or returning any such facility to
 8 service, and after seven calendar days notice from the Parties, any
 9 reduction in ASC that results from such failure shall be allocated in
 10 accordance with Section 15.2.2. This Agreement does not obligate any
 11 Party to provide assistance to another Party in implementing such
 12 restoration. Any such assistance must be provided for under an
 13 arrangement separate from this Agreement.

14
15 **13 RATED SYSTEM TRANSFER CAPABILITY:**

16 13.1 Establishing RSTC: The Parties shall establish and revise RSTC from time
 17 to time in the north-to-south and south-to-north directions in accordance
 18 with WECC policies and procedures for rating transmission facilities, as
 19 such policies and procedures may be amended by WECC. The Parties may
 20 establish and revise procedures to coordinate compliance with the WECC
 21 ratings process.

22 13.2 South to North: The South to North rating of the System has been
 23 established to be 5400 MW in accordance with the WECC Path Rating
 24 process. The South-to-North ETS rated Transfer Capability has been
 25 established in accordance with the WECC path rating process to be 3900
 26 MW. Seasonal operating Transfer Capability studies of the ETS have
 27 achieved operational Transfer Capability of as much as 3950 MW.

28 13.3 North to South: Limitations in Transmission Network south of Path 15 shall
 29 not restrict the determination of the North-to-South Path 15 Transfer

1 **Capability.** The North-to-South ETS Transfer Capability is determined to be
 2 2130 MW. The Path 15 North-to-South RSTC as determined in the WECC
 3 path rating process is expected to be 3265 MW. If the North-to-South
 4 RSTC is determined through the WECC path rating process to be different
 5 than 3265 MW, the Parties agree to reassess the Path 15 North-to-South
 6 ETS rated transfer capability and the RSTC based on the results of the
 7 WECC path rating process.

8 **13.4 System Revision:** Any changes in the rating of the System which cannot be
 9 accomplished with the facilities and procedures of the System as it exists
 10 following completion in accordance with the Comprehensive Plan of Service
 11 shall be addressed through subsequent agreements among the Parties and,
 12 where applicable, agreements between the Parties and the parties
 13 proposing the increase in transfer capability which affects the rating of the
 14 System.

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 16 **14 ALLOCATION OF RSTC:**

17 Upon commencement of the Commercial Operations Date, the ETS RSTC Share
 18 and the Project RSTC Share shall be allocated as follows:

19 **14.1 South-to-North RSTC:** RSTC for south-to-north transfers is 5400 MW. The
 20 South-to-North Project RSTC Share is 1500 MW and the South-to-North
 21 ETS RSTC Share is 3900 MW.

22 **14.2 North-to-South RSTC:** RSTC for north-to-south transfers is 3265 MW. The
 23 North-to-South Project RSTC Share is 1135 MW and the North-to-South
 24 ETS RSTC Share is 2130 MW.

25 **14.3 Revisions:** In the event that the RSTC is revised in the absence of any
 26 changes in System facilities the allocation of the revision of RSTC shall be
 27 allocated between the ETS RSTC Share and the Project RSTC Share pro-
 28 rata based on the allocations set forth in this Section, unless an alternative
 29 allocation can be established based on the circumstances of the revision.

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15 ALLOCATION OF ASC:

15.1 Determination of ASC: ASC shall be determined by the Control Area Operator, or by a party acting on its behalf, in the north-to-south and south-to-north directions in accordance with NERC and WECC policies and procedures applicable to control area operators and the Control Area Operator's policies and procedures.

15.2 Allocation of ASC: ASC shall be allocated between the Project ASC Share and the ETS ASC Share in accordance with this Section 15.2, except as provided by Section 9.3.5 for an interim period. Sharing of ASC shall commence on the Commercial Operation Date. Such sharing of ASC shall continue for the term of this Agreement except as otherwise expressly provided.

15.2.1 Pro Rata Allocation of ASC: Except as provided in Sections 15.2.2 and 15.2.3, the allocation of ASC between the Project ASC Share and the ETS ASC Share shall be calculated on a pro-rata basis according to the Project RSTC Share and the ETS RSTC Share in a north-to-south direction and separately in a south-to-north direction using the following allocation formulas:

$$\begin{aligned} \text{Project ASC Share} &= \frac{\text{Project RSTC Share}}{\text{RSTC}} \times \text{ASC} \\ \text{(In Megawatts)} & \\ \text{ETS ASC Share} &= \frac{\text{ETS RSTC Share}}{\text{RSTC}} \times \text{ASC} \\ \text{(In Megawatts)} & \end{aligned}$$

The MW amounts determined from the above percentages shall be rounded to whole MW. In the event that all rounding adjustments cannot all be satisfied, rounding adjustments will be made in priority according to the remainder value. If the remainder values are

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equal, the Party with the lower percentage share shall be awarded the round off up and the Party with the greatest percentage shall accept a round down when required.

15.2.2 Exception to Pro Rata Allocation of ASC for Untimely Restoration:

In the event that an owner of a Project facility fails to restore such facility to service following an outage with due diligence, as described in Section 12.8, to the extent that any reduction in ASC can reasonably be attributed to such outage, that reduction in ASC shall be subtracted from the Project ASC Share for the duration of the outage. In the event that PG&E fails to return an ETS facility to service following an outage with due diligence, as described in Section 12.8, to the extent that any reduction in ASC can reasonably be attributed to such outage, that reduction in ASC shall be subtracted from the ETS ASC Share for the duration of the outage.

15.2.3 Other Sharing Arrangements: The Parties may from time to time allocate reductions in ASC in ways other than as described in this Section 15, or may make other arrangements that will result in minimizing reductions in ASC. To be binding on the Parties, any such arrangements shall be in writing.

15.3 ASC Share Review:

15.3.1 Base Case ETS ASC Share: The Parties intend that the ETS ASC Share shall be no less than the megawatt amount of what the ETS ASC Share would have been without the construction of the Project under comparable pre-construction operating conditions as to RAS availability, generation dispatch, applicable reliability criteria, transmission system elements in service, and other non-Project related impacts.

15.3.2 Review of Achievable ASC: If upon the completion of any seasonal

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WECC operating Transfer Capability studies within 18 months after the commencement of Interconnected Operation, the maximum achievable south-to-north or the achievable north-to-south operational Transfer Capability is consistently materially less than 5400 MW, or 3265 MW, respectively, such that a Party claims to be adversely affected as a result, the Parties shall review the circumstances and determine actions to be taken. If the Parties cannot reach agreement on the action or actions to be taken then the dispute resolution process in this Agreement shall apply.

16 MODIFICATIONS:

16.1 Avoiding Adverse Impacts to RSTC or ASC: Following the satisfaction of the requirements of Section 9 and commencement of Interconnected Operation of the Project with the ETS, a Party, at its own expense, may make Modifications to any portion of the System that it owns. In making such modifications, the party making the Modification (the Modifying Party) shall endeavor to minimize adverse impacts that may reduce RSTC or ASC. Removal from service of a facility, which is not a part of the System, shall not be considered a Modification for purposes of this Section 16.

16.2 Notification of Proposed Modifications: The Modifying Party shall notify the other Parties of any proposed Modification, which may reasonably be expected to reduce RSTC or ASC, at least 12 months prior to making any firm commitment to proceed with the Modification. Such notification shall include a description of the proposed Modification and an assessment of its effects on RSTC and ASC, including a description of the power system studies performed. Such study cases to assess the effects of the modification shall have considered previous power system rating studies and recent seasonal operating transfer capability studies. Within 11 months of the notification provided in accordance with this Section 16.2, the

1 Modifying Party and any other Party performing power system studies shall
2 prepare a written report of the study findings to the other Parties.

3 16.3 Parties' Assessment of Adverse Impact: After the issuance of a notice of a
4 proposed Modification or a written report pursuant to Section 16.2, any
5 Party with reasonable concerns as to the accuracy or the results of the
6 studies performed or the written report, shall promptly notify the other
7 Parties of its concerns. Any concerns not resolved by the Parties shall be
8 resolved by taking appropriate action in accordance with WECC policies
9 and procedures or CAISO, RTO, or FERC policies and procedures,
10 whichever may be applicable. No Modifying Party shall implement any such
11 Modification until all such concerns are resolved. The Parties shall identify
12 the actions that may be required to eliminate or reduce the concerns. Such
13 mitigation activities may include, among other things, the payment of
14 money, either in lump sum or over time, as partial or full compensation for
15 the Costs of Adverse Impacts to a Party or Parties, and to the Party or
16 Parties whose Electric System(s) will be materially adversely impacted by
17 any Modification. The Parties shall determine the measures required for the
18 mitigation of such concerns, through compensation or comparable means.
19 Once such a determination has been made by the Parties and the mitigation
20 measures implemented, no Party shall raise further claims of material
21 Adverse Impact or objections to the design or construction of the
22 Modifications.

23 16.4 Measures: In the event that a Modification necessitates a decrease in
24 RSTC, a new RSTC shall be determined in accordance with Section 13. If a
25 Modification to any portion of the Project results in a decrease in RSTC or
26 ASC, such decrease shall be subtracted from the Project RSTC Share or
27 the Project ASC Share, respectively. If a Modification to any portion of the
28 ETS or the PG&E Electric System results in a decrease in RSTC or ASC,
29 such decrease shall be subtracted from the ETS RSTC Share or the ETS

1 ASC Share, respectively. Modifications that reduce ASC shall be assessed
2 under the conditions in which they caused the reduced ASC and shall be
3 assessed to the extent practicable against the Project ASC Share or ETS
4 ASC Share applicable to the Modifying Party.

5 16.5 Third Party Modifications: The Parties shall advise each other of actions of
6 third parties which may impact the RSTC or ASC and assess the
7 appropriate actions to take.

8
9 17 BILLING AND PAYMENT:

10 17.1 Billing Procedures:

11 17.1.1 Monthly Procedures: To the extent that any charges are made in
12 accordance with Sections 11, 16, or 18 of this Agreement, the
13 billing Party shall prepare and submit bills to the other Parties on or
14 after the first (1st) day of each month. Each Party shall make
15 payment in full of charges made in accordance with this Agreement
16 within thirty (30) calendar days from the date on which an invoice
17 was received. Any payments sent though the United States Postal
18 Service, or its successor, by overnight mail, shall be deemed made
19 on the date officially postmarked.

20 17.1.2 Estimated Bill: If charges in accordance with this Agreement
21 cannot be determined accurately for preparing a bill, the billing
22 Party may use its best estimates in preparing the bill and such
23 estimated bill shall be paid by each Party billed. When final and
24 complete billing information becomes available and charges can be
25 determined accurately, the billing Party shall promptly prepare and
26 submit an adjusted bill to each billed Party, and any additional
27 payment or refund shall be made, as appropriate.

28 17.1.3 Nonpayment of Bills in Full When Due: Bills determined to be owed
29 and not paid in full by a Party by the due date shall thereafter

1 accrue an interest charge at the Interest Rate until paid in full.
2 Payments received will first be applied to the charges for late
3 payment assessed on the principle and then to payment of the
4 principle.

5 17.2 Disputed Bills:

6 17.2.1 If a Party disputes all or a portion of a bill, it shall either pay the full
7 amount of the bill or, at its election, pay the full undisputed amount
8 and on or before the payment due date, notify the billing Party in
9 writing of the amount in dispute and the basis for the dispute. The
10 disputing Parties shall endeavor to attempt to resolve informally any
11 bill in dispute prior to the payment due date of the disputed bill. If
12 such attempt for informal resolution is not successful, the Parties
13 shall proceed in accordance with Section 20. If it is determined that
14 additional amounts related to the disputed bill are proper, the
15 disputing Party shall then pay such disputed amounts with interest
16 at the Interest Rate within twenty (20) calendar days of the
17 issuance of such a final decision, judicial order, or administrative
18 order.

19 17.2.2 To the extent there is a dispute as to the determination made in
20 accordance with Section 20.1, the Parties agree that the use of the
21 facilities shall continue uninterrupted, unless the Parties otherwise
22 stipulate in writing.

23 17.3 Recovery of Costs:

24 17.3.1 When Costs are charged pursuant to Sections 15.3 or 16 for the
25 constructing or reinforcing of facilities, the billed Party shall pay the
26 billing Party the Costs as set forth below. The Parties agree that
27 the Costs shall be those normally included in the billing Party's cost
28 estimates for such work with respect to facilities designed in
29 accordance with Good Utility Practice.

1 19.1.3 In order to respond to requests from regulatory agencies, each
2 Party at its own expense shall have a right to obtain copies of any
3 existing data, records, reports, or documents relating to such
4 requests within seven (7) Business days.

5 19.2 Retention of Billing Documents:

6 19.2.1 Each Party shall retain all data, records, reports, and documents
7 relating to the amounts billed under this Agreement for two years
8 from the date of the billed amount.

9 19.2.2 Upon termination of this Agreement, each Party shall retain, in a
10 reasonably accessible location, all then existing data, records,
11 reports, and documents relating to all amounts billed in accordance
12 with this Agreement, for a period of two (2) years from the date of
13 the billed amount. Each Party shall have full access to such data,
14 records, reports, and documents and, upon reasonable notice to
15 the Party holding or retaining them, may reproduce any or all of
16 them at its sole expense.

17
18 20 DISPUTE RESOLUTION:

19 Any dispute arising between the Parties regarding the performance of their
20 obligations under this Agreement shall be resolved according to the following
21 procedures.

22 20.1 Informal Settlement:

23 PROCEDURE: The Parties shall attempt in good faith to resolve any
24 dispute arising out of or relating to this Agreement promptly by negotiations
25 between a vice president of PG&E or his or her designated representative
26 and an executive of similar authority of each Party. Any Party may give the
27 other Parties written notice of any dispute, and within twenty (20) calendar
28 days after delivery of such notice, the executives shall meet at a mutually
29 acceptable time and place (for a total of no less than six meetings), and

1 thereafter as often as they reasonably deem necessary (but at least weekly)
2 to exchange information and to attempt to resolve the dispute. If the matter
3 has not been resolved within forty-two (42) calendar days of the first
4 meeting, any Party may initiate a mediation of the controversy.

5 **CONFIDENTIALITY:** All negotiations, settlement conferences, compromise
6 discussions and any mediation conducted pursuant to this clause are
7 confidential and shall be treated as compromise and settlement
8 negotiations.

9 **PRELIMINARY INJUNCTION:** Notwithstanding the foregoing provisions, a
10 Party may seek a preliminary injunction or other provisional judicial remedy
11 if in its judgment such action is necessary to avoid irreparable damage or to
12 preserve the status quo.

13 **20.2 Formal Dispute Resolution:** In the absence of a voluntary resolution reached
14 in accordance with Section 20.1, any Party may seek to resolve a dispute by
15 seeking judicial relief or regulatory relief at FERC. The Party, with the
16 written consent of all Parties which are Parties to such disputes, in the
17 alternative may submit the dispute to non-binding arbitration which shall be
18 conducted using any procedures agreed to by such Parties. No litigation or
19 arbitration shall be commenced until not less than twenty (20) calendar days
20 after notice of the initiation of proceedings has been provided to all of the
21 Parties to the dispute, provided further, however, that the preceding
22 requirement shall not preclude a Party from initiating litigation or arbitration
23 to secure any legal right which may otherwise be forfeited due to limitation
24 or requirements imposed by rule or statute.

25
26 **21 ASSIGNMENTS:**

27 **21.1 Assignment:** Other than provided in this Section 21, Trans-Elect, Western,
28 or PG&E may make an Assignment of its rights and obligations under the
29 MOU, the LA, the CCA and this Agreement only after obtaining the written

1 consent of each of the other Parties, which consent shall not be
2 unreasonably withheld. However, any Assignment in whole or in part by
3 PG&E in accordance with any Plan of Reorganization approved by the U.S.
4 Bankruptcy Court in In re Pacific Gas and Electric Company, Case No. 01-
5 30923 DM (Bankruptcy Ct., N.D. Cal.) shall be deemed a permitted
6 Assignment hereunder, not subject to further rights of consent from the
7 other Parties hereto. In addition, subject to the Assumption obligations
8 provided herein, Trans-Elect, without consent of any Party, may enter into
9 an Assignment of its rights under this CCA, the MOU, the LA and this
10 Agreement, as applicable, for security purposes in favor of one or more T-E
11 Lenders and such T-E Lenders may make an Assignment of Trans-Elect's
12 rights and obligations under this COIA, the MOU, the LA and the CCA, as
13 applicable, hereunder to a purchaser at foreclosure or at a sale in lieu of
14 foreclosure. If requested by Trans-Elect, the Parties will enter into the
15 Lender's Consent Agreement as defined in the CCA. To the extent directed
16 by Congress, Western may assign any right or interest that it may have
17 without the consent of any Party, subject to the Assumption obligations
18 provided herein. A Party's assignee (other than T-E Lenders) shall
19 expressly assume in writing the duties and obligations of such Party under
20 this Agreement, the MOU, the LA and the CCA, as applicable, and shall
21 immediately furnish or cause to be furnished to all other Parties a true and
22 correct copy of the documents evidencing such Assignment and assumption
23 of duties and obligations ("Assumption"). The assigning Party shall give
24 notice to and provide the other Parties with a copy of the documents
25 evidencing such proposed Assignment no less than thirty (30) calendar
26 days prior to the proposed effective date of the Assignment. Each Party
27 shall give notice of its consent or denial of consent within such thirty (30)
28 day period in accordance with Section 30 of this Agreement. No
29 assignment shall be made except to an entity that also receives a transfer of

1 the assignor's interest under the MOU, the Letter Agreement, the CCA, and
2 this Agreement, and the Parties hereby consent to the assignment of such
3 other agreements to an entity to which a valid Assignment is made
4 hereunder.

5 21.2 Collateral Assignment: A Party may make a collateral Assignment of or
6 grant a security interest in its ASC Share and/or all or a portion of its
7 interests in this Agreement to any lender or investor of such Party, and
8 provided no Default has occurred and is continuing by the assigning Party.
9 The other Parties hereto agree to provide reasonable and customary
10 consents to such collateral Assignment or grant of security interest,
11 including in the case of a collateral assignment by Trans-Elect. the Lenders
12 Consent Agreement as defined in the CCA.

13 21.3 ASC Share Use: Nothing in this Section 21 or this Agreement shall be
14 deemed to alter the requirement of Section 5.7 of the Letter of Agreement
15 that the operational control of a Party's ASC Share shall be turned over to
16 the CAISO, and no consent of the other Parties to this Agreement shall be
17 necessary to do so.

18
19 22 LIABILITY:

20 22.1 Scope of Liability: Except for any loss, damage, claim, Cost, charge, or
21 expense resulting from Willful Action, or for the nonpayment of monies due,
22 no Party, its directors, members of governing bodies, officers, employees, or
23 agents shall be liable to any other Party for any death, injury, loss, damage,
24 claim, Cost, charge, or expense of any kind or nature incurred by any other
25 Party, including, without limitation, direct, indirect or consequential loss,
26 damage, claim, Cost, charge, or expense; and whether or not resulting from
27 the negligence of any Party, its directors, members of governing bodies,
28 officers, employees or any person or entity whose negligence would be
29 imputed to such Party, from the performance or non-performance of the

1 obligations under this Agreement. Except for any death, injury, loss,
2 damage, claim, Cost, charge, or expense resulting from Willful Action, each
3 Party releases the other Parties, their directors, members of governing
4 bodies, officers, employees, or agents from any such liability.

5 22.2 Claims of Electric Customers: Except for liability resulting from Willful
6 Action by another Party, a Party whose electric customer shall make a claim
7 or bring an action against such other Party for any death, injury, loss, or
8 damage arising out of or in connection with the delivery of, interruption to, or
9 curtailment of electric service to such customer resulting from the
10 performance or non-performance of any obligation under this Agreement
11 shall indemnify and hold harmless, to the extent allowed by law, such other
12 Party, its directors, members of governing bodies, officers, employees, or
13 agents from and against any liability for such death, injury, loss, or damage;
14 provided, that no Party shall be obligated to indemnify another Party if it is
15 prevented from doing so by law, and no Party shall be obligated to
16 indemnify another Party which cannot lawfully reciprocate in this
17 indemnification provision. The term "electric customer" shall mean any
18 electric customer to which no power or energy is delivered for resale.

20 23 UNCONTROLLABLE FORCE:

21 23.1 No Default: No Party shall be considered to be in default in the
22 performance of any of its obligations when a failure of performance is due to
23 an Uncontrollable Force.

24 23.2 Definition: The term "Uncontrollable Force" shall mean any cause beyond
25 the control of a Party which renders it unable to perform such obligation,
26 including, but not limited to, failure of or threat of failure of facilities, flood,
27 earthquake, volcanic activity, tsunami, tornado, storm, drought, fire,
28 pestilence, lightning, and other natural catastrophes, epidemic, war, riot,
29 civil disturbance or disobedience, vandalism, strike, labor dispute, labor or

1 material shortage, sabotage, terrorism, governmental priorities or restraint
 2 by court order or public authority and action or non-action by, or inability to
 3 obtain or maintain in affect any necessary authorizations or approvals from,
 4 any; governmental agency or authority, which by exercise of due diligence
 5 such Party could not reasonably have been expected to avoid and which by
 6 exercise of due diligence it has been unable to overcome.

7 23.3 No Settlement Obligation: Nothing contained herein shall be construed to
 8 require a Party to settle any strike or labor dispute in which it may be
 9 involved.

10 23.4 Notice and Removal Obligation: In the event a Party is rendered unable to
 11 fulfill any of its obligations under this Agreement by reason of an
 12 Uncontrollable Force, such Party shall give prompt written notice of such
 13 fact to the other Parties and shall seek to remove such inability with all
 14 reasonable dispatch.

15 24 NO DEDICATION OF FACILITIES:

16 24.1 Any undertaking by a Party under any provision of this Agreement is
 17 rendered strictly as an accommodation and shall not constitute the
 18 dedication of its Electric System, the Project, or any portion thereof by the
 19 undertaking Party to the public, to any other Party, or to any third party, and
 20 any such undertaking by a Party shall cease upon the termination of such
 21 Party's obligations under this Agreement. The Electric System of a Party
 22 shall at all times be, and remain, in the exclusive ownership, possession,
 23 and control of that Party, and nothing in this Agreement shall be construed
 24 to give any other Party any right of ownership, possession, or control of
 25 such Electric System.

26 24.2 Trans-Elect's participation in the Project, and in undertaking to sign this
 27 Agreement is solely for the purpose of protecting its investment in the
 28 Project. Notwithstanding any provision of this Agreement, at no time will
 29 Trans-Elect have, or be deemed to have, responsibility for management,

1 operation, or control of the transmission facilities included in the Project
 2 solely by virtue of its participation in this Agreement or in the Project for any
 3 purpose whatsoever, including but not limited to, the determination of
 4 whether or not California regulatory jurisdiction exists over Trans-Elect, the
 5 Project, or any component thereof.

7 25 JUDGMENTS AND DETERMINATIONS:

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

14 26 REGULATORY AUTHORITY:

15 26.1 FERC Jurisdiction: This Agreement is subject to acceptance for filing by,
 16 and the regulatory jurisdiction of, FERC.

17 26.2 Changes in Rates: Nothing contained herein shall be construed as affecting
 18 in any way the right of a Party furnishing services in accordance with this
 19 Agreement, or any tariff and rate schedule which results from or
 20 incorporates this Agreement, unilaterally to make application to FERC for a
 21 change in rates under Section 205 of the Federal Power Act and pursuant to
 22 the FERC's Rules and Regulations promulgated thereunder, nor shall it
 23 affect the right of any Party to this Agreement to file a complaint under
 24 Section 206 of the Federal Power Act. The term "rates" as used herein shall
 25 mean a statement of electric services as provided in accordance with this
 26 Agreement, rates and charges for, or in accordance with, those services,
 27 and all classifications, practices, rules, regulations, or contracts, including
 28 but not limited to this Agreement, which in any manner affect or relate to
 29 such services, rates, and charges. A change in rates may include, but not

1 be limited to, changes in rates, charges, and the underlying methodology by
2 which such rates and charges are developed.

3 26.3 Significant Regulatory Change:

4 26.3.1 Conformance: This Agreement shall be modified to conform to any
5 final order issued by the FERC that directly addresses a provision
6 or provisions of this Agreement. Such conforming changes shall be
7 filed by PG&E at FERC after a copy of the proposed changes are
8 provided to the Parties no less than seven (7) calendar days prior
9 to the filing; provided that the Parties shall not have any right or
10 authority to edit, change, modify, or prevent such filing by PG&E;
11 further provided that neither Western nor Trans-Elect shall be
12 precluded from making its own filing with FERC regarding such
13 changes. Such conformance shall be prospective only and shall
14 not affect any rights or obligations of either party that have accrued
15 as of the date of the order requiring conformance under the terms
16 of this Agreement. Notwithstanding the foregoing, PG&E shall be
17 permitted to make any necessary operational or procedural
18 modifications to the Project facilities in order to comply with such
19 FERC order.

20 26.3.2 Notification: If, at any time during the term of this Agreement, any
21 Party becomes aware of a Significant Regulatory Change (whether
22 actual or proposed), including any conformance under this Section
23 26.3 herein, such Party shall provide written notice to the other
24 Party no later than one (1) month after becoming aware of such
25 Significant Regulatory Change. The notice shall contain a
26 description of the Significant Regulatory Change, including
27 expected time schedules. If the Party giving notice believes that it
28 will be necessary to amend this Agreement to address the
29 anticipated change, then the notice to the other Party may include a

1 proposal that the Parties meet as provided in Section 26.3.4 hereof
2 in order to negotiate an appropriate amendment to this Agreement.
3 **26.3.3 Change in Functions or Scope:** The Parties recognize that there
4 may be a change in the functions of the CAISO or a change in the
5 scope of the facilities under the operational authority of the CAISO
6 or the replacement of the CAISO with a Regional Transmission
7 Organization that may perform different functions or have a
8 different scope than the CAISO. Such a change shall not be
9 deemed to be a Significant Regulatory Change unless the change
10 may reasonably be expected to materially affect the Parties'
11 obligations or operations under this Agreement. Furthermore, a
12 Significant Regulatory Change shall not be deemed to have
13 occurred solely as a consequence of any shifting of functions
14 contemplated in this Agreement between PG&E and the CAISO. In
15 such event, functions assigned to PG&E under this Agreement
16 shall be performed by the CAISO and the CAISO shall have the
17 same rights and obligations as PG&E under this Agreement to
18 obtain information, perform studies, have access to rights-of-way
19 and facilities, operate, maintain and construct facilities, and
20 otherwise perform the functions described in this Agreement. If and
21 only if the CAISO refuses to perform the functions previously
22 performed by PG&E shall a Significant Regulatory Change be
23 deemed to have occurred as a result of a change in functions.
24 **26.3.4 Amendment of Agreement:**
25 **26.3.4.1** Following notification under Section 26.3.2, the Parties
26 shall meet to discuss whether an amendment to this
27 Agreement is necessary to address the Significant
28 Regulatory Change. Such amendment, if any, shall be
29 limited in scope to what is necessary to allow this

1 Agreement to accommodate the Significant Regulatory
2 Change identified in the notice issued pursuant to
3 Section 26.3.2.

4 26.3.4.2 If the Parties agree that such an amendment to this
5 Agreement is necessary, the Parties shall proceed to
6 negotiate in good faith such amendment. If the Parties
7 have not reached agreement within sixty (60) calendar
8 days of the date of the first meeting, any unresolved
9 issues shall be resolved through dispute resolution
10 procedures set forth in Section 20. Notwithstanding the
11 above or any other provisions of this Agreement, if any
12 issues remain unresolved as of ninety (90) calendar days
13 before the Significant Regulatory Change is scheduled to
14 take place then, with respect to the unresolved issues,
15 any Party may, but is not required to, unilaterally file an
16 amendment to this Agreement with FERC pursuant to
17 Section 205 or 206 of the FPA, and any Party may
18 exercise its rights under the FPA to protest or oppose
19 such filing.

20 26.3.4.3 If the Parties cannot agree that an amendment to this
21 Agreement is necessary to allow this Agreement to
22 accommodate the Significant Regulatory Change, they
23 shall submit such dispute to dispute resolution
24 proceedings pursuant to Section 20; provided, however,
25 that if such dispute is not resolved as of ninety (90)
26 calendar days before the Significant Regulatory Change
27 is scheduled to take place, then PG&E may, but is not
28 required to, unilaterally file an amendment to this
29 Agreement with FERC as set forth in the paragraph

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above.

26.3.4.4 Nothing in this Section 26.3 shall be deemed to limit PG&E's right to make changes pursuant to the other provisions of this Section 26 or any other provisions of this Agreement.

27 NO EXCLUSIVE REMEDY:

Subject to the provisions of Section 20, no remedy in this Agreement conferred upon or reserved to any Party is intended to be exclusive of any other remedy or remedies available under this Agreement or existing at law, in equity, by statute, or otherwise, but each and every such remedy shall be cumulative and shall be in addition to every other remedy under this Agreement or now or hereafter existing at law or in equity or otherwise provided by statute. The pursuit by any Party of any specific remedy shall not be deemed to be an election of that remedy to the exclusion of any other or others, whether provided hereunder or at law, in equity, by statute, or otherwise.

28 GOVERNING LAW:

This Agreement is made and entered into in the State of California. Interpretation of this Agreement, and performance and enforcement thereof, shall be determined in accordance with California law or Federal law as applicable.

29 NON-WAIVER:

Any waiver at any time by any Party of its rights with respect to any default or other matter arising in connection with this Agreement shall not constitute or be deemed a waiver with respect to any subsequent default or other matter arising in connection with this Agreement. Any delay short of the statutory period of limitations in asserting or enforcing any right shall not constitute or be deemed a waiver.

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30 NOTICES:

Any notice, demand, or request in accordance with this Agreement, unless otherwise provided in this Agreement, shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by first class United States mail, postage prepaid, by confirmed electronic facsimile or by prepaid commercial courier service to a Party at the address set forth in Appendix A. Each Party shall provide the other Parties with revisions to the information in Appendix A as necessary to maintain a current and accurate listing for the purposes of this Section 30. Any notice of a routine character in connection with service or communications necessary under this Agreement or in connection with operation of facilities of the Project shall be given in such a manner as the Parties or their authorized representatives may determine from time to time, unless otherwise provided in this Agreement.

31 NO THIRD PARTY BENEFICIARIES:

No right or obligation contained in this Agreement shall inure to the benefit of any person or entity not a Party to this Agreement. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any third party.

32 RELATIONSHIP OF THE PARTIES:

32.1 Except as otherwise provided in this Agreement, the covenants, obligations, rights, and liabilities of the Parties under this Agreement are intended to be several and not joint or collective. It is the intent of the Parties not to create an association, joint venture, trust, or partnership, or to impose a trust or partnership covenant, obligation, or liability on, or with regard to, any of the Parties.

32.2 Each Party shall be individually responsible for its own covenants,

1 obligations, and liabilities under this Agreement. No Party or group of
2 Parties shall be under the control of or shall be deemed to control any other
3 Party or Parties.

4 32.3 No Party shall be the agent of, or have the right or power to bind, another
5 Party without its written consent, except as expressly provided for in this
6 Agreement.

7
8 33 TITLES:

9 The captions and heading in this Agreement are inserted solely to facilitate
10 reference and shall have no bearing upon the interpretation of any of the rates,
11 terms, and conditions of this Agreement.

12
13 34 NO PRECEDENTS:

14 Nothing contained in this Agreement shall be construed to establish any precedent
15 for any other rate schedule or agreement or to grant any right to or impose any
16 obligation on any Party beyond the scope and terms of this Agreement. No Party,
17 by entering into this Agreement, holds itself out to furnish like or similar service to
18 any other person or entity.

19
20 35 SEVERABILITY:

21 If any term, covenant, or condition of this Agreement or the application or effect of
22 any such term, covenant, or condition is held invalid as to any person, entity, or
23 circumstance, or is determined to be unjust, unreasonable, unlawful, imprudent, or
24 otherwise not in the public interest, by any court or government agency of
25 competent jurisdiction, then such term, covenant, or condition shall remain in force
26 and effect to the maximum extent permitted by law, and all other terms, covenants,
27 and conditions of this Agreement and their application shall not be affected thereby
28 but shall remain in force and effect and the Parties shall be relieved of their
29 obligations only to the extent necessary to eliminate such regulatory or other

1 determination unless a court or governmental agency of competent jurisdiction
2 holds that such provisions are not separable from all other provisions of this
3 Agreement.

4
5 **36 PRESERVATION OF OBLIGATIONS:**

6 Upon termination of this Agreement, all unsatisfied obligations of each Party shall
7 be preserved until satisfied.

8
9 **37 INTEGRATION OF AGREEMENT:**

10 This Agreement constitutes the complete and final expression of the agreement
11 between the Parties and is a complete and exclusive statement of the terms of
12 their agreement, and supersedes all prior and contemporaneous offers, promises,
13 representations, negotiations, discussions, and communications which may have
14 been made in connection with the subject matter of this COIA. Notwithstanding the
15 preceding sentence, the MOU, LA and CCA remain in force and in effect between
16 the Parties to the extent that they are not inconsistent with this Agreement and, in
17 particular, nothing in this Agreement shall modify Sections 2.15, or 3.2 of the LA.
18 This COIA is the product of negotiations and neither ambiguities nor uncertainties
19 shall, therefore, be construed in a manner, which is prejudicial to any Party.

20
21 **38 APPENDICES INCORPORATED:**

22 The several appendices to this Agreement, as they may be revised from time to
23 time, are attached to this Agreement and are incorporated by reference as if herein
24 fully set forth.

25
26 **39 FEDERAL PROVISIONS:**

27 **39.1 Contingent Upon Appropriations:** Where activities provided for in this
28 Agreement extend beyond the current fiscal year, continued expenditures
29 by the United States are contingent upon Congress making the necessary

1 appropriations required for the continued performance of the United States'
2 obligations under this Agreement. In case such appropriation is not made,
3 the Parties hereby release the United States from all liability due to the
4 failure of Congress to make such appropriation.

5 **39.2 Covenant Against Contingent Fees:** The Parties warrant that no person or
6 selling agency has been employed or retained to solicit or secure this
7 Agreement upon an agreement or understanding for a commission,
8 percentage, brokerage, or contingent fees, excepting bona fide employees
9 or bona fide established commercial or selling agencies maintained by the
10 Parties for the purpose of securing business. For breach or violation of this
11 warranty, the Government shall have the right to annul, as to Western, this
12 Agreement without liability or, in its discretion, to deduct from this
13 Agreement price of consideration the full amount of such commission,
14 percentage, brokerage, or contingent fee.

15 **39.3 Contract Work Hours and Safety Standards:** This Agreement, to the extent
16 that it is of a character specified in Section 103 of the Contract Work Hours
17 and Safety Standards Act (Act), 40 U.S.C.A. 329 (1926), is subject to the
18 provision of the Act, 40 U.S.C.A. 327-333 (1966), and to regulations
19 promulgated by the Secretary of Labor pursuant to the Act.

20 **39.4 Equal Opportunity Employment Practices:** Section 202 of Executive Order
21 No. 11246, 43 Fed. Reg. 16501 (1572), which provides, among other things,
22 that the Parties will not discriminate against any employee or applicant or
23 employment because of race, color, religion, sex, or national) origin, is
24 incorporated by reference in this Agreement.

25 **39.5 Use of Convict Labor:** The Parties agree not to employ any person
26 undergoing sentence of imprisonment in performing this Agreement except
27 as provided by 18 U.S.C. 4082(c)(2) and Executive Order 11755, December
28 29, 1973.

29

1 40 SUCCESSOR IN INTEREST:

2 Every successor in interest to the rights, title, interest, or use of ASC Share of any
3 Party shall be bound by all terms, provisions, and conditions of this Agreement, as
4 if such successor in interest had duly executed this Agreement.

5

6 41 SIGNATURE CLAUSE:

7 The signatories to this Agreement represent that they have been appropriately
8 authorized to enter into this Agreement on behalf of the Party for whom they sign.

9 This Agreement may be executed in counterparts

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IN WITNESS WHEREOF, the Parties have affixed their signatures as of the date(s) set forth below.

Trans-Elect NTD Path 15 LLC

By: Perry Cole
Name: Perry Cole
Title: Senior Vice President
Date: 8-7-03

Western Area Power Administration

By: _____
Name: James D. Keselburg
Title: Regional Manager Sierra Nevada
Customer Service Region
Date: _____

Pacific Gas & Electric Company

By: _____
Name: Jim Randolph
Title: Senior Vice President and Chief of
Utility Operations
Date: _____

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IN WITNESS WHEREOF, the Parties have affixed their signatures as of the date(s) set forth below.

Trans-Elect NTD Path 15 LLC

By: _____
Name: Perry Cole
Title: Senior Vice President
Date: _____

Western Area Power Administration

By: _____
Name: James D. Keselburg
Title: Regional Manager Sierra Nevada
Customer Service Region
Date: AUG 6 2003

Pacific Gas & Electric Company

By: _____
Name: Jim Randolph
Title: Senior Vice President and Chief of
Utility Operations
Date: _____

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IN WITNESS WHEREOF, the Parties have affixed their signatures as of the date(s) set forth below.

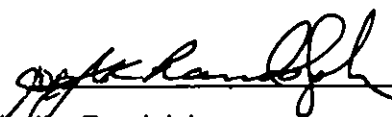
Trans-Elect NTD Path 15 LLC

By: _____
Name: Perry Cole
Title: Senior Vice President
Date: _____

Western Area Power Administration

By: _____
Name: James D. Keselburg
Title: Regional Manager Sierra Nevada
Customer Service Region
Date: _____

Pacific Gas & Electric Company

By:  _____
Name: Jim Randolph
Title: Senior Vice President and Chief of
Utility Operations
Date: 8-11-03

MRB
3/11/04
approved as
to form

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APPENDIX A
ADDRESSES FOR NOTICES

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APPENDIX A

ADDRESSES FOR NOTICES

To Pacific Gas and Electric Company/:
Senior Vice President and Chief of Utility Operations
77 Beale St, Mail Code B32
San Francisco, CA 94105

To Trans-Elect NTD Path 15 LLC:
President & COO
1850 Centennial Park Dr., Ste. 480
Reston, VA 20191

To Western Area Power Administration:
Regional Manager
Sierra Nevada Customer Service Region
Western Area Power Administration
114 Parkshore Drive
Folsom, CA 95630

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APPENDIX B
OWNERSHIP

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APPENDIX B
OWNERSHIP

B.1 FACILITY OWNERSHIP

As set forth in Section 3.1.1 of the LA and restated in Section 16 of the CCA Western owns the land and the Transmission Line and PG&E owns facilities that it modified as part of the Project, including the modifications at its Los Banos, Gates, and Midway substations and the RAS. The location of the change of ownership of Project facilities at PG&E's Los Banos and Gates Substations shall be at the point where the conductor connector from the conductor of the Transmission Line connects to the conductor from within the Los Banos and Gates substations. The conductor connector will be supplied by and owned by Western.

B.2 ALLOCATION OF PROJECT ASC SHARE

The Parties have determined that the allocation of the shares of the Project ASC Share among themselves in each direction, until revised by them in accordance with Section 15.4 of the CCA, shall be:

Trans-Elect:	72.00%
PG&E:	18.00%
Western:	10.00%

The MW amounts determined from the above percentages shall be rounded to whole MW. In the event that all rounding adjustments cannot all be satisfied, rounding adjustments will be made in priority according to the remainder value. If the remainder values are equal, the Party with the lower percentage share shall be awarded the round off up and the Party with the greatest percentage shall accept a round down when required.

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APPENDIX C
COMPREHENSIVE PLAN OF SERVICE

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APPENDIX C

COMPREHENSIVE PLAN OF SERVICE

C.1 PROJECT DESCRIPTION

The Project is a new facility which, when interconnected with the Existing Path 15 Transmission System of PG&E, is designed to increase the South-to-North Non-Simultaneous Transfer Capability between the Gates Substation and the Los Banos Substation by 1,500 megawatts and to increase the North-to-South Non-Simultaneous Transfer Capability by approximately 1100 megawatts based on the Project Power System Studies as described in Section C.3 below. The Comprehensive Plan of Service to accomplish this increase in Transfer Capability is set forth in Sections C.1 through C.4 below.

C.1.1 Overall Project

The Path 15 Upgrade Project consists of a single 84-mile 500 kV transmission line section extending from the Los Banos Substation in the California central valley, south to the Gates Substation. The plan of service includes modifications at the substations to connect the line as well as reconfigurations to the Gates - Midway 230-kV line and the 115 kV line north of Midway. Voltage support facilities will also be added at the Los Banos and Gates Substations as part of the Project. The Remedial Action Scheme that supports the Existing Path 15 Transmission System will be modified to address the revised system to protect against outages that become the most severe following the operation of the Project in order to attain the increase in Non-Simultaneous Transfer Capability.

C.1.2 Los Banos-Gates 500-KV Line #3

An 84-mile long 500 kV transmission line extends from the Los Banos Substation to Gates Substation. The transmission line consists of horizontal lattice and some tubular steel towers using a three conductor bundle of 1590 kcmil 45/7 Lapwing aluminum conductor steel reinforced cable/trapezoidal wire, equivalent diameter (ACSR/TWD) conductors per phase, and two overhead shield wires. The Project line alignment is west of the Existing Path 15 Transmission Line by approximately 2000 feet

1 and is routed through a valley and foothill terrain in a low population area.

2 C.1.3 Gates Substation

3 The Gates Substation is located about 5 miles north of Avenal, California,
4 and east of Interstate 5 freeway. The work performed at Gates Substation on behalf of
5 the Project includes the following elements:

6 C.1.3.1 Installation of two new 500 kV circuit breakers at the existing 500
7 kV bay position #4;

8 C.1.3.2 Relocation of the existing Los Banos-Gates #1 transmission line
9 to the existing bay position #4;

10 C.1.3.3 Terminating the new Los Banos – Gates #3 500 kV transmission
11 line at the existing Los Banos #1 500 kV transmission line position;

12 C.1.3.4 Installation of two new 500 kV circuit breakers on the existing
13 500/230 kV Transformer Bank 11;

14 C.1.3.5 Modification of the 500 kV bus arrangement from a ring bus to a
15 breaker-and-a-half arrangement;

16 C.1.3.6 Installation of 225 MVAR of new 230 kV shunt capacitors
17 switched in groups of 75 MVAR each;

18 C.1.3.7 Installation of Metering and Monitoring equipment as specified in
19 Section C.1.6; and

20 C.1.3.8 Installation of new 500 kV disconnecting switches, reactors,
21 instrument transformers, protective relaying, metering and control equipment,
22 supervisory control and data acquisition equipment, electrical grounding, and
23 underground conduits or trench systems.

24 C.1.4 Los Banos Substation

25 The Los Banos Substation is located about 5 miles west of Los Banos,
26 California. The work performed on behalf of the Project includes the following
27 elements:

28 C.1.4.1 Extension of the 500-kV bus to accommodate an additional bay
29 with two new 500 kV circuit breakers;

1 C.1.4.2 Relocation of the existing Los Banos – Moss Landing 500 kV
2 transmission line to the new bus position to accommodate termination of the new Los
3 Banos – Gates #3 500 kV transmission line in the existing Moss Landing line position;

4 C.1.4.3 Installation of 225 MVAR of 230 kV shunt capacitors switched in
5 groups of 75 MVAR each;

6 C.1.4.4 Installation of Metering and Monitoring equipment as specified in
7 Section C.1.6; and

8 C.1.4.5 Installation of new 500 kV disconnecting switches, reactors,
9 instrument transformers, protective relaying, metering and control equipment,
10 supervisory control and data acquisition equipment, electrical grounding, and
11 underground conduits or trench systems.

12 C.1.5 230-kV Line Modifications

13 The existing, single 230 kV line between Gates and Midway will be
14 modified to form two lines. Currently this single line consists of tied 795 ASCR
15 conductors from Gates to the Arco substation on double circuit towers. South of the
16 Arco substation the second set of conductors has been operated as a 115 kV circuit
17 from Midway to the Goose Lake substation. These modifications will return operation of
18 this line to 230 kV and form a second line from Midway to Gates by reconfiguring the
19 conductors between Arco and Gates. Two new 230-kV circuit breakers will be installed
20 at existing positions at Gates Substation and at a new position at Midway Substation
21 along with new structures, switches, bus and conductor to accommodate this new line
22 configuration. In addition, the protection scheme will be upgraded to current design
23 standards for the reconfigured double circuit.

24 C.1.6 115 kV line Modifications

25 With the reconfiguration of the Midway – Goose Lake 115 kV line back to
26 230-kV operation, reconfiguration of the 115 kV line running north from Midway is
27 necessary. The Semitropic Junction – Semitropic #1 tap line will be closed and 6 ohm
28 series reactors will be placed at the Semitropic and Smyrna 115 kV substations. A new
29 three terminal protection scheme will be implemented for the Smyrna-Semitropic-

1 Midway 115 kV circuit.

2 C.1.7 Project Metering and Communications

3 C.1.7.1 Communications Facilities - The Project communications facilities
4 rely on existing communication paths and primarily consists of new protective relaying.
5 Western will secure leased lines in order to obtain access to event recorders and
6 traveling wave devices at Los Banos Substation and Gates Substation.

7 C.1.7.2 Metering and Monitoring - To provide monitoring of Project
8 facilities consistent with the operating data requirements, as set forth below, there is
9 new metering for operational monitoring of the new 500-kV transmission line at Los
10 Banos and Gates. The metering measurement locations are: (1) Gates Substation 500-
11 kV line terminal; and (2) the Los Banos Substation 500-kV line terminal. The metering
12 will be designed, constructed, and owned by PG&E. Each location will contain suitable
13 instrument quality meters, current transformers, and coupling capacitor voltage
14 transformers. Traveling wave equipment shall be installed at Los Banos and Gates
15 Substations. Existing, or if required, new digital fault recorders will monitor the status of
16 Project facilities. Sequence of event monitoring equipment will be installed or existing
17 facilities will be modified to monitor the Project. Western shall supply the traveling wave
18 equipment. Western shall also provide replacement traveling wave equipment when
19 necessary, unless it decides to forego the provision of such traveling wave information,
20 in which case this Agreement shall be amended. Unless otherwise agreed, PG&E shall
21 commence installation work only after Western and PG&E have agreed upon the
22 reimbursement Western is to provide for the Costs PG&E incurs to install the metering
23 and monitoring equipment Western provides. PG&E will maintain such equipment
24 unless PG&E requests that Western perform such maintenance. All Costs of such
25 maintenance whether performed by PG&E or Western will be recovered in the rates of
26 the party performing such maintenance.

27 C.1.8. Project RAS Equipment

28 Facilities at PG&E's General Office Transmission Operation center such
29 as the RAS controller, and re-programming of RAS controllers at the TOC are needed

1 to complete the RAS project modifications.

2 **C.1.9. Operating Data Requirements**

3 PG&E shall provide the following operating data at Los Banos and Gates
4 Substations to the CAISO available from the Project Metering and Monitoring
5 equipment installed or modified as provided in Section C.1.6.2 for: breaker status; line
6 disconnect status; MW and MVAR flow; 500-kV bus voltage; line relay and breaker
7 failure; relay targets; reclose output data; and POTT and DTT signals. Western shall
8 obtain such information from the CAISO and PG&E shall support the CAISO's provision
9 of such information to Western.

10 **C.1.10. Single Line Diagrams**

11 A single line diagram of the Project is included as Attachment C-1 to this
12 Appendix.

13
14 **C.2 PROJECT DESIGN OBJECTIVES**

15 In the planning and design of the Project and the associated Project Power
16 System Studies, the following assumptions, design objectives, and study criteria,
17 among others, have been developed and adopted by the parties involved in the
18 planning and WECC rating process for the development of the Project:

19 **C.2.1 Achieve Non-Simultaneous Transfer Capability of at least 5,400**
20 **megawatts of electric power south-to-north between Los Banos and Gates with flow**
21 **distributed on the lines to balance flows and accommodate contingencies.**

22 **C.2.2 Meet stability criteria without requiring the use of generation**
23 **dropping for any single line 500 kV outage;**

24 **C.2.3 Take into account electric load levels (seasonal, daily peak, partial**
25 **peak, and off peak), locations, and characteristics;**

26 **C.2.4 Take into account electric generation output levels, locations, and**
27 **characteristics;**

28 **C.2.5 Model the electric facilities (transformers, capacitors, protective**
29 **devices; remedial action schemes, etc.) and their characteristics;**

1 C.2.6 Take into account electric energy transfers at specified rates of
2 delivery between Control Areas;

3 C.2.7 Provide sufficient voltage support to meet the WECC 5% voltage
4 drop criteria following a bipole DC line outage. DC pre-disturbance flow increased from
5 2800 MW to 3100 MW;

6 C.2.8 Maintain 200 MVAR reactive margin at Borah 345 kV for high
7 South to North flows on Path 15;

8 C.2.9 Preserve Helms pumping capability of 400 MW during periods of
9 maximum import; and

10 C.2.10 In order to achieve adequate System performance for the mutual
11 benefit of the Existing Path 15 Transmission Line and the Project, the Project was
12 designed to increase the rated Transfer Capability to a 5400 megawatt
13 Non-Simultaneous Transfer Capability year around with a high probability of sufficiently
14 available Remedial Action Schemes, including, generation, pumping, and retail load
15 dropping as further described in Section C.4 below. The new line section will not be
16 series compensated, but will have a lower conductor impedance than the existing lines
17 and is designed to sustain high current flows to accommodate the loss of the two
18 adjacent 500-kV transmission lines.

19
20 C.3 PROJECT POWER SYSTEM STUDIES

21 C.3.1 Project Power System Studies

22 The Project Power System Studies consist of the following studies:

23 C.3.1.1 WECC Phase 2 Review Group Rating Report, dated December
24 16, 2002; and

25 C.3.1.2 WECC Phase 2 Review Group Studies of North-to-South
26 Transfers expected to be released in the summer of 2003.

27
28 C.4 REMEDIAL ACTION SCHEME

29 C.4.1 RAS Design

1 The Project Power System Studies relied on the availability of significant
 2 amounts of RAS. The RAS system used for the Existing Path 15 Transmission System
 3 arms RAS as needed to be able to provide the amount of RAS required to maintain
 4 system stability and avoid unacceptable equipment overloads following the unlikely loss
 5 of two or more major system elements. The incremental transfer capability resulting
 6 from the Project could not be achieved without this RAS without additional facility costs
 7 and additions. With the Path 15 Upgrade in operation, simultaneous loss of two of the
 8 three 500-kV lines connected to locations north of Los Banos requires use of the
 9 maximum amount of RAS available. When insufficient RAS is available, reductions in
 10 the operational transfer capability of the System must be taken and shared as set forth
 11 in the COIA.

12 C.4.2 Retail and Pump Load Dropping

13 The Project Power System Studies modeled the RAS amounts
 14 established by PG&E for use prior to the Project. PG&E retail load customers are the
 15 only retail load connected to and subject to Path 15 RAS operation. Prior to
 16 Commercial Operation, load of all other Parties or long-term rightsholders who have not
 17 turned over the control of the use of their ASC Share to the CAISO or other regional
 18 transmission organization approved by FERC shall make load available to be
 19 incorporated into the Project RAS on a pro-rata basis of total ASC Share.

20 C.4.3 Generation Dropping

21 The Project Power System Studies relied upon over 2000 MW of
 22 generation dropping located south of the Gates Substation. Additional generation
 23 capability has been connected in order to obtain the amount of generation dropping
 24 assumed to be available in the Power System Studies.

25 C.4.4 Outage Conditions Requiring RAS

26 RAS actions are initiated for the following system conditions:

27 C.4.4.1 Simultaneous loss of two of the three 500-kV lines connected to
 28 locations north of Los Banos;

29 C.4.4.2 Simultaneous loss of the two 500-kV lines connected to locations

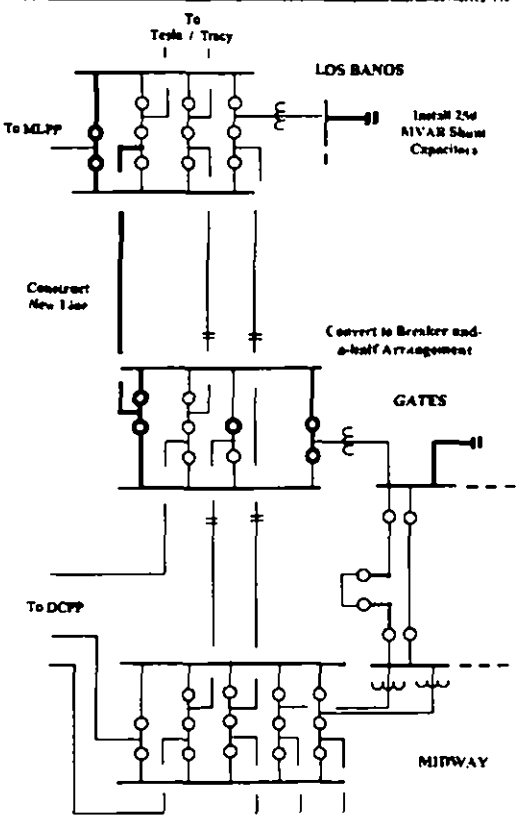
1 south of Los Banos; and
2 C.4.4.3 Simultaneous loss of two 500-kV lines connected to locations
3 North of Midway.
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C-8

Attachment C-1 Project Single Line Diagram

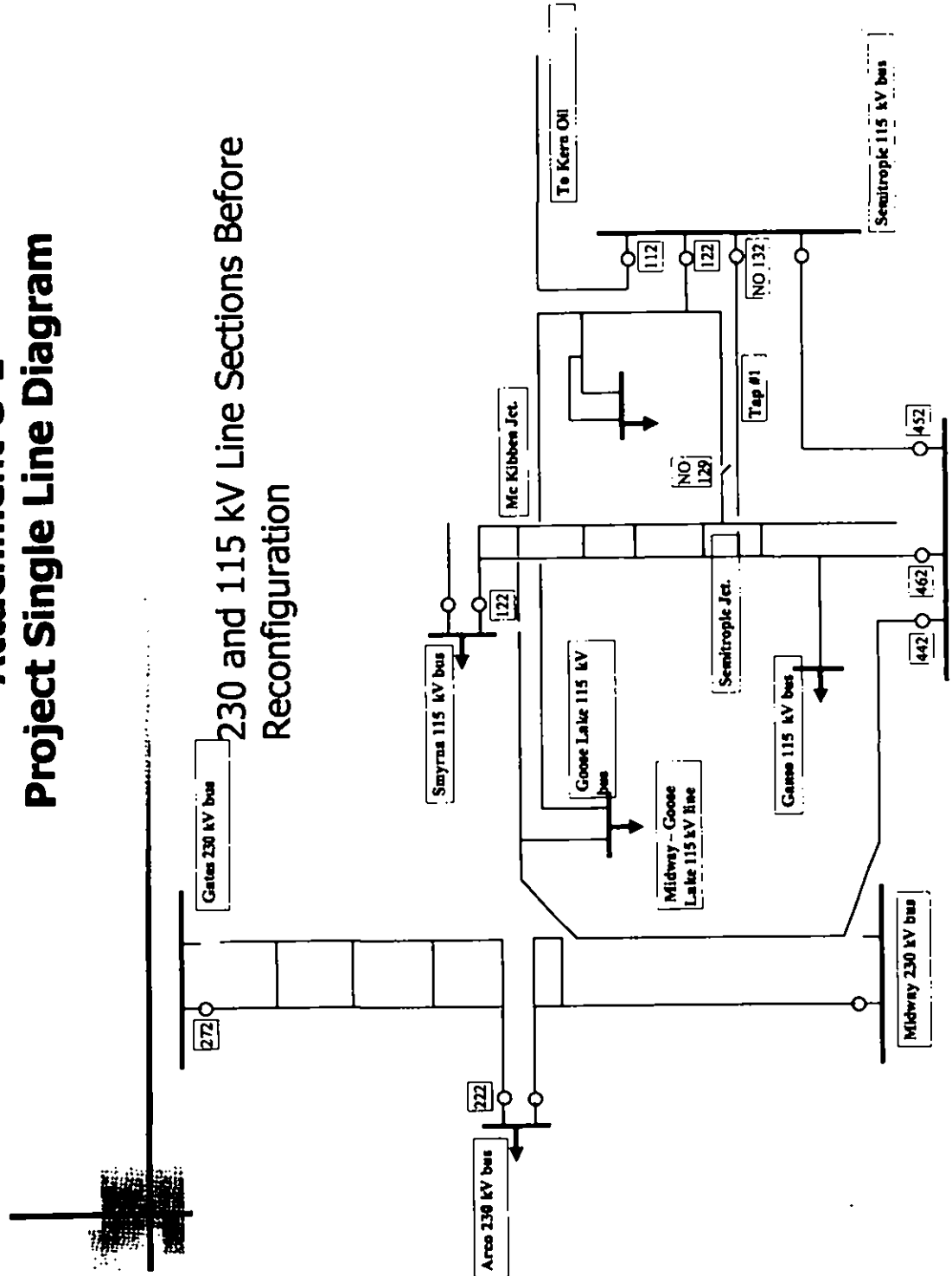
Project Description

- Installation of an uncompensated, single circuit 500 kV transmission line between Los Banos and Gates Substations.
- Conversion of the Gates Substation 500 kV bus from a ring bus arrangement to a 'breaker-and-a-half' arrangement.
- Installation of 225 MVAR of 230 kV shunt capacitors at both the Gates and Los Banos Substations.
- Reconfiguration of sections of the 230 kV and 115 kV lines north of Midway.
- RAS adjustments



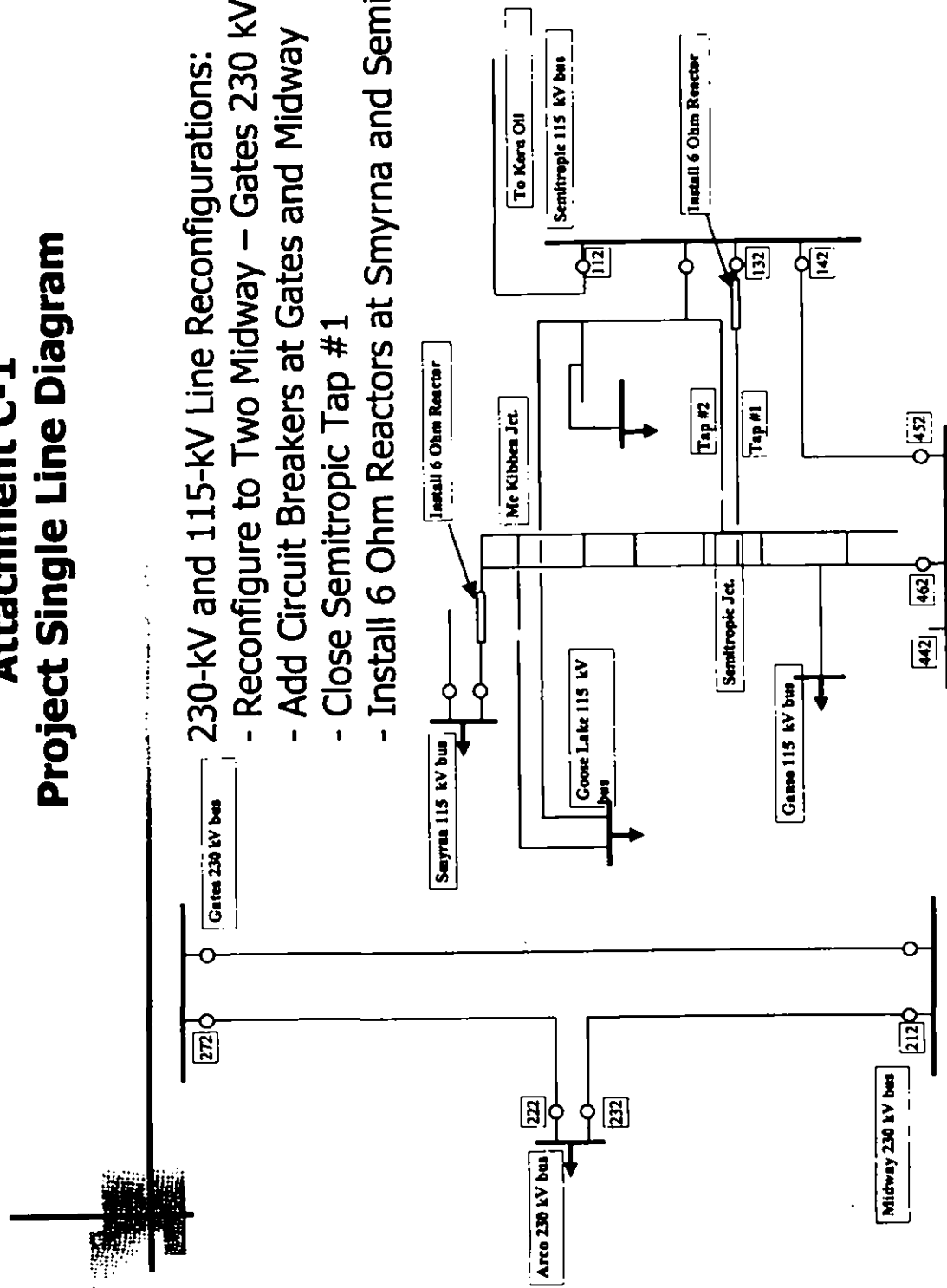
Attachment C-1 Project Single Line Diagram

230 and 115 kV Line Sections Before Reconfiguration



Attachment C-1 Project Single Line Diagram

- 230-kV and 115-kV Line Reconfigurations:**
- Reconfigure to Two Midway – Gates 230 kV lines
 - Add Circuit Breakers at Gates and Midway
 - Close Semitropic Tap #1
 - Install 6 Ohm Reactors at Smyrna and Semitropic.



ATTACHMENT 2

**Construction and Coordination Agreement
For Path 15 Upgrade**

among

Pacific Gas and Electric Company

Trans-Elect, Inc.,

And

Western Area Power Administration

Executed

December 30, 2002

Filed for Informational Purposes Only

Agreement No. 02-SNR-00535

**CONSTRUCTION AND COORDINATION AGREEMENT
FOR PATH 15 UPGRADE**

AMONG

TRANS-ELECT, INC.,

WESTERN AREA POWER ADMINISTRATION,

AND

PACIFIC GAS & ELECTRIC COMPANY

EXECUTED

December 30, 2002

1
2 **PATH 15 UPGRADE**
3 **CONSTRUCTION AND COORDINATION AGREEMENT**
4

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**PATH 15 UPGRADE
CONSTRUCTION AND COORDINATION AGREEMENT**

1 PARTIES: This Path 15 Upgrade Construction and Coordination Agreement (CCA) is entered into as of December 30, 2002 pursuant to the Acts of Congress approved June 17, 1902 (32 Stat. 388), March 4, 1921 (41 Stat. 1404); January 12, 1927 (44 Stat. 957), August 4, 1977 (91 Stat. 565), July 16, 1984 (98 Stat. 403, 416), August 15, 1985 (99 Stat. 293, 321), as amended or supplemented. This CCA is among the following entities (each a "Party" and collectively the "Parties"): Trans-Elect, Inc. ("Trans-Elect"), Western Area Power Administration ("Western" and, collectively with Trans-Elect, the "Line Parties") and Pacific Gas & Electric Company ("PG&E").

2 RECITALS

2.1 Congress authorized the construction of the California Oregon Transmission Project, including the Los Banos-Gates Transmission Line, in the 1985 Energy and Water Development Appropriations Act (98 Stat. 403, 416 (1984), see, also, Supplemental Appropriations for Fiscal Year 1985, (99 Stat. 293,321 (1985))).

2.2 Section 302 of the Department of Energy Organic Act (42 U.S.C. § 7152) authorizes Western's Administrator to carry out the power marketing duties under the Reclamation Laws, which includes the authority to execute contracts.

2.3 Western Order O 110.2 delegates to Western's Regional Managers the authority to execute contracts on behalf of Western's Administrator.

1 2.4 The Parties signed that certain Memorandum of Understanding
2 for Path 15 Project ("MOU") dated October 16, 2001 and the
3 Secretary of Energy approved the Project, as defined in the
4 MOU, on October 16, 2001.

5 2.5 The Parties entered into that certain Path 15 Upgrade Project
6 Letter Agreement ("LA") on April 25, 2002, with respect to
7 the Project and their commitment to negotiate and execute
8 additional contractual documents setting forth each Party's
9 responsibilities and operational details of the Project.

10 2.6 The LA contemplates the execution of a Participation
11 Agreement to provide additional and supplemental terms for
12 construction and coordination of Project Work. This CCA
13 replaces the Participation Agreement contemplated in the LA.

14 2.7 The Path 15 Upgrade Project will promote reliability, enhance
15 power transfer capability between northern and southern
16 California, and promote a more competitive electrical market
17 in the West.

18 2.8 The Parties desire to coordinate the Transmission Line Work
19 by Line Parties and PG&E Modifications (collectively the
20 "Project Work") to mitigate the risks to each Party and to
21 assure timely and efficient completion of the Project Work

22 2.9 This CCA provides terms and conditions for the activities and
23 their coordination to complete the construction of the Los
24 Banos-Gates 500-kV transmission line, substation and
25 associated facilities, including design work, material
26 acquisition, substation work, additional environmental work,
27 land acquisition, construction activities and post
28 construction activities.

29
30 3 TERM AND TERMINATION: This CCA shall become effective on
31 December 30, 2002 (the "Effective Date"). This CCA shall
32 terminate only by a unanimous written decision by the Parties

1 unless terminated earlier in accordance herewith or in a
2 subsequent written agreement among the Parties.

3
4 DEFINITIONS: Whenever used in this CCA, the following terms
5 when initially capitalized shall have the below meaning. The
6 singular of any definition shall include the plural and the
7 plural shall include the singular. Any reference to a single
8 Party shall, following a valid Assignment by such Party, be
9 deemed a reference to the applicable assignee.

10
11 4.1 Assignment: Any transfer of rights, title, interests, and
12 obligations under this CCA, the MOU and/or the LA of all or
13 any portion of a Party's share of the Project.

14 4.2 CAISO: The California Independent System Operator or its
15 successor.

16 4.3 CCA: This Construction and Coordination Agreement.

17 4.4 COIA or Coordinated Operation and Interconnection Agreement:
18 An agreement to be negotiated and executed among the Parties
19 (or their permitted successors) setting forth the terms and
20 conditions for the coordination, operation and the
21 interconnection of the Project with PG&E's electric system
22 at PG&E's Los Banos and Gates Substations.

23 4.5 Communication Facilities: The Land, equipment, and facilities
24 included in the Project that are necessary and useful for
25 communication to monitor the status and to maintain control
26 of the Project's operations.

27 4.6 Confidential Information: Confidential information as more
28 fully described in Section 36.

29 4.7 Construction Work: Project Work including but not limited to
30 design work, material acquisition, substation modification
31 work, additional environmental work, land acquisition,
32 construction and any other work necessary for the

1 construction of the Transmission Line and PG&E
2 Modifications.

3 4.8 Coordination Committee: The Coordination Committee
4 established by the Parties and operated in accordance with
5 Section 6 of this CCA. The Coordination Committee replaces
6 the Management Committee described in Section 8 of the LA.

7 4.9 Coordination Contact: See Section 7 of this CCA.

8 4.10 CPUC: The California Public Utilities Commission or any
9 successor agency thereto.

10 4.11 Default: See Section 10 of this CCA.

11 4.12 Effective Date: See Section 3 of this CCA.

12 4.13 Entitlement: A Party's allocation of a portion of
13 Transmission System Rights associated with the Rated Path 15
14 Upgrade Transfer Capability expressed as a percentage (%).

15 4.14 EPC Contract: A contract for the engineering, procurement
16 and construction of a portion of the Project which places
17 the risk of delay in completion of the Project on the
18 contractor and provides for the payment of liquidated
19 damages by the contractor in the event of a delay in the
20 completion of the Project.

21 4.15 FERC or Commission: The Federal Energy Regulatory Commission
22 or its successor.

23 4.16 Financing Closing Date: A date upon which Trans-Elect has
24 entered into a financing agreement with one or more lenders
25 for the financing or refinancing of its payment obligations
26 pursuant to Section 9.

27 4.17 Financing Default: An acceleration of the indebtedness owing
28 by Trans-Elect to the T-E Lenders due to a default under the
29 Financing Documents.

30 4.18 Financing Documents: The loan agreement and other financing
31 documentation, as amended from time to time, entered into
32 between Trans-Elect and the T-E Lenders on a Financing

1 Closing Date.

2 4.19 Force Majeure: Any cause beyond the reasonable control of a
3 Party which renders it unable to perform such a given
4 obligation hereunder, including but not limited to failure
5 of or imminent threat of failure of facilities due to flood,
6 earthquake, volcanic activity, tsunami, tornado, storm,
7 fire, pestilence, lightning, and other natural catastrophe,
8 epidemic, war, riot, civil disturbance or disobedience,
9 vandalism, strike, labor dispute, labor or material
10 shortage, sabotage, terrorism, government priorities,
11 restraint by court order or public authority, and action or
12 non-action by, or inability to obtain the necessary
13 authorizations or approvals from, any governmental agency
14 (not meant to include Western) or authority, which by
15 exercise of due diligence such Party could not reasonably
16 have expected or foreseen and which by the exercise of due
17 diligence by the claiming Party cannot be overcome.

18 4.20 Gates Substation Modifications: Those modifications as
19 determined necessary by the comprehensive plan of service to
20 interconnect the Transmission Line into PG&E's transmission
21 system at PG&E's Gates Substation as further described in
22 Appendix C of this CCA.

23 4.21 Initial Work: Transmission Line Work performed by the Line
24 Parties that is accomplished using the Initial Funding
25 provided under Section 6.4 of the LA. "Initial Work"
26 includes but is not limited to design work, material
27 acquisition, additional environmental work, and land
28 acquisition necessary for the construction of the
29 Transmission Line.

30 4.22 LA: The Path 15 Project Participants Letter Agreement dated
31 April 25, 2002 executed by Trans-Elect, Western and PG&E.

32 4.23 Land: The land upon which the Transmission Line will be

constructed, regardless of whether the interest in such land is held in fee, by ground lease, by easement, or by license.

4.24 Lenders' Consent Agreement: That agreement more specifically defined in Section 9.5 between the T-E Lenders and the Parties specifying the T-E Lenders' rights and remedies in the event of a continuing Financing Default.

4.25 Line Parties: Collectively, Trans-Elect and Western.

4.26 Line Parties' Treasurer: The entity responsible for invoicing, billing for Transmission Line Work, accounting and managing the Trust Account, and drawing, if necessary, amounts payable under the TE Security. Initially the Line Parties' Treasurer shall be Western.

4.27 Los Banos Substation Modifications: Those modifications as determined necessary by the comprehensive plan of service to interconnect the Transmission Line into PG&E's transmission system at PG&E's Los Banos Substation, as further described in Appendix C of this CCA.

4.28 MOU: The Memorandum of Understanding as defined in Section 2.1 of this CCA.

4.29 NERC: North American Electric Reliability Council or its successor.

4.30 Party: Each of Pacific Gas and Electric Company, Trans-Elect, Inc. and Western Area Power Administration, together with their permitted successors and assigns.

4.31 PG&E Modifications: Those modifications necessary to interconnect the completed and functioning Transmission Line with the PG&E electric system, including the Substation Modifications and modifications to the electric system, if any, and RAS Modifications required to obtain the transfer capability determined from the Project Design Studies.

4.32 Project: The Path 15 Upgrade Project consisting of the Transmission Line and the PG&E Modifications designed to

1 achieve the increase in transfer capability of the existing
2 Path 15 transfer capability as demonstrated in the Project
3 Design Studies.

4 4.33 Project Budget: The complete budget of proposed expenditures
5 required to complete the Project.

6 4.34 Project Costs: All costs of the Project Work and the tasks
7 necessary to accomplish the Project Work, including, but not
8 limited to, additional financing costs, interest, or
9 penalties incurred by any Party as a result of construction
10 delays which result in an obligation on the part of a
11 contractor to pay liquidated damages under an EPC contract
12 or other construction contract, or under applicable
13 insurance policies, whether related to the Transmission Line
14 Work or PG&E Modifications, such additional costs being
15 limited to the amount of liquidated damages specified and
16 paid under the EPC contract, other construction contract or
17 under applicable insurance policies for such delay. The
18 Parties shall be entitled to use the same expense categories
19 in compiling their portion of the Project Costs so that the
20 Parties' final accounting are consistent and encompass
21 comparable expenses.

22 4.35 Project Design Studies: Those studies conducted and relied
23 upon to satisfy the WECC requirements for obtaining an
24 accepted transfer capability rating for the upgraded
25 electrical system, specified separately in each direction.

26 4.36 Project Manager: The entity responsible for managing the
27 activities of the Project. The initial Project Manager
28 shall be Western, as provided in Section 13.

29 4.37 Project Schedule: The unanimously agreed schedule of Project
30 Work substantially in the form attached hereto as Appendix
31 B, which provides dates for completion and progress
32 milestones to provide a benchmark for the monitoring of the

1 coordinated Project Work progress.

2 4.38 Project Transfer Trigger Event: An event that allows
3 Assignment to the T-E lenders as more fully described in
4 Section 9.6 of this CCA.

5 4.39 Project Work: The Transmission Line Work and the PG&E
6 Modifications, collectively.

7 4.40 Prudent Utility Practice: Any of the practices, methods, and
8 acts engaged in or approved by a significant portion of the
9 electric utility industry during the relevant time period,
10 or any of the practices, methods, and acts which, in the
11 exercise of reasonable judgment in light of the facts known
12 at the time the decision was made, could have been expected
13 to accomplish the desired result at a reasonable cost
14 consistent with good business practices, reliability,
15 safety, and expedition. "Prudent Utility Practice" is not
16 intended to be any one of a number of the optimum practices,
17 methods, or acts to the exclusion of all others, but rather
18 to be such practices, methods or acts generally accepted in
19 the region.

20 4.41 Rated Path 15 Upgrade Transfer Capability: The amount of
21 transfer capability allocated to the Project as determined
22 in the Coordinated Operation and Interconnection Agreement.

23 4.42 RAS Modifications: Those modifications to the existing Path
24 15 Remedial Action Scheme that are required to support the
25 accepted transfer capability rating achieved with
26 Transmission Line and PG&E Modifications in the Project
27 Design Studies.

28 4.43 Remedial Action Scheme: The facilities and procedures that
29 are required to meet applicable reliability criteria for the
30 performance of the electric system after an electrical
31 system disturbance.

32 4.44 Secretary or Secretary of Energy: The Secretary of the

1 United States Department of Energy or his authorized
2 representative or successor.

3 4.45 Special Facility Agreement: The agreement to be negotiated
4 and agreed by the Parties within 90 days of the execution of
5 this CCA, and then attached hereto as Appendix D, to address
6 the construction of the PG&E Modifications in the event of a
7 PG&E withdrawal, suspension following an Adverse Agency
8 Action, removal by Western or PG&E Default.

9 4.46 Special Purpose Entity: An entity, including, but not
10 limited to a corporation, partnership or limited liability
11 company created by Trans-Elect for the purpose of obtaining
12 financing for the Project and assuming Trans-Elect's
13 commitments and responsibilities with respect to the
14 Project.

15 4.47 Submission Date: The date on which the last of the Parties'
16 final accountings of Project Costs is provided, as more
17 fully set forth in Section 15.4.

18 4.48 Substation Modifications: All work, including but not
19 limited to design work, engineering, material acquisition,
20 construction, and other work necessary for PG&E to
21 interconnect with the Transmission Line as contemplated in
22 the Project Design Studies. The "Substation Modifications"
23 consist of the Gates Substation Modifications and the Los
24 Banos Substation Modifications, collectively.

25 4.49 T-E Lenders: The lenders from time to time party to the
26 construction loan or similar financing entered into by
27 Trans-Elect or its Special Purpose Entity on a Financing
28 Closing Date for the purpose of financing or refinancing all
29 or a portion of the costs of development and construction of
30 the Transmission Line.

31 4.50 T-E Security: A financing arrangement acceptable to the T-E
32 Lenders provided on behalf of Trans-Elect for the purpose of

1 securing the payment of its Transmission Line Work expenses
2 from the proceeds of the financing to be obtained by Trans-
3 Elect from the T-E Lenders, or such other security as may be
4 reasonably satisfactory to Western as Project Manager in its
5 sole discretion. In the event of a Financial Default by
6 Trans-Elect, Trans-Elect shall enable the Project Manager to
7 access the proceeds of the construction loan facility in the
8 manner provided in Section 9.3.3.

9 **4.51 Transmission Line:** The physical 84 mile 500-kV Los Banos-
10 Gates transmission line including associated structures to
11 be constructed pursuant to this CCA, but not including any
12 part of the PG&E Modifications.

13 **4.52 Transmission Line Assets:** All tangible and intangible
14 property necessary for the construction of the Transmission
15 Line, including, but not limited to, land and land rights,
16 easements, construction materials, permits, certificates, or
17 other governmental authorizations, design and construction
18 plans and documents, fully or partially constructed portions
19 of the Transmission Line and all EPC contracts or other
20 contracts being used for the construction of the
21 Transmission Line.

22 **4.53 TLCC or Transmission Line Coordination Committee:** The
23 Transmission Line Coordination Committee established and
24 described in Article 9 of this CCA, which replaces the
25 Transmission Line Construction Committee contemplated in the
26 LA.

27 **4.54 Transmission Line Work:** All work, including but not limited
28 to design work, engineering, material acquisition,
29 development, financing, underwriting, contracting,
30 environmental work, land acquisition, construction and any
31 other work necessary for the construction of the
32 Transmission Line as contemplated in the Project Design

1 Studies as further described in Appendix C.

2 4.55 TSRs or Transmission System Rights: TSRs are an exclusive
3 transmission entitlement on the Project Upgrade portion of
4 the Path 15 (Los Banos to Gates) transmission path in an
5 amount equal to the incremental increase in the Path 15 (Los
6 Banos to Gates) transmission capability resulting from the
7 Project. The holder of TSRs is entitled to all associated
8 rights, including "firm transmission rights" (and the
9 revenue derived therefrom) as such term is used by the CAISO
10 Tariff and Protocols. The use of this definition does not
11 limit the Parties in seeking any additional revenues or
12 rights that are authorized by FERC due to a beneficial
13 increase in the CAISO controlled grid capacity resulting
14 from the Path 15 Upgrades.

15 4.56 Trust Account: A non-interest bearing account established in
16 the United States Treasury by Western, containing funds that
17 are immediately available for Transmission Line Work
18 performed by Western, as provided under this CCA.

19 4.57 WECC: The Western Electric Coordinating Council or its
20 successor.

21
22 5 PROJECT SCOPE: This CCA further specifies the
23 responsibilities for each Party's performance of the Project
24 Work in order to complete and implement the Project.

25 5.1 Tasks. The Parties agree that the tasks necessary to
26 accomplish the Project Work, to be performed by one or more
27 Parties to this CCA as designated in Appendix B, include but
28 are not limited to:

- 29 (a) Design work,
- 30 (b) Project design studies,
- 31 (c) Financing, development, underwriting and
- 32 contracting,

- 1 (d) Material and equipment acquisition,
- 2 (e) Additional environmental work,
- 3 (f) Land acquisition,
- 4 (g) Construction of the Transmission Line,
- 5 Construction of the PG&E Modifications
- 6 (h) Post construction activities necessary to achieve
- 7 commercial operation of the Transmission Line;
- 8 (i) Additional Communication Facilities, and
- 9 (j) RAS Modifications.

10 5.2 Project Schedule:

11 (a) The Project Work shall be performed in a diligent
12 manner by the Party or Parties responsible therefor,
13 consistent with the Project milestones described in
14 Section 8.3 and the subsequent Project Schedule
15 substantially in the form attached hereto as Appendix
16 B, and as it may be amended by unanimous action of the
17 Coordination Committee as set forth in this CCA. The
18 Project Schedule shall be finalized and approved
19 within 90 days after execution of this Agreement. Any
20 Party may, by written notice to the other Parties'
21 Coordination Contacts and to each Coordination
22 Committee representative (if different), request an
23 amendment to the performance dates of one or more of
24 the milestones for the Project Work under such Party's
25 control. Each other Party shall review the proposed
26 Project Schedule amendment and shall, in each Party's
27 sole discretion, approve or disapprove the proposed
28 amendment within fifteen (15) business days of receipt
29 of the request; if both other Parties approve the
30 proposed amendment, then the Coordination Committee
31 will so amend and restate the Project Schedule and
32 milestones. If either other Party has not approved

1 the proposed amendment within such fifteen (15)
2 business day period, the proposed amendment shall be
3 referred to the Coordination Committee for its review
4 and determination in accordance with Section 6 of this
5 CCA.

6 (b) Any unapproved deviations by a Party from the
7 Project Schedule (as the same may have been amended
8 and restated from time to time, and as each milestone
9 may be adjusted for a properly claimed Force Majeure
10 and for delays resulting from the negligence,
11 misconduct or financial inability to perform of
12 another Party) will only be deemed to amend the
13 Project Schedule and this CCA if the other Parties not
14 responsible for the non-conforming tasks or milestones
15 agree to the deviation in accordance with the
16 preceding clause (a), or the deviation is approved by
17 the Coordination Committee pursuant to Section 6.

18 (c) Changes to the Project Schedule required due to
19 legal actions with respect to environmental matters or
20 Project land acquisitions will be made at Western's
21 sole discretion and shall not be subject to approval
22 by the Coordination Committee or otherwise subject to
23 this section, provided, that Western will consult with
24 the Coordination Committee prior to making Project
25 Schedule changes pursuant to this Section, and that,
26 if changes are made per this Section 5.2(c), affected
27 Project Schedule milestones will be comparably
28 adjusted as appropriate.

29 5.3 Rescheduling upon Failure to Perform: Any unapproved
30 deviations from the Project Schedule (as the same may have
31 been amended and restated from time to time under Section
32 5.2) continuing for thirty (30) days past the due date for

1 such milestone (as such milestone may be adjusted for a
2 properly claimed Force Majeure and for delays resulting from
3 the negligence, misconduct or financial inability to perform
4 of another Party) shall be a Default hereunder, subject to
5 the Notice and Cure Period provisions of Section 11.1 of
6 this CCA, provided that instead of declaring a Default
7 hereunder, the other Parties may by mutual agreement
8 reschedule the completion of any or all other portions of
9 the Project Work under such Parties' control, on a day-for-
10 day basis, based upon the revised or implied date on which
11 such milestone will actually be completed. If both other
12 Parties so reschedule their milestones, then (a) such
13 rescheduled milestones shall be deemed accepted by the
14 defaulting Party as an amendment to the Project Schedule
15 under Section 5.2 of this CCA and (b) the Default created by
16 the failure under this Section 5.3 shall be deemed cured to
17 the degree, but only to the degree, that the failing Party's
18 performance is in accord with the modified Project Schedule.

19 5.4 For purposes of clarity, nothing in this Section 5 shall
20 limit a Party's right to terminate this CCA pursuant to
21 Section 11.3.

22
23 **6 COORDINATION COMMITTEE AND COORDINATION OF WORK:**

24 **6.1 Establishment of Coordination Committee.** Two committees
25 shall be established for the duration of the Project: a
26 Coordination Committee (as described in this Section 6) and
27 a Transmission Line Coordination Committee (TLCC) (as
28 described in Section 9). There is hereby established a
29 Coordination Committee, which shall be responsible for
30 securing effective managerial and policy direction for the
31 construction and operation of the Project, cooperation and
32 interchange of information for the PG&E Modifications and

1 Transmission Line Work, and for providing consultation on a
2 prompt and orderly basis among the Parties in connection
3 with the various matters which may arise from time to time
4 with respect to the Project. The Coordination Committee
5 shall continue as represented in this Section 6 until it is
6 replaced by a new management structure. The Parties may
7 replace the Coordination Committee with a new management
8 structure on the later to occur of Project's final cost
9 accounting provided in Section 15 or sixty (60) days after
10 commencement of commercial operation, or as the Parties may
11 otherwise provide by an amendment to this CCA. The new
12 management structure and duties shall be recorded and
13 approved by the existing Coordination Committee.

14 6.2 Coordination Committee Representation. Each Party shall
15 appoint one representative to the Coordination Committee.
16 Except as provided in this CCA with respect to Default,
17 schedules, remedies, budgets, suspension, withdrawal and
18 termination the PG&E representative's role is limited to
19 decisions that affect the PG&E Modifications, and PG&E will
20 have no role in decisions relating solely to the
21 Transmission Line. Except as provided in this CCA with
22 respect to Default, schedules, remedies, budgets,
23 suspension, withdrawal and termination, neither
24 representative from Trans-Elect or Western will have a role
25 in decisions relating solely to the PG&E Modifications. The
26 representatives of each of Western, Trans-Elect and PG&E
27 shall have a role in all decisions relating to the
28 coordination of the Transmission Line Work and the PG&E
29 Modifications. Each Party shall also identify a second
30 person who shall be an executive officer of such Party and
31 who shall be available to provide a "second opinion" on
32 behalf of such Party if that Party's representative is

1 unable to reach a consensus with the other two
2 representatives on the Coordination Committee. The manner
3 in which such second opinion shall be solicited and obtained
4 is set forth in Section 6.7.

5 6.3 Coordination Committee Chair. The representative appointed
6 by Western shall be the initial chair of the Coordination
7 Committee, and Western's representative shall continue as
8 Chair as long as Western is the Project Manager. Sixty days
9 after commencement of commercial operation, Western will
10 vacate its Project Management role, and at that time, the
11 Coordination Committee or its successor will elect a new
12 chair.

13 6.4 Alternate: Each Party shall designate an alternate
14 representative. In the event that the Party's Coordination
15 Committee representative is absent, the alternate will make
16 decisions and vote on behalf of that Party's absent
17 representative. In the event a Party is aware that both the
18 Coordination Committee representative and the designated
19 alternative will be absent, that Party may designate a
20 temporary alternative by providing written or electronic
21 notice to all Parties.

22 6.5 Ex Officio Members. The Coordination Committee may designate
23 an individual or individuals to serve as ex officio members,
24 secretaries and treasurer for the Coordination Committee,
25 and any other committee created by the Coordination
26 Committee, and such ex officio members and secretaries shall
27 arrange meetings, draft and distribute agendas, monthly
28 reports, milestone tracking reports and other preparatory
29 materials, and draft and distribute minutes of all
30 Coordination Committee meetings. Costs incurred by such
31 designees, committee members and related Project Work shall
32 be Project Costs, allocable to the Party, which incurs such

1 costs. Any such ex officio members are not entitled to vote
2 on any matter before the Coordination Committee.

3 6.6 Coordination Committee Voting. All actions or decisions by
4 the Coordination Committee shall be by unanimous consensus.
5 Except as provided in this CCA with respect to Default,
6 schedules, remedies, budgets, suspension, withdrawal, or
7 termination, PG&E shall have no vote on issues relating
8 solely to the Transmission Line. Except as provided in
9 this CCA with respect to Default, schedules, remedies,
10 budgets, suspension, withdrawal, or termination, neither
11 representative from Trans-Elect or Western will have a role
12 in decisions relating solely to the PG&E Modifications. The
13 representatives of each of Western, Trans-Elect and PG&E
14 shall have a vote in all decisions relating to the
15 coordination of the Transmission Line Work and the PG&E
16 Modifications.

17 6.7 In the event that consensus cannot be reached, the following
18 procedure shall apply to all decisions except those
19 identified in Section 6.6. The other two Coordination
20 Committee members may jointly request a "second opinion"
21 from the Non-consenting Party. When a "second opinion" is
22 requested, the proposed action or decision shall be
23 submitted to the executive officer identified by the Non-
24 consenting Party pursuant to Section 6.2, and such executive
25 officer shall promptly deliver a response to the
26 Coordination Committee. If the "second opinion is in favor
27 of the action or decision proposed by the other two
28 Coordination Committee members, a consensus shall be deemed
29 to have been reached. If the "second opinion" supports the
30 position taken by the Non-consenting Party representative,
31 then the executive officer who provided that "second
32 opinion" may request a "second opinion" with respect to the

1 same proposed change, action or decision from the executive
2 officers identified by the other Parties pursuant to Section
3 6.2. If the three executive officers are then unable to
4 reach a consensus, the matter shall be considered to be a
5 dispute subject to resolution in accordance with Article 20
6 of this CCA.

7 6.8 Notwithstanding the other provisions of Section 6, the
8 following items must be approved by unanimous approval and
9 are not subject to "second opinion" or dispute resolution:
10 (1) changes to the scope of the Project including any change
11 to the scope of the PG&E Modifications set forth in Appendix
12 C; and (2) actions that direct or would cause a Party to
13 expend funds in excess of the cost estimates set forth for
14 each item in Exhibit B of the LA.

15 6.9 Coordination Committee Meetings. The Coordination Committee
16 shall meet at least monthly, or at such times and locations
17 as reasonably determined by the Chair with input from the
18 other Parties. With the consent of all Parties, a regular
19 monthly meeting may be cancelled. Regular monthly meetings
20 and additional meetings may be conducted with one or more
21 Coordination Committee members present telephonically, so
22 long as all Parties' representatives can hear each other
23 contemporaneously and are assured as to the other Parties'
24 representatives identity. Special meetings of the
25 Coordination Committee may be held at reasonable and
26 mutually convenient times and places upon the request of any
27 Party. All members of the Coordination Committee must be
28 present in person or telephonically to constitute a quorum
29 of the Coordination Committee. Any action or decision taken
30 by the Coordination Committee may be taken without a meeting
31 by a written consent signed by all Coordination Committee
32 members.

1 6.10 General Authority of Coordination Committee. The
2 Coordination Committee shall coordinate all Project Work and
3 the Project Schedule established by the Parties and monitor
4 and review and approve the initial Project Budget. The
5 Coordination Committee shall adopt policies and procedures,
6 establish and abolish subcommittees, and, consistent with
7 Section 6.6, take such other action that it deems necessary
8 to complete the overall Project. The Coordination Committee
9 shall be responsible for coordinating with PG&E and the TLCC
10 to ensure that the design, development, and construction of
11 the PG&E Modifications and the Transmission Line are
12 effectively, efficiently and economically coordinated within
13 the overall Project Schedule.

14 6.11 Limitations on Coordination Committee Roles. Trans-Elect's
15 participation in the Coordination Committee is solely for
16 the purpose of protecting its investment in the Project.
17 PG&E's participation in the Coordination Committee is solely
18 for the purpose of coordinating the PG&E Modifications with
19 the Transmission Line Work. At no time will Trans-Elect or
20 PG&E have, or be deemed to have, responsibility for
21 management of the transmission facilities included in the
22 Project solely by virtue of participation in the TLCC (by
23 Trans-Elect) or the Coordination Committee (by Trans-Elect
24 or PG&E) for any other purpose whatsoever including, but not
25 limited to, determination whether or not California
26 regulatory jurisdiction exists over Trans-Elect, the
27 Project, the Project Work or any component thereof.

28
29 7 Coordination Contacts. On or promptly after the Effective
30 Date, the Parties shall each identify one representative to
31 serve as a "Coordination Contact", which shall be the primary
32 point of technical and day-to-day contact; construction

1 oversight; cooperation and interchange of construction
2 information; providing construction decisions; oversight of
3 any concerns arising during construction that reasonably
4 could be expected to affect the functionality of the Project
5 and Project facility maintenance; and consultation on a
6 prompt and orderly basis among the Parties; and, at each
7 Party's discretion, may also be such Party's representative
8 on the Coordination Committee to coordinate the communication
9 between the Parties in implementing this Agreement, including
10 the completion of Project Work in accordance with the Project
11 Schedule. Each Party shall notify the other Parties in
12 writing of the person that it appoints as its Coordination
13 Contact. Such appointments may be changed at any time by
14 similar notice. Each Coordination Contact may at any time
15 designate a substitute to act for him or her with respect to
16 any matter or matters. Each Coordination Contact or
17 substitute shall be a responsible person familiar with the
18 operations and Project Work of the Party which he or she
19 represents. Each Coordination Contact or substitute shall be
20 available during regular business hours in California. Each
21 Party shall have a procedure to reach the Coordination
22 Contact, substitute or appropriate personnel in case of
23 emergencies. Each Coordination Contact shall be responsible
24 for providing to the Project Manager the monthly reports
25 described in Section 18 of this CCA.

26
27 **8 PG&E MODIFICATIONS:**

28 **8.1 Responsibility:** PG&E shall have sole responsibility for all
29 aspects of the PG&E Modifications, provided that PG&E shall
30 coordinate the completion of the PG&E Modifications with the
31 Project Manager so as to maintain an overall completion of
32 Project Work in accordance with the Project Schedule.

1 PG&E's responsibility under this CCA is limited to only
2 PG&E's Modifications.

3 8.2 Costs: PG&E shall be solely responsible for and shall pay
4 promptly when due all costs of the PG&E Modifications,
5 provided that nothing in the foregoing shall be deemed to
6 limit or waive PG&E's right to contest or appeal any such
7 cost or charge to any third party, nor waive any claims or
8 rights that PG&E may have with respect to such costs, nor
9 alter the financial terms of any Special Facilities
10 Agreement which may become effective following a withdrawal
11 or suspension of PG&E hereunder. Upon any Line Party's
12 reasonable request, which, unless a Default by PG&E has
13 occurred and is continuing, shall be no more frequently than
14 monthly, PG&E shall advise the Line Parties of its ability
15 to fund its remaining portion of the PG&E Modifications.
16 PG&E shall pay all costs to maintain and replace the
17 facilities it constructed so as to maintain the
18 functionality of the PG&E Modifications in accordance with
19 Prudent Utility Practice.

20 8.3 Order of the Transmission Line Work and PG&E Modifications.

21 (a) Attached to this CCA, as Appendix B, is a form of
22 Project Schedule. Promptly after the execution
23 hereof the Coordination Committee shall diligently
24 and by unanimous action complete such Project
25 Schedule substantially in the form attached hereto or
26 as otherwise determined as necessary to successfully
27 coordinate construction of the Project, by modifying
28 Appendix B to specify the dates and adding or
29 adjusting the tasks described in the Appendix and the
30 parties responsible for completing said tasks. The
31 Project Schedule shall be finalized and approved
32 within 90 days after execution of this Agreement.

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(b) The table set forth in Section 8.3(c) sets forth the Parties' good faith estimates of the dates of completion of certain Transmission Line Work and PG&E Modification milestones. In the event of a conflict between this table and the finalized Project Schedule adopted under Section 8.3(a), the latter shall control and the dates in the table shall be deemed modified to so conform.

(c) The Parties agree that PG&E need not undertake the tasks set forth in the table set forth below under the heading "PG&E Milestones" until the satisfaction by the Line Parties of the corresponding task on the same numbered line under the heading "T-line Milestones", unless such satisfaction is (i) waived by PG&E in its sole discretion, or (ii) the table or the Project Schedule shall have been unanimously amended or waived by the Coordination Committee. The Parties acknowledge that these milestones assume that engineering, procurement and construction work will be completed through EPC contracts for each of the Transmission Line Work and the PG&E Modifications. The Parties reserve the right to structure contracts as each deems appropriate to complete these milestones in an efficient and timely manner, and agree that if an arrangement other than EPC contracting is used for these milestones, such milestones still apply.

Table I: Milestone Table

T-Line Milestones (approximate date)	PG&E Milestones
--------------------------------------	-----------------

1.	Develop Detailed Project schedule	Develop Detailed Project schedule
2.	Solicit EPC Contract (1/03)	Solicit Substation Engineering and Design Contract within 30 Days
3.	Issue Notice To Proceed to EPC Contractor (5/03)	Issue Notice to Proceed to Substation Engineering and Design within 30 Days
4.	Issue Tower Steel Purchase Orders or Equivalent (Fund EPC Steel Bid Item)	Issue Substation Equipment Purchase Orders within 30 Days
5.	50 % of Tower Foundation Work Completed	Begin Substation Construction Work within 30 days
6.	Terminate Conductor at Substations	Commence Commissioning as Appropriate
7.	All Jumpers Installed at Substations, Transmission Line Released to be Energized	Energize within 14 days or Sooner

1
2 **8.4 Conditions Precedent to PG&E Milestones.** In addition to the
3 conditions set forth in the foregoing clause 8.3(c), before
4 PG&E commences the performance of any particular milestone,
5 each of the following conditions shall have been satisfied
6 by the Line Parties:

7 (a) (1) No Default by Trans-Elect or Western shall
8 have occurred and be continuing under this CCA; (2)
9 there shall not exist any condition, event or act
10 which upon the passage of time, the giving of notice
11 or both would constitute a Default by Trans-Elect or
12 Western; and (3) no default or event of default by
13 Trans-Elect or Western shall have occurred and be
14 continuing under the MOU, the LA or the COIA (to the
15 degree that each of the foregoing is at such time in
16 force and effect).

17 (b) The representations and warranties of Trans-Elect
18 set forth in this CCA shall have been true and correct
19 as of the Effective Date and shall remain true and
20 correct as of the date of the commencement of such
21 portion of the PG&E Modifications.

22 **8.4.1.** The above conditions may be amended by the

1 Coordination Committee or waived by PG&E or the
2 Coordination Committee.

3
4 9 TRANSMISSION LINE WORK:

5 9.1 Transmission Line Coordination Committee ("TLCC"):

6 9.1.1. Establishment: The Line Parties hereby establish a
7 TLCC. Each Line Party will have an equal role in the
8 TLCC. PG&E will have no role in the TLCC. The TLCC's
9 duties will include the development of all Transmission
10 Line bid specifications. The TLCC shall continue until
11 it is replaced by a successor structure. The Line
12 Parties may replace the TLCC with a new structure sixty
13 (60) days after commencement of commercial operation or
14 any time thereafter. The new structure and duties shall
15 be recorded and approved by the existing TLCC. The TLCC
16 shall ensure the timely completion and initial operation
17 of the Transmission Line and further ensure that all
18 necessary on-going Transmission Line Work is completed
19 in a manner that preserves the functionality of the
20 transmission line in accordance with Prudent Utility
21 Practice. The TLCC shall approve by consensus the
22 portion of the Project Budget related to the
23 Transmission Line Work to be submitted to the
24 Coordinating Committee.

25 9.1.2. Representation: Trans-Elect and Western shall each
26 have one representative on the TLCC. Such
27 representative may be, but need not be, each such
28 Party's Coordination Contact. If invited by Trans-Elect
29 or Western, PG&E (either through its Coordination
30 Contact or another authorized representative) may attend
31 any TLCC meeting, provided that PG&E is under no
32 obligation to do so. Each of Trans-Elect and Western

1 shall also designate a second person, having authority
2 to speak for and bind such Line Party, as a "second
3 opinion" point of contact for the "Voting" section
4 below.

5 9.1.3. Chair: Trans-Elect shall be the chair of the TLCC
6 through commencement of commercial operation of the
7 Project. The TLCC or its successor may appoint a new
8 chair after commencement of commercial operation.

9 9.1.4. Alternate: Each Line Party shall designate an
10 alternate. In the event that the Party's TLCC
11 representative is absent, the alternate will make
12 decisions and vote on behalf of that Party's absent
13 representative. In the event a Party is aware that both
14 the TLCC representative and the designated alternative
15 will be absent, that Party may designate a temporary
16 alternative by providing written or electronic notice to
17 all Parties.

18 9.1.5. Voting: All actions or decisions by the TLCC shall be
19 by consensus between the Line Parties. If the members
20 of the TLCC cannot agree on a particular proposed
21 action, then the TLCC representative who is the
22 proponent of the proposed action may request a "second
23 opinion" from the Line Party (the "Non-consenting Line
24 Party") whose representative does not agree with the
25 proposed action or decision. When a "second opinion" is
26 requested hereunder, the proposed action shall be
27 submitted to the executive officer identified by the
28 Non-consenting Line Party under the "Representation"
29 section above, and such executive officer shall promptly
30 deliver a response to the TLCC. If the "second opinion"
31 is in favor of the action or decision proposed by the
32 other TLCC member, a consensus shall be deemed to have

1 been reached. If the "second opinion" supports the
2 position taken by the TLCC representative appointed by
3 the Non-consenting Line Party, then the executive
4 officer who provided that "second opinion" may request a
5 countervailing opinion with respect to the same proposed
6 action from the executive officer identified by the
7 other TLCC Line Party. If the two executive officers
8 are then unable to reach a consensus, the matter shall
9 be considered to be a dispute subject to resolution in
10 accordance with Section 20 of this CCA.

11 9.1.6. Meetings: The TLCC shall meet at least monthly, at
12 times and locations reasonably determined by the Chair.
13 With the consent of all TLCC members a regular meeting
14 monthly meeting may be cancelled. In addition to
15 assembled meetings, meetings, at the request of either
16 Party, also shall be conducted telephonically, so long
17 as all Parties' representatives can hear each other
18 contemporaneously and are assured as to the other
19 Parties' representatives identity. Special meetings of
20 the TLCC may be held at reasonable and mutually
21 convenient times and places at the request of either of
22 Trans-Elect or Western.

23 9.2 Provision of TE Security: Trans-Elect will provide the TE
24 Security and shall have responsibility for managing the
25 drawing of funds from the TE Security and making such funds
26 available on a timely basis to the Trust Account.

27 9.3 Funding and Payments:

28 9.3.1. General: Trans-Elect shall pay Western \$4,277,658,
29 on December 31, 2002. Following the initial payments,
30 Trans-Elect shall make payment in full for any amounts
31 owed in accordance with this CCA within twenty-five
32 (25) calendar days from the date on which an invoice

1 was received, regardless of any dispute which may
 2 exist as to any part of such invoice. Bills shall be
 3 considered paid when payment is received by Western.
 4 Western will assess a fee of twenty-five dollars
 5 (\$25.00) for processing a late payment. Payments
 6 received will first be applied to the charges for late
 7 payment assessed on the principal and then to payment
 8 of the principal. In addition to the late payment,
 9 interest will be charged to the extent Western uses
 10 appropriated funds to cover expense short falls
 11 created by bills not paid in full by the due date.
 12 Interest shall be charged at three hundredths percent
 13 (0.03%) of the principal sum unpaid for each day
 14 payment is delinquent, to be added until the amount
 15 due is paid in full. Upon PG&E's reasonable request,
 16 which, unless a Default by either Line Party has
 17 occurred and is continuing shall be no more frequently
 18 than monthly, Western as Project Manager shall advise
 19 PG&E of the ability of the Line Parties and/or the
 20 TLCC (as the case may be) to fund the remaining
 21 portion of the Transmission Line Work.

22 9.3.2. Advance Payments: The Line Parties shall be
 23 responsible for paying 60 days in advance into the
 24 Trust Account the costs of budgeted Transmission Line
 25 Work performed by Western. In the event the cost of
 26 the Transmission Line Work exceeds or has not been
 27 provided for in the budget, such items shall first be
 28 provided to the TLCC for its approval. If the TLCC
 29 approves such items, the Line Parties shall be
 30 responsible for paying 60 days in advance into the
 31 Trust Account for such costs.

32 9.3.3. Billing: Western, as Project Manager, will be

1 responsible for all billing of Trans-Elect in
2 accordance with Section 6.1 of the LA.
3 Notwithstanding any other provision of this CCA,
4 Western has no authority or basis to bill PG&E for any
5 cost. In the event that Trans-Elect fails to provide
6 funding to Western, for deposit into the Trust
7 Account, based on the expected funding necessary to
8 construct the Transmission Line and perform the
9 Transmission Line Work, then Western as Project
10 Manager may utilize the TE Security for such funds as
11 permitted under the provisions of Section 9.3.4.
12 Western shall not be required to perform any work
13 pursuant to this CCA until sufficient funds are in the
14 Western controlled Trust Account. All funds remaining
15 upon completion of the Initial Work shall be rolled
16 into Transmission Line Work.

17 9.3.4. TE Security for Line Parties Funding: Under the
18 direction of the TLCC, the TE Security will be
19 provided to secure the funds to be used by Western so
20 long as Trans-Elect is a participant in the project
21 and has not terminated the CCA or been removed from
22 the project or exercised its rights under Section
23 11.8. Trans-Elect will authorize disbursements to
24 Western from the TE Security or assign the right to
25 draw upon the TE Security to Western for the purpose
26 of funding work which Western has already performed or
27 scheduled, exclusive of prior work as defined in
28 Section 14.1, for a period of up to 60 days from the
29 date that Trans-Elect has failed to make an advance
30 payment required under Section 9.3.2. The TE Security
31 shall be reduced, dollar for dollar, by the amount of
32 any funds advanced by Trans-Elect to Western and/or

1 the Trust Account for work identified in this CCA or
2 approved by the TLCC. In the event that Western
3 utilizes the TE Security or in the event that the TE
4 Lenders exercise their rights under Section 9.5 to
5 complete the Project after a Trans-Elect default,
6 Trans-Elect shall retain all of its rights to receive
7 its proportional share of Transmission Systems Rights
8 as set forth in Section 11.5.2.

9 9.3.5. Trust Account: Funds provided by Trans-Elect or
10 drawn from the TE Security in accordance herewith will
11 be transferred into the Trust Account for Western,
12 within the United States Treasury, where funds will be
13 held prior to commitment, obligation, and expenditure
14 in accordance with this CCA. No interest will be
15 earned on the funds in the Trust Account. Western
16 will administer the Trust Account.

17 9.4 EPC Contract for Transmission Line Work: Western shall enter
18 into an EPC contract for the Transmission Line Work. The
19 TLCC shall have a limited role in aspects of the procurement
20 process. Its role is limited to reviewing and providing
21 input on: (a) the solicitation before publication and (b)
22 any amendments that have an adverse effect on the funding or
23 scheduling after publication. In the event a need arises to
24 make such an amendment to the solicitation, Western shall
25 provide the proposed amendment to the TLCC. The TLCC shall
26 review and provide input on the amendment within three
27 business days or request an extension of time. In the event
28 TLCC fails to provide approval or a request an extension of
29 time, the amendment shall be deemed approved. Western will
30 notify Trans-Elect of the contract award at the same time
31 that Western notifies the successful bidder. In the event
32 any member of the TLCC determines that the contract does not

1 conform in material respects to the solicitation together
2 with any amendments, and that such non-conformation will
3 have an affect on Trans-Elect's ability to raise financing
4 to satisfy Trans-Elect's obligations under Section 9.3, any
5 member of the TLCC may notify Western not to issue the
6 notice to proceed to the EPC contractor. Such notice must
7 be received by Western no later than fourteen days after
8 Western issues the award. In the event Western receives
9 such a notice, Western will work with the TLCC and the
10 contractor to modify the contract to satisfy the financing
11 concerns. The EPC contract shall include a clause that
12 provides in the event of a delay in the completion of the
13 Transmission Line Work that the contractor shall pay
14 liquidated damages to Western. Western shall deposit
15 liquidated damages received pursuant to the EPC contract
16 into the Trust Account. The liquidated damages shall be
17 used to offset Project Costs in the following manner.

- 18 (a) Trans-Elect must inform Western of the increased
19 costs it has incurred because of the delay that
20 obligates the EPC contractor to pay liquidated
21 damages.
- 22 (b) Trans-Elect's additional costs due to the delay
23 must be based on its actual costs and may not
24 exceed the amount of liquidated damages paid by
25 the EPC contractor. In the event Western receives
26 such notice and after Western receives the
27 liquidated damages from the EPC contractor,
28 Western will reduce Trans-Elect's payment
29 obligation for the next month in an amount
30 equivalent to the additional costs that Trans-
31 Elect has incurred. In the event Trans-Elect's
32 monthly invoice is less than the amount of

1 additional costs due to the delay, Western shall
2 pay Trans-Elect from the Trust Account. In no
3 event will Western's obligations to reduce Trans-
4 Elect's payment obligation or to pay Trans-Elect
5 under this section, exceed the amount of
6 liquidated damages actually received by Western.

7 9.5 Financing of Transmission Line: Upon a Financing Closing

8 Date, if requested by Trans-Elect, the T-E Lenders and the
9 Parties shall enter into an agreement (the Lenders Consent
10 Agreement) in form and substance reasonably satisfactory to
11 the T-E Lenders and the Parties. Such Lenders Consent
12 Agreement will include provisions stating:

- 13 (a) PG&E's and Western's consent to a collateral
14 assignment by Trans-Elect to the T-E Lenders of all
15 of Trans-Elect's rights under the MOU, the LA, this
16 Agreement and the COIA;
- 17 (b) the right of the T-E Lenders to cure Defaults by
18 Trans-Elect or Western under any of such assigned
19 agreements; including, but not limited to, the right
20 to complete and construct the Project after a
21 Default; and
- 22 (c) that upon the occurrence of a Project Transfer
23 Trigger Event the T-E Lenders shall have the right
24 to implement an agreement that:
 - 25 (i) conveys a 30 year leasehold interest in the
26 Transmission Line and the Transmission
27 Line Assets (in its existing state as a
28 work in progress) to the T-E Lenders or a
29 designee or assignee of the T-E Lenders
30 (collectively, the "Lenders' Designee").
31 The conveyance of the leasehold shall be
32 subject to the Project Entitlements as

1 provided for in Section 3 of the Letter
2 Agreement and such conveyance does not
3 alter any Party's Project Entitlement in
4 the Project;

5 (ii) provides that the leasehold interest shall
6 include an easement or other satisfactory
7 grant of access to lands held by Western
8 which are necessary to permit the
9 completion of the construction and the
10 siting of the Transmission Line; and

11 (iii) provides the T-E Lenders or the T-E
12 Lenders' Designee with the following
13 rights under each of the conditions
14 defined herein: (A) upon completion of the
15 Transmission Line by or on behalf of the
16 T-E Lenders or the Lenders' Designee, if
17 the rights of the Parties can be fully
18 restored in such a manner to assure the
19 Lenders' Designee that the cash flow from
20 the Entitlements will be sufficient to
21 service the loans outstanding under the
22 Financing Documents with at least the same
23 debt service coverage as was projected as
24 of the most recent Financing Closing Date,
25 the T-E Lenders or the Lender's Designee
26 shall terminate the leasehold and convey,
27 free of charge, the Transmission Line and
28 Transmission Line Assets free of liens
29 back to Western, and the rights of the
30 Parties under the MOU, LA, CCA and COIA
31 shall be fully restored; (B) if, upon
32 completion of the Transmission Line by or

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on behalf of the T-E Lenders or the Lenders' Designee the rights of the Parties under this Agreement cannot be fully restored in such a manner to assure the Lenders' Designee that the cash flow from the Entitlements will be sufficient to service the loans outstanding under the Financing Documents with at least the same debt service coverage as was projected as of the most recent Financing Closing Date, the T-E Lenders or the Lenders' Designee shall retain the long term leasehold interest, and may convey such interest and rights to a third party on such terms as the T-E Lenders or T-E Lenders' Designee and such third party may agree, with Western retaining a first right of offer to purchase the leasehold interest; and (C) if the T-E Lenders or the Lenders' Designee elect not to complete the Transmission Line, Western shall use the exemption from the Administrator of the General Services Administration from otherwise applicable federal regulations regarding the sale of federal property (as referenced in Section 11.5.1 herein) to sell or otherwise dispose of the remaining Transmission Line Assets and other salvageable property of the Project and to pay the proceeds of such sales to the Parties in conformance with Section 11.5.1; and (D) if the T-E Lenders or the

1 Lenders' Designee elect not to complete
2 the Transmission Line and if Western has
3 not obtained an exemption as described in
4 Section 11.5.1 herein then the T-E Lenders
5 or the Lender's Designee will retain the
6 30 year leasehold interest in the
7 Transmission Line and may dispose of the
8 leasehold interest, with Western retaining
9 a first right of offer to purchase the
10 leasehold interest.

11 (iv) Any disposal of the leasehold by the T-E
12 Lenders or their Designee under this
13 Section 9.5(c) shall be subject to the
14 Project Entitlements as provided for in
15 Section 3 of the Letter Agreement.

16 9.6 Project Transfer Trigger Event. A Project Transfer Trigger
17 Event shall occur when a continuing Financing Default exists
18 at a time when:

19 (a) either (i) Western does not provide satisfactory
20 assurance to the T-E Lenders that (a) the Project
21 will be completed on or before the 180th day after
22 the date specified for such completion in the
23 Project Schedule as in effect on the Financing
24 Closing Date, as such date may be adjusted as
25 provided for in this Agreement and that (b) Project
26 Costs will not exceed the amount set forth in the
27 Project Budget by more than 10%, including the
28 contingency amounts provided for therein (except
29 that any contingency amount related to the funding
30 of the Substation Modifications shall only be
31 included if Trans-Elect is actually providing
32 funding for the Substation Modifications pursuant to

1 Section 11.5.3 as in effect on the Financing Closing
2 Date); or (ii) Western does not provide satisfactory
3 assurance to the T-E Lenders in the event of a
4 Default by PG&E that Western has acted within 90
5 days to proceed to complete the Project and
6 interconnect the Project in case of such Default or
7 to commence all reasonable steps to cure the Default
8 of PG&E, including, but not limited to, commencing
9 the necessary proceedings to permit interconnection
10 of the Transmission Line to the PG&E system and
11 commencing any condemnation action as provided for
12 in Section 11.3; and,

13 (b) Trans-Elect is not in Default under any of its
14 material obligations: For purposes of determining
15 whether Trans-Elect is in Default, neither of the
16 following shall be considered a Default of its
17 material obligations: (i) a failure to provide
18 funding under Section 9 shall not be considered a
19 default for this purpose if any occurrence or
20 circumstance relating to Western, PG&E or the
21 Project has resulted in a failure of a condition
22 precedent to the T-E Lender's obligation to provide
23 funding under the Financing Documents and (ii) the
24 bankruptcy of Trans-Elect shall not be considered a
25 Default for this purpose if the T-E Lenders make
26 funding available to meet Trans-Elect's funding
27 commitments under the CCA.

28 (c) Except as may be provided in the Lender's Consent
29 Agreement, nothing in the foregoing modifies the
30 Default provisions contained in Section 11.1 or
31 11.2.

32 9.7 The Parties acknowledge that Trans-Elect will capitalize and

1 include all costs and fees incurred by Trans-Elect relating
2 to the development, financing, underwriting and contracting
3 and construction of the Project in Trans-Elect's share of
4 Project Costs for inclusion in the Project's tariffed rates
5 and for allocation of TSRs.

6 9.8 Limited Participation. Trans-Elect's participation in the
7 TLCC is solely for the purpose of protecting its investment
8 in the Project. At no time will Trans-Elect have, or be
9 deemed to have, responsibility for management of the
10 transmission facilities included in the Project solely by
11 virtue of participation in the TLCC for any purpose
12 whatsoever including, but not limited to, determination
13 whether or not California regulatory jurisdiction exists
14 over Trans-Elect, the Project, the Project Work or any
15 component thereof.

16 9.9 Special Purpose Entity: Trans-Elect, at its sole option, may
17 create a Special Purpose Entity for the purpose of obtaining
18 or funding the financing required to fulfill Trans-Elect's
19 commitments with respect to the Project. In order for the
20 Special Purpose Entity to be assigned all of the rights and
21 obligations of Trans-Elect under the CCA related to the
22 financing of the project, thereby releasing Trans-Elect from
23 all such obligations, the Special Purpose Entity must be
24 able to access the proceeds of the financing and the T-E
25 Lenders must consent to the assignment of Trans-Elect's
26 rights to the Special Purpose Entity. To the extent that
27 Trans-Elect (or the Special Purpose Entity) has any funding
28 obligations under Section 9.3, Western shall have the right
29 to examine the Financing Documents and approve or disapprove
30 those terms of the Financing Document which grant access to
31 the financing proceeds to the Special Purpose Entity and
32 those terms or conditions which would result in a Financing

1 Default, which approval shall not be unreasonably withheld.

2
3 10 DEFAULTS: A Party shall be in Default if:

4 10.1 It is a Line Party and it fails to make payments in
5 accordance with this CCA;

6 10.2 It shall fail to perform, comply with or observe or shall
7 otherwise breach any one or more terms, obligations,
8 covenants or agreements contained in this CCA, including but
9 not limited to a failure to perform work in accordance with
10 the Project Schedule;

11 10.3 Any representation or warranty of such Party made in this
12 CCA, the MOU or the LA or any other documents or agreements
13 executed in connection with the transactions contemplated by
14 this CCA shall prove to have been false or misleading in any
15 material respect upon the date when made or when deemed to
16 have been made;

17 10.4 It shall lose, have suspended or have revoked, or fail to
18 renew, any license or permit now held or hereinafter
19 acquired if such loss, suspension, revocation or failure to
20 renew could reasonably be expected to have a material
21 adverse effect on the Project, the Transmission Line Work,
22 or the PG&E Modifications;

23 10.5 With respect to Trans-Elect, if a receiver or liquidator or
24 trustee of Trans-Elect or of any of its property shall be
25 appointed by a court of competent jurisdiction and such
26 receiver, liquidator or trustee shall not have been
27 discharged within thirty (30) days or by decree of a court
28 Trans-Elect shall be adjudicated bankrupt or insolvent or
29 any substantial part of its property shall have been
30 sequestered, and such decree shall have continued
31 undischarged and unstayed for a period of thirty (30) days
32 after the entry thereof, or a petition to file bankruptcy or

1 to reorganize Trans-Elect pursuant to any of the provisions
2 of the federal bankruptcy Code, as now in effect or as it
3 may hereafter be amended, or pursuant to any other similar
4 state statute as now or hereafter in effect, shall be filed
5 against Trans-Elect and shall not be dismissed within thirty
6 (30) days, or if such petition shall be voluntarily filed by
7 Trans-Elect.

8 10.6 With respect to PG&E, if Bankruptcy Court revokes approval
9 to expend funds to implement the PG&E Modifications.

10 10.7 Western shall not be considered in default if unable to meet
11 schedules due to Trans-Elect's inability to provide funds in
12 a timely and sufficient manner. Nothing in this Section
13 shall affect the rights accorded the T-E Lenders or their
14 Designee in Sections 9.5 and 9.6.

15
16 11 REMEDIES:

17 11.1 At any time following Default hereunder, any non-defaulting
18 Party may provide a Notice of Default to the defaulting
19 Party demanding a cure. The defaulting Party shall have ten
20 (10) days (for any monetary Default) or ninety (90) days
21 (for all other Defaults) (such period the "Cure Period")
22 following the transmission of such Notice of Default in
23 which to cure such Default or, if the Default is non-
24 monetary and of a nature which cannot be cured in such Cure
25 Period, to commence curing such Default and thereafter
26 diligently prosecute such cure to completion. A failure to
27 so cure (or commence cure and thereafter diligently pursue
28 the same to completion) within such Cure Period shall,
29 without limitation of any other rights or remedies of the
30 non-defaulting Parties hereunder, immediately suspend all
31 rights and privileges (but not duties, liabilities or
32 obligations) of such defaulting Party, provided that, as

1 between the Line Parties, and unless otherwise agreed to in
2 writing by the Line Parties, Western may by notice to the
3 other Parties assume a defaulting Line Party's obligations
4 from that date forward.

5 11.2 Suspension. All rights and privileges (but not duties,
6 liabilities or obligations) of any defaulting Party which
7 has failed to cure (or commence to cure and thereafter
8 diligently pursue the same to completion) its Default within
9 an applicable Cure Period, as more fully set forth in
10 Section 11.1, shall be suspended until such Default is
11 cured. For purposes of clarification, such suspended rights
12 and privileges shall include the ability to provide a Notice
13 of Default to any other party hereto and to declare a Force
14 Majeure. If a defaulting Party's rights and privileges are
15 so suspended for three consecutive months (subject to the
16 application of the proviso regarding Line Party succession
17 in Section 11.1), the non-defaulting Parties, without
18 liabilities, may remove such Party from the Project as
19 specified in Section 11.3.

20 11.3 Withdrawal, Removal and Termination.

21 (a) In the event Western is the defaulting Party, a non-
22 defaulting Party may terminate this CCA with the consent
23 of all the non-defaulting Parties and written
24 concurrence from the Secretary of Energy by providing
25 notice to Western and the other Party after the
26 expiration of the period set forth in Section 11.2. In
27 the event of such Default, a non-defaulting Party may
28 terminate this CCA only upon the later of (i) all non-
29 defaulting parties providing written notice of
30 termination as described in the first sentence of this
31 Section 11.3(a), or (ii) the acceptance of a filing at
32 FERC of a notice of termination for the CCA. After the

1 expiration of the period set forth in Section 11.2, the
2 non-defaulting Parties by unanimous vote and with the
3 consent of the Secretary of Energy may remove Western
4 from the Project. Alternatively, Trans-Elect and/or the
5 T-E Lenders may cease further funding of the Project or
6 exercise their rights under the Lender's Consent
7 Agreement and the provisions of Section 9.5 in the event
8 of a Project Transfer Trigger Event.

9 (b) In all other Defaults, the Project Manager may
10 remove the defaulting Party by providing notice to the
11 defaulting Party and the non-defaulting Party after the
12 expiration of the period set forth in Section 11.2.
13 Subject to the Line Party succession right set forth in
14 Section 11.1, in the event of such Default and removal,
15 the remaining Parties shall then take action in
16 accordance with Section 11.5. In the event of Default
17 by Trans-Elect, the T-E Lenders shall be entitled to
18 exercise their rights under Section 9.5, including the
19 right to attempt to cure any Default then in effect on
20 the part of Trans-Elect. If PG&E Defaults and is
21 removed or terminated from the Project, Western shall
22 enter into the Special Facilities Agreement, the form of
23 which shall be agreed to by the Parties within 90 days
24 of the execution of this document and which will be
25 attached as Appendix D to this CCA. Western may seek to
26 condemn rights to the access necessary to complete the
27 interconnection of the Project to PG&E's system.

28 Nothing in this CCA precludes PG&E's from contesting any
29 condemnation proceeding or seeking compensation
30 therefor. Within 90 days from the execution of this
31 CCA, the Special Facilities Agreement shall be
32 negotiated and attached as Appendix D to this CCA. The

1 Parties recognize that the costs under the Special
2 Facilities Agreement will differ from those in the
3 Project Budget. Trans-Elect and Western shall modify
4 the Project Budget accordingly. Trans-Elect shall fund
5 such additional costs under the same terms and
6 conditions as it provides funding for the Transmission
7 Line Work.

8 (c) If an Adverse Agency Action (as defined in Section
9 11.4) occurs and continues as described in Section
10 11.4(c) and 11.4(d) then (i) Trans-Elect or PG&E may
11 withdraw from this CCA and the LA without liability to
12 the other Parties upon written notice provided to the
13 other Parties, or (ii) the Project Manager in its sole
14 discretion and without liability may remove the affected
15 Party from the Project. In each case above (A) such
16 withdrawal or removal is subject to Section 11.5 and (B)
17 nothing in this Section 11.3(c) shall constitute or be
18 deemed to be a waiver by either Line Party of its rights
19 to obtain an interconnection agreement with PG&E for the
20 Transmission Line, pursuant to the Federal Power Act and
21 the implementation orders of FERC. In the event an
22 Adverse Agency Action takes place and the Line Parties
23 seek an interconnection pursuant to the Federal Power
24 Act, the Parties shall execute a Special Facilities
25 Agreement, as provided for in Section 11.3(b) above, to
26 govern the construction of the PG&E Modifications in
27 accordance with the Project Schedule, promptly after a
28 withdrawal or removal under this Section 11.3(c). In
29 the event that the Parties enter a Special Facilities
30 Agreement and subsequently the Adverse Agency Action is
31 favorably terminated, the Parties may agree to suspend
32 the Special Facilities Agreement and restore the

1 affected Party to this CCA on a basis mutually agreeable
2 to the Parties.

3 11.4 Adverse Agency Action.

4 (a) An "Adverse Agency Action" shall exist: (i)
5 immediately upon the issuance of a decision, order, or
6 ruling, of the CPUC, a CPUC Commissioner, or a CPUC
7 Administrative Law Judge ordering PG&E not to
8 participate in the Project, or (ii) immediately upon the
9 issuance of a decision, order or ruling of the CPUC, a
10 CPUC Commissioner, or a CPUC Administrative Law Judge
11 ordering any Party to apply for a Certificate of Public
12 Convenience and Necessity and/or a Permit to Construct
13 for the Path 15 Project. The issuance of a proposed
14 decision or an alternate decision is not an Adverse
15 Agency Action.

16 (b) The Party subject to an Adverse Agency Action under
17 clause (a)(i) shall have the right to stop work under
18 this CCA and the LA immediately upon the occurrence of
19 such Adverse Agency Action, (ii) shall notify the other
20 Parties of its intent to appeal the Adverse Agency
21 Action to the appropriate regulatory or judicial body
22 within 15 days of such Adverse Agency Action and of the
23 steps that the affected Party will take to address the
24 Adverse Agency Action and shall commence and thereafter
25 diligently prosecute the same unless this CCA is earlier
26 terminated or such affected Party is removed from this
27 CCA pursuant to Section 11.3 of this CCA, and
28 (iii) shall have the right in its sole discretion, but
29 not the obligation to pursue further appeals of any
30 order or decision constituting an Adverse Agency Action,
31 provided, that any appeal shall not toll the period of
32 time set forth in Section 11.3(b).

1 (c) If Adverse Agency Action has continued for at least
 2 fifteen days and if the non-affected Parties'
 3 Coordination Committee Members reasonably determine that
 4 such Adverse Agency Action will delay the date of final
 5 Project completion, as set forth in the Project Schedule
 6 then the removal and withdrawal provisions in Section
 7 11.3(c) shall immediately become available.

8 (d) If the non-adversely affected Parties' Coordination
 9 Committee Members determine the Adverse Agency Action
 10 will not affect the final completion of the Project, the
 11 Adverse Agency Action may continue for up to 120 days
 12 before the removal or withdrawal provisions in Section
 13 11.3(c) shall apply. Such adversely affected party
 14 shall not have any liability to the other Parties as a
 15 result of the Adverse Agency Action.

16 11.5 Consequences of withdrawal or removal. In the event a Party
 17 chooses to withdraw or is removed, that Party will have no
 18 further role in the Project or on any committee. The
 19 remaining Parties will consult to determine whether to
 20 terminate this CCA and the Project Work or to continue the
 21 Project.

22 11.5.1. In the event the remaining Parties choose to
 23 terminate the Project, to the extent allowed by law,
 24 the Parties shall be entitled to obtain compensation
 25 for their past contributions from whatever assets of
 26 the Project can be refunded, salvaged or liquidated in
 27 proportion to their relative contributions. The Line
 28 Parties shall only obtain compensation from the
 29 Transmission Line Assets. PG&E shall only obtain
 30 compensation from the PG&E Modifications. Pursuant to
 31 federal property disposal laws, Western shall use its
 32 best efforts to obtain from the Administrator of the

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General Service Administration, or its successor, an exemption from the federal disposal regulations regarding the disposal of federally-owned Path 15 Upgrade Project property that would permit Western to compensate the Parties from the proceeds of the disposal in the event of a decision by the Parties to terminate the Project as described in this Section. Subject to the requirements and procedures for the disposition of property owned by Western, including the above-referenced exemption, the compensation to other Parties may be in the form of Assignments, rights, or title to property or the proceeds from the disposition of such property. Nothing in this section entitles any Party to obtain compensation if federal property disposal laws or regulations preclude it. In the event the Project sustains any damages due to the withdrawing or removed Party and proceeds to the withdrawing or removed Party are available under this Section 11.5.1, the damages shall first be deducted from the proceeds.

11.5.2. In the event the remaining Parties proceed with the Project and the withdrawing or removed Party is a Line Party, the withdrawing or removed Party shall receive a share of the transmission system rights of the Project, upon commencement of commercial operation, based on its contribution to the overall cost of the Project; provided, however, any costs or damages sustained by the Project as a result of the withdrawal or removal of such Party will be deducted from the withdrawing or removed Party's financial contribution before determining the Party's interests.

11.5.3. In the event the remaining Parties proceed with the

1 Project and the withdrawing or removed Party is PG&E,
 2 then the Line Parties may enter into a Special
 3 Facilities Agreement with PG&E, as set forth in
 4 Section 11.3(b) above and PG&E may include its costs
 5 for the PG&E Modifications in the Special Facilities
 6 Agreement, provided in the event of dispute, PG&E's
 7 costs will be subject to FERC review. Any costs or
 8 damages sustained by the Project as a result of the
 9 withdrawal or removal will be deducted from the amount
 10 that PG&E includes in its costs. In the event PG&E
 11 withdraws due to an Adverse Agency Action and the Line
 12 Parties enter into a Special Facilities Agreement, the
 13 Project may be subject to certain taxes, these taxes
 14 will not be deducted from PG&E's share of the Project.

15 11.6 Survival of Rights. Termination of this CCA or withdrawal or
 16 removal of a Party shall not relieve any Party of any of its
 17 liabilities and obligations arising hereunder prior to the
 18 date termination becomes effective, and each Party may take
 19 whatever judicial or administrative actions as appear
 20 necessary or desirable to enforce its rights hereunder.

21 11.7 Withdrawal by Trans-Elect Prior to Obtaining Financing. The
 22 Parties acknowledge that Trans-Elect's participation in the
 23 Project is predicated on Trans-Elect's ability to procure
 24 equity funding and debt financing for the Transmission Line
 25 Work. If Trans-Elect (or its Special Purpose Entity) is
 26 unable to or determines in good faith that it is unable to
 27 procure such financing on a non-recourse basis on acceptable
 28 terms, then Trans-Elect shall have the right to withdraw
 29 from the Project upon notice to the other Parties. Trans-
 30 Elect must provide such notice within 30 days after the
 31 award of the Transmission Line EPC Contract; however, if
 32 Trans-Elect holds commitment letters for the full amount of

1 funding required to meet its obligations under Section 9.3
 2 then Trans-Elect shall be entitled an additional 15 days
 3 before its right to withdraw under the terms of this section
 4 expire. In the even Trans-Elect requires an additional
 5 fifteen days, it shall provide notice that it will require
 6 the additional fifteen days and copies of the commitment
 7 letters to Western. Further, in the event Trans-Elect
 8 requires an additional fifteen days, Western and PG&E shall
 9 be entitled to make appropriate changes to the Project
 10 Schedule to reflect any modifications to the Project
 11 Schedule that results from the additional fifteen days.
 12 Provided Trans-Elect provides timely notice to withdraw,
 13 neither the absence of such financing nor any such
 14 withdrawal by Trans-Elect shall constitute a Default under
 15 this Agreement. Upon delivery of a notice of withdrawal
 16 neither Trans-Elect nor the Special Purpose Entity shall
 17 have any further obligations or liability under this CCA
 18 from and after the date of the notice of withdrawal except
 19 such liabilities and obligations as may have arisen prior to
 20 the date of such notice. The rights of Trans-Elect under
 21 Section 11.5.1 and 11.5.2 of this CCA shall be unaffected by
 22 any such withdrawal.

23
 24 **12 REPRESENTATIONS AND WARRANTIES**

25 **12.1 Trans-Elect Representations and Warranties.** Trans-Elect
 26 makes the following representations and warranties:

- 27 (a) Trans-Elect is duly organized and validly existing
- 28 under the laws of the State of Delaware, is in good
- 29 standing under its certificate of formation and the
- 30 laws of the State of Delaware and all other states
- 31 where the failure to be so qualified could reasonably
- 32 be expected to have a material adverse effect, has the

1 requisite power and authority to own its properties,
2 to carry on its business as now being conducted, and
3 to enter into this CCA and the transactions
4 contemplated herein and perform and carry out all
5 covenants and obligations on its part to be performed
6 under and pursuant to this CCA, and is duly authorized
7 to execute and deliver this CCA and consummate the
8 transactions contemplated herein.

9 (b) Trans-Elect is not prohibited from entering this CCA
10 or discharging and performing all covenants and
11 obligations on its part to be performed under and
12 pursuant to this CCA. The execution and delivery of
13 this CCA, the consummation of the transactions
14 contemplated herein and the fulfillment of and
15 compliance with the provisions of this CCA will not
16 conflict with or constitute a breach of or a default
17 under, or require any consent, license or approval
18 that has not been obtained pursuant to, any of the
19 terms, conditions or provisions of any applicable laws
20 and regulations of any Governmental Authority, the
21 certificate of Trans-Elect or any other contractual
22 limitation, restriction or outstanding trust
23 indenture, deed of trust, mortgage, loan agreement,
24 lease, other evidence of indebtedness or any other
25 agreement or instrument to which Trans-Elect is a
26 party or by which it or any of its property is bound.

27 (c) Trans-Elect has taken all such actions as may be
28 necessary or advisable and proper to authorize this
29 CCA, the execution and delivery hereof, and the
30 consummation of transactions contemplated thereby.

31 (d) This CCA is a legal, valid and binding obligation of
32 Trans-Elect enforceable in accordance with its terms,

1 except as limited by laws of general applicability
2 limiting the enforcement of creditor's rights or by
3 the exercise of judicial discretion in accordance with
4 general principles of equity.

5 **12.2 PG&E Representations and Warranties.** PG&E makes the
6 following representations and warranties:

7 (a) PG&E is duly organized and validly existing under
8 the laws of the State of California, is in good
9 standing under its certificate of formation and the
10 laws of the State of California and all other states
11 where the failure to be so qualified could reasonably
12 be expected to have a material adverse effect, has the
13 requisite power and authority to own its properties,
14 to carry on its business as now being conducted, and
15 to enter into this CCA and the transactions
16 contemplated herein and perform and carry out all
17 covenants and obligations on its part to be performed
18 under and pursuant to this CCA, and is duly authorized
19 to execute and deliver this CCA and consummate the
20 transactions contemplated herein.

21 (b) PG&E is not prohibited from entering this CCA or
22 discharging and performing all covenants and
23 obligations on its part to be performed under and
24 pursuant to this CCA. The execution and delivery of
25 this CCA, the consummation of the transactions
26 contemplated herein and the fulfillment of and
27 compliance with the provisions of this CCA will not
28 conflict with or constitute a breach of or a default
29 under, or require any consent, license or approval
30 that has not been obtained pursuant to, any of the
31 terms, conditions or provisions of any applicable laws
32 and regulations of any Governmental Authority, the

1 certificate of PG&E or any other contractual
2 limitation, restriction or outstanding trust
3 indenture, deed of trust, mortgage, loan agreement,
4 lease, other evidence of indebtedness or any other
5 agreement or instrument to which PG&E is a party or by
6 which it or any of its property is bound.

7 (c) PG&E has taken all such actions as may be necessary
8 or advisable and proper to authorize this CCA, the
9 execution and delivery hereof, and the consummation of
10 transactions contemplated thereby.

11 (d) This CCA is a legal, valid and binding obligation of
12 PG&E enforceable in accordance with its terms, except
13 as limited by laws of general applicability limiting
14 the enforcement of creditor's rights or by the
15 exercise of judicial discretion in accordance with
16 general principles of equity.

17 (e) Without limitation of any of the foregoing, PG&E
18 represents and warrants that PG&E has received
19 approval to enter into this CCA and perform all
20 obligations related thereto, pursuant to Order
21 Granting Debtor's Motion for Order Approving
22 Expenditure of Funds to Upgrade Substations and, if
23 necessary, reconductor a 230 kV Transmission Line to
24 Support the Los Banos-Gates 500 kV Transmission
25 Project (Path 15 Upgrade Project), No. 01-30923 DM
26 (Bankr. N.D.Cal. Feb. 8, 2002).

27
28 **13 PROJECT MANAGEMENT:**

29 **13.1 Designation:** The following supplement the project management
30 duties of the Parties as set forth in Section 4 of the LA:

31 **13.2 Designation:** During the construction of the Project, Western
32 will act as the Project Manager and provide services for

1 managing the day-to-day activities of the Transmission Line
 2 Work and coordination with the PG&E Modifications and
 3 Project budget execution. Western will oversee the Parties'
 4 activities to assist meeting the Project Schedule and
 5 budgets, and see that the Parties cooperate to move the
 6 Project forward. Western will serve in this role until 60
 7 days after commencement of commercial operation, unless
 8 Western is earlier removed from or assigns its rights under
 9 this CCA in which case the remaining Parties shall nominate
 10 the replacement Project Manager. Effective on the 60th day
 11 after commencement of commercial operation, management of
 12 the Project will be determined and governed by the
 13 Coordination Committee or its successor. Western will
 14 ensure that the necessary negotiated Project agreements are
 15 executed; that the Parties actively participate in the
 16 process; that the Parties cooperate to move the Project
 17 forward. Western will also perform lead Federal Agency
 18 efforts for the National Environmental Policy Act process,
 19 will acquire necessary Land rights for the Project, as well
 20 as other functions necessary for the completion of the
 21 Project.

22 **13.3 PG&E Modifications Management:** PG&E will have full
 23 responsibility for all aspects of the PG&E Modifications.
 24 PG&E has the responsibility to coordinate with the Project
 25 Manager, via the Coordination Committee, to complete the
 26 PG&E Modifications in accordance with the completion of the
 27 Transmission Line, Project Schedule and budget.

28 **13.4 Transmission Line Project Management:** Western, with
 29 direction from the TLCC, will have full responsibility for
 30 all aspects of the development of the Transmission Line.
 31 Western has the responsibility to co-ordinate with the
 32 Project Manager and with PG&E to complete the Transmission

1 Line in accordance with the completion of the PG&E
2 Modifications.
3

4 14 PRIOR WORK:

5 14.1 PG&E, Trans-Elect and others have performed certain Project
6 Work in advance of the execution hereof and in so doing have
7 produced work tangible or intangible product in support of
8 the timely completion of the Project. These work products
9 shall be reviewed by the Parties and to the extent agreed as
10 useful and beneficially incurred on behalf of the Project
11 will be credited to the respective entity that provided
12 them. No reimbursement for any such prior work shall be
13 paid from the Initial Funding provided by Trans-Elect
14 pursuant to the LA.

15 14.2 All Transmission Line Work provided by Western in accordance
16 with this Section 14, together with all Transmission Line
17 Work or Initial Work heretofore approved by the TLCC or
18 under the LA or undertaken by Western, shall be reviewed by
19 the TLCC within 120_days of the Effective Date and the TLCC
20 shall within such time approve, authorize, and ratify such
21 work performed as of the Effective Date or shall reasonably
22 request such additional documentation and evidence of
23 expenditures as may be necessary in order for Trans-Elect to
24 conduct due diligence and satisfy itself as to such work.
25 The prior work covered by this Section 14.2 includes but is
26 not limited to:

- 27 (a) The acquisition of all necessary Land,
- 28 (b) Project management services as required to satisfy
29 technical and administrative requirements,
- 30 (c) Design work,
- 31 (d) Environmental work,
- 32 (e) Cost estimates and schedule for planning and design,

- 1 (f) Material and equipment acquisition, and
- 2 (g) Construction and post construction work.
- 3

4 **15 ALLOCATION OF ENTITLEMENT:**

5 15.1 Under the terms of the LA, each Party is entitled to a
 6 certain portion of the transmission rights on the
 7 Transmission Line ("Entitlement") as set forth in the LA.
 8 Section 3.2.2 of the LA provides that the final allocations
 9 will be determined based on the ratio of each Parties'
 10 contribution to the Project provided that Western's
 11 Entitlement shall not be less than 10%. All incremental
 12 increases in the Path 15 (Los Banos to Gates) transmission
 13 capability resulting from the Project shall be allocated to
 14 the Path 15 Project. The determination of the Project's
 15 share of such transfer capability shall be more fully
 16 described in the Path 15 Upgrade Project COIA, to be
 17 negotiated later.

18 15.2 The Parties intend to turn over the operational control of
 19 the Parties' Entitlements to the CAISO as set forth in
 20 Section 5.7 of the LA.

21 15.3 The Project operation will be interconnected to the PG&E
 22 electrical system as set forth in Section 5.5 of the LA
 23 subject to Sections 11.3 through 11.5 of this CCA and as
 24 superceded by the COIA.

25 15.4 The Project Cost accounting to determine the final
 26 allocation of Entitlements in accordance with Section 3.2.2
 27 of the LA shall be determined as follows:

- 28 (a) Each Party shall provide the Coordination
 29 Committee and the other Parties with a final accounting
 30 of their Project Costs within 180 days after the
 31 commencement of commercial operations (the date the last
 32 such final accounting is provided being the Submission

1 Date).

2 (b) Any Party may initiate an audit of another
3 Party's final accounting pursuant to Section 19 of this
4 CCA within 30 days after the Submission Date, which audit
5 if initiated shall be completed within 90 days of the
6 Submission Date.

7 (c) Within 30 days after the completion of any audits
8 of the Parties' final accountings, or if no such audits
9 are initiated within 60 days of the Submission Date, the
10 Coordination Committee shall meet to determine the final
11 allocation of Entitlements pursuant to this CCA and the
12 LA. The Coordination Committee shall work thereafter in
13 good faith to finalize such Entitlements.

14 (d) If the Coordination Committee has not reached
15 consensus on a final allocation of the Entitlements
16 within 60 days of commencing its review under the
17 preceding clause (c), then any Party may initiate the
18 dispute resolution process under Section 20 of this CCA
19 in an effort to reach a final allocation of the
20 Entitlements.

21 (e) If a final allocation of the Entitlements has not
22 been achieved within 90 days of the submission to dispute
23 resolution under clause (d) above, then notwithstanding
24 any provision of this CCA, any Party may file a petition
25 with FERC or a court of competent jurisdiction seeking a
26 declaration of the final allocation of the Entitlements.
27 Absent further written agreement to extend the deadline
28 for any such filing, the Parties agree that any such
29 petition or court action shall be commenced no later than
30 360 days after the Submission Date. Each Party agrees to
31 toll any otherwise applicable statutes of limitation and
32 waive any defenses based on the passage of time to any

1 such petition(s) or court action(s).

2 (f) The Coordination Committee can modify the times
3 provided in this Section 15.4.

4 15.5 Until the final allocation of the Entitlements is
5 determined, the Initial Allocations provided in Section
6 3.2.1 and in Exhibit A of the LA shall remain in effect.

7 15.6 The final cost accounting is subject to applicable existing
8 laws and regulations (including FERC regulations).

9
10 16 ASSET OWNERSHIP: The Parties acknowledge and affirm that
11 under Section 3.1.1 of the LA Western will own the Land and
12 the Transmission Line, and that under Section 3.1.2 of the LA
13 PG&E will own the PG&E Modifications.

14
15 17 OPERATION: The operation of the Project will be set forth in
16 the COIA, to be negotiated.

17
18 18 WORK REPORTING REQUIREMENTS: A monthly project report shall
19 be prepared by the Project Manager, based on information
20 regularly submitted to it by each Party's Coordination
21 Contact and itself, and promptly provided to each Party.
22 Such report will at a minimum state the current status of
23 each milestone set forth in Appendix B, and shall state for
24 those milestones that are complete the actual costs expended
25 therefor and for those milestones that are then in progress
26 the current status of such progress with specificity,
27 including the percentage completed on a task, any major
28 issues outstanding with respect to such progress, and the
29 expected completion date of each milestone not yet completed.

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31 19 AUDITS: Subject to the requirements of confidentiality under
32 Section 35 of this CCA, each Party shall have the right, and

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no more frequently than quarterly so long as the Party being audited is not then in Default and during normal business hours and upon prior reasonable notice to the other Parties, to audit the accounts and records of any Party, the TLCC, the Trust Account, or the TE Security, pertaining to the performance and/or satisfaction of obligations arising under this CCA. Such audits shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate the Project and the Work. Such audits shall be performed at the sole expense of the requesting Party, but the reasonable incurred costs will be Project Costs for the purposes of this CCA and the LA. Any audit of a Party's final Project Costs as submitted to the Coordination Committee under Section 15.4 shall be completed no later than 90 days after the Submission Date. In the event that such audit of a Party's final Project Costs finds that a Party's actual Project Costs differ from its final accounting, then the Coordination Committee shall decide upon the correct figures to be used for the Entitlement allocation, provided that nothing in the foregoing waives any Party's right to challenge such decision in accordance with Sections 15.4 and 20.

20 RESOLUTION OF DISPUTES: Any dispute arising between the Parties regarding the performance of their obligations under this CCA shall be resolved according to the following procedures.

20.1 Informal Settlement:

PROCEDURE: The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this CCA promptly by negotiations between a vice president of PG&E or

1 his or her designated representative and an executive of
 2 similar authority of each Line Party. Any Party may give the
 3 other Parties written notice of any dispute, and within
 4 twenty (20) days after delivery of such notice, the
 5 executives shall meet at a mutually acceptable time and place
 6 (for a total of no less than six meetings), and thereafter as
 7 often as they reasonably deem necessary (but at least weekly)
 8 to exchange information and to attempt to resolve the
 9 dispute. If the matter has not been resolved within forty-
 10 two (42) days of the first meeting, any Party may initiate a
 11 mediation of the controversy.

12 **CONFIDENTIALITY:** In addition to being subject to the
 13 Confidential Information provisions of this CCA, all
 14 negotiations, settlement conferences, compromise discussions
 15 and any mediation conducted pursuant to this clause are
 16 confidential and shall be treated as compromise and
 17 settlement negotiations

18 **PRELIMINARY INJUNCTION:** Notwithstanding the foregoing
 19 provisions, a Party may seek a preliminary injunction or
 20 other provisional judicial remedy if in its judgment such
 21 action is necessary to avoid irreparable damage or to
 22 preserve the status quo. In the event a Party fails to seek
 23 an injunction, nothing in this Section shall affect the
 24 Project Schedules, Section 11 or a Party's obligations
 25 thereunder.

26 **20.2 Formal Dispute Resolution:** In the absence of a voluntary
 27 resolution reached in accordance with Section 20.1, any
 28 Party may seek to resolve a dispute by seeking judicial
 29 relief or regulatory relief at FERC. The Party, with the
 30 written consent of all Parties which are Parties to such
 31 disputes, in the alternative may submit the dispute to non-
 32 binding arbitration which shall be conducted using any

1 procedures agreed to by such Parties. No litigation or
2 arbitration shall be commenced until not less than twenty
3 (20) days after notice of the initiation of proceedings has
4 been provided to all of the Parties to the dispute, provided
5 further, however, that the preceding requirement shall not
6 preclude a Party from initiating litigation or arbitration
7 to secure any legal right which may otherwise be forfeited
8 due to limitation or requirements imposed by rule or
9 statute.

10 **20.3 Continuation of Project Work:** Unless otherwise agreed upon
11 by the Parties or ordered by a court, Project Work shall
12 continue until a judgment or award is issued, provided that
13 any Party performing Project Work shall take all reasonable
14 measures, to the extent available, to avoid aggravating the
15 dispute being settled, arbitrated or litigated, giving due
16 consideration to any scheduled completion date for the
17 Project Work related to the dispute.

18
19 **21 ASSIGNMENT:**

20 **21.1 Assignment:** Other than provided in this Section 21, any
21 Party may make an Assignment of its rights and obligations
22 under the MOU, the LA, this Agreement and the COIA,
23 consistent with applicable laws, only after obtaining the
24 written consent of each of the other Parties, which consent
25 shall not be unreasonably withheld. Notwithstanding the
26 above, Congress may assign Western's rights without the
27 consent of any Party. Any Assignment in whole or in part by
28 PG&E in accordance with any Plan of Reorganization approved
29 by the U.S. Bankruptcy Court in re Pacific Gas and Electric
30 Company, Case No. 01-30923 DM (Bankruptcy Ct., N.D. Cal.)
31 shall be a permitted Assignment hereunder not subject to
32 further rights of consent from the other Parties hereto. In

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addition, Trans-Elect, without consent of any Party, may enter into an Assignment of its rights under this CCA, the MOU, the LA and the COIA, as applicable, for security purposes in favor of one or more T-E Lenders and such T-E Lenders may make an Assignment of Trans-Elect's rights and obligations under this CCA, the MOU, the LA and the COIA, as applicable, hereunder to a purchaser at foreclosure or at a sale in lieu of foreclosure. If requested by the T-E Lenders, the Parties will enter into a separate consent confirming such security assignment and providing for other customary matters. To the extent directed by Congress, Western may assign any right or interest that it may have without the consent of any Party. A Party's assignee (other than T-E Lenders that are taking an Assignment for security purposes only) shall expressly assume in writing the duties and obligations of such Party under this CCA, the MOU, the LA, and the COIA, as applicable, and shall immediately furnish or cause to be furnished to all other Parties a true and correct copy of the documents evidencing such Assignment and assumption of duties and obligations. The assigning Party shall give notice to and provide the other Parties with a copy of the documents evidencing such proposed Assignment no less than thirty (30) days prior to the proposed effective date of the Assignment. Each Party shall give notice of its consent or denial of consent within such thirty (30) day period in accordance with Section 35 of this CCA. No Assignment shall be made except to an entity that also receives a transfer of the assignor's interest under the MOU, the Letter Agreement and the Coordinated Operation and Interconnection Agreement (if in effect), and the Parties hereby consent to the assignment of such other agreements to an entity to which a valid Assignment is made

1 hereunder.

2 21.2 Collateral Assignment: A Party may make a collateral
3 Assignment of or grant a security interest in its
4 Entitlements and/or all or a portion of its interests in
5 this CCA to any lender or investor of such Party, and so
6 long as no Default has occurred and is continuing by the
7 assigning Party, the other Parties hereto agree to provide
8 reasonable and customary consents to such collateral
9 Assignment or grant of security interest.

10 21.3 Entitlement Use: Nothing in this Section 21 or this CCA
11 shall be deemed to alter the requirement of Section 5.7 of
12 the LA that the operational control of the Entitlements
13 shall be turned over to the CAISO, and no consent of the
14 other Parties to the CCA shall be necessary to do so.

15
16 22 Nonpartitionment:

17 22.1 Each Party hereby waives the right to partition the Project,
18 whether by partitionment in kind or by sale and division of
19 the proceeds thereof.

20 22.2 The Parties shall not resort to any action at law or in
21 equity to partition the Project in any manner described, and
22 each Party waives the benefits of all laws that may now or
23 hereafter authorize such partition.

24
25 23 LIABILITY:

26 23.1 Except for damage or loss resulting from willful action or
27 willful failure to act, gross negligence, or breach of
28 fiduciary obligation in connection with this CCA, and
29 subject to the provisions of Section 23.2 of this CCA, no
30 Party, its members, directors, members of its governing
31 body, officers, or employees shall be liable to any other
32 Party for any such loss or damage in connection with this

1 CCA not covered by insurance obtained for that purpose.

2 23.2 Each Party shall be responsible for the consequences of its
3 own willful action or willful failure to act, gross
4 negligence, and breach of fiduciary obligation in connection
5 with this CCA, and in connection with any work undertaken in
6 accordance with this CCA. Nothing in this Section 23 shall
7 require any Party to obtain insurance covering the willful
8 action or willful failure to act, gross negligence, or
9 breach of fiduciary obligation of any Party.

10 23.3 The provisions of this Section 23 shall not be construed to
11 relieve any insurer of its obligation to pay any insurance
12 proceeds in accordance with the terms and conditions of
13 valid and enforceable insurance policies.

14
15 24 FORCE MAJEURE:

16 24.1 In the case of a Force Majeure the claiming Party shall
17 notify the other Parties Coordination Contract and
18 Coordination Committee members (if different) promptly after
19 becoming aware of such Force Majeure (including subsequent
20 notification of additional cause(s) of Force Majeure during
21 an already declared Force Majeure period). Such notice must
22 include, the event, the expected duration of such event, and
23 of the steps that the Party is taking and plans to take to
24 address such event. Such Party may also propose an
25 alteration to the Project Schedule (that is, in addition to
26 the automatic suspension of the running of such Project
27 Schedule which results from a proper Force Majeure
28 declaration) as a result of such event. For purposes of
29 clarity, any such proposed Project Schedule modification
30 will be addressed as set forth in Section 5 of this CCA, and
31 shall not be automatically made in conjunction with such
32 Force Majeure. From time to time thereafter, but no less

1 frequently than every two weeks, the Party declaring such
2 Force Majeure shall provide written reports to the other
3 Parties' Coordination Contact and Coordination Committee
4 representatives updating the information provided in the
5 initial notice of Force Majeure and setting forth the steps
6 that such Party has completed to date to resolve such Force
7 Majeure. The Coordination Committee, consisting of the
8 Parties not claiming Force Majeure, will be responsible for
9 determining if the Party declaring Force Majeure is acting
10 diligently to clear the Force Majeure.

11 24.2 A Force Majeure claim shall continue only until the earlier
12 to occur of (1) the claiming Party ceases using due
13 diligence to overcome the claimed Force Majeure or (2) the
14 effect of the Force Majeure is ameliorated.

15 24.3 In the absence of an properly declared Force Majeure
16 (including but not limited to a failure in causation, a
17 failure to provide initial notice, or a failure to pursue a
18 cure of such Force Majeure with diligence) a non-performing
19 party may be subject to declarations of default and the
20 remedies therefor under this CCA.

21 24.4 Except for the obligation of a Party to make payments in
22 accordance with this CCA, no Party shall be considered to be
23 in default in the performance of any of its obligations when
24 a failure to perform is due to a properly declared Force
25 Majeure.

26 24.5 Nothing in this Section 24 is meant to avoid any obligation
27 of any Party regarding interconnection of the Project under
28 the Federal Power Act or implementing order or orders of
29 FERC.
30

31 25 FEDERAL CONTRACTING REQUIREMENTS:

32 25.1 Covenant Against Contingent Fees: Each of PG&E and Trans-

1 Elect warrant that it has not employed or retained any
2 person or selling agency to solicit or secure the contract
3 upon an agreement or understanding for a commission,
4 percentage, brokerage, or contingent fee, excepting bona
5 fide employees or bona fide established commercial or
6 selling agencies maintained by their respective
7 organizations for the purpose of securing business. For
8 breach or violation of this warranty, Western shall have the
9 right to annul or terminate this CCA without liability or in
10 its discretion to deduct from the price or consideration the
11 full amount of such commission, percentage, brokerage, or
12 contingent fee.

13 25.2 Contingent Upon Appropriations: Where activities provided
14 for in this CCA extend beyond the current fiscal year,
15 continued expenditures by the United States are contingent
16 upon Congress making the necessary appropriations required
17 for the continued performance of the United States
18 obligations under the LA. In case such appropriation is not
19 made, PG&E and Trans-Elect hereby release the United States
20 from its obligations and from all liability due to the
21 failure of Congress to make such appropriation.

22 25.3 Contract Project Work Hours and Safety Standards: This CCA,
23 to the extent that it is of a character specified in Section
24 103 of the Contract Project Work Hours and Safety Standards
25 Act, 40 U.S.C.A. § 329, is subject to the provisions of the
26 Act, 40 U.S.C.A. §§ 327-333, and to regulations promulgated
27 by the Secretary of Labor pursuant to the Act.

28 25.4 Equal Opportunity Employment Practices: Section 202 of
29 Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as
30 amended by Executive Order No. 12086, 43 Fed. Reg. 46501
31 (1978), which provides, among other things, that PG&E and
32 Trans-Elect will not discriminate against any employee or

1 applicant for employment because of race, color, religion,
2 sex, or national origin, is incorporated by reference in
3 this CCA.

4 25.5 Use of Convict Labor: PG&E and Trans-Elect agree not to
5 employ any person undergoing sentence of imprisonment in
6 performing this CCA except as provided by 18 U.S.C. 4082 (c)
7 (2) and Executive Order 11755, December 29, 1973.

8 25.6 It is understood by the Parties that, while a Federal agency
9 may, under certain conditions, support legislation, it is
10 prohibited by law from participating in or contributing to
11 any activities influencing legislation or involving
12 lobbying. Participation of Western in this CCA shall be
13 limited to activities that are legal for an agency of the
14 United States.

15
16 26 SEVERABILITY: In the event that any term, covenant, or
17 condition of this CCA or the application of any such term,
18 covenant, or condition shall be held invalid as to any
19 person, entity, or circumstance by any court or agency having
20 jurisdiction, such term, covenant, or condition shall remain
21 in force and effect to the maximum extent permitted by law,
22 and all other terms, covenants, and conditions of this CCA
23 and their application shall not be affected thereby but shall
24 remain in force and effect unless a court or agency holds
25 that such provisions are not separable from all other
26 provisions of this CCA.

27
28 27 WAIVER: Any waiver at any time by a Party of its rights with
29 respect to any matter arising in connection with this CCA
30 shall not be deemed a waiver with respect to any subsequent
31 matter or to any subsequent occurrence of the same matter.
32

1 28 NO THIRD PARTY BENEFICIARIES: None of the promises, rights,
2 or obligations contained in this CCA shall inure to the
3 benefit of any person or entity not a Party to this CCA,
4 provided that nothing in this Section 28 shall limit any
5 Party's rights under Section 21 of this CCA.
6

7 29 PRESERVATION OF OBLIGATIONS: Upon termination of this CCA,
8 any obligations previously incurred in accordance with this
9 CCA, including any obligation to pay money incurred prior to
10 termination, shall be preserved until satisfied.
11

12 30 INTEGRATION:

13 30.1 This CCA constitutes the complete and final expression of
14 the agreement between the Parties and is a complete and
15 exclusive statement of the terms of their agreement, and
16 supersedes all prior and contemporaneous offers, promises,
17 representations, negotiations, discussions, and
18 communications which may have been made in connection with
19 the subject matter of this CCA with the exception of the
20 MOU, the LA, the Deliverables Agreement, and the COIA,
21 provided, however, that in the event of any conflict between
22 the terms and provisions of this CCA and either or both of
23 the MOU, LA, or the Deliverables Agreement, this CCA shall
24 control as to the coordination and performance of the
25 Project Work only. This CCA is the product of negotiations
26 and neither ambiguities nor uncertainties shall, therefore,
27 be construed in a manner, which is prejudicial to any Party.

28 30.2 The following Appendices are attached hereto and made a part
29 of this CCA:

- 30 Appendix A - Addresses for Notices
- 31 Appendix B - Form of Project Schedule
- 32 Appendix C - PG&E Modifications and Transmission Line

1 Work

2
3 31 AMENDMENT: This CCA may be amended only by a written
4 instrument duly executed by all Parties hereto.

5
6 32 GOVERNING LAW: This CCA is made and entered into in the State
7 of California. Interpretation of this CCA, and performance
8 and enforcement thereof, shall be determined in accordance
9 with applicable law. Western is solely subject to the
10 jurisdiction of the United States Government and Federal law.

11
12 33 TITLES: The captions and headings in this CCA are inserted to
13 facilitate reference and shall have no bearing upon the
14 interpretation of any of the terms and provisions of this
15 CCA.

16
17 34 RELATIONSHIP OF THE PARTIES: The obligations and liabilities
18 of the Line Parties, together, and of PG&E are intended not
19 to be joint or collective, but individual to the Line Parties
20 or to PG&E, as the case may be. Except as set forth herein,
21 the liabilities of Trans-Elect and Western are intended not
22 to be joint or collective, but individual to Trans-Elect or
23 Western, as the case may be. Nothing herein contained shall
24 be construed to create an association, joint venture, trust
25 or partnership, or to impose a trust or partnership, or to
26 impose a trust or partnership covenant, obligation, or
27 liability on or with regard to any one or more of the
28 Parties. Each Party shall be responsible for its own
29 covenants, obligations, and liabilities as herein provided.
30 No Party or group of Parties shall be under the control of or
31 shall be deemed to control any other Party or the Parties as
32 a group. Except as expressly provided in this CCA, no Party

1 shall be the agent of or have a right or power to bind any
2 other Party without its express consent.

3
4 35 REGULATORY FILINGS:

5 35.1 Right to Petition Any Regulatory Body. Nothing in this CCA
6 shall be construed as affecting in any way the right of any
7 Party to unilaterally make application to, oppose any
8 application to, or appeal any decision, rule or order of any
9 and all governmental authorities (including but not limited
10 to FERC) that may have jurisdiction over this CCA or any
11 agreement or filing related to the Project for any purpose
12 pursuant to applicable statutes and those governmental
13 authorities' rules and regulations.

14 35.2 Notice. Prior to making a filing under this Section 35, the
15 filing Party shall use reasonable efforts to notify the
16 other Parties of its intent to make a filing at least thirty
17 (30) days in advance and representatives of the Parties
18 shall attempt to meet to discuss the intended filing;
19 provided, however, that the failure of the Parties to give
20 notice, meet, or agree on any intended filing shall not
21 limit a Party's right to make such a filing.

22 35.3 Right to Dissent. Each Party reserves the right to
23 challenge each and every filing of any other Party under
24 Section 35.1 before any and all governmental authorities.
25

26 36 CONFIDENTIALITY:

27 36.1 Term. During the term of this CCA, and for a period of
28 three (3) years after the expiration or termination of this
29 CCA, except as otherwise provided in this Section 36, each
30 Party shall hold in confidence and shall not disclose to any
31 person any Confidential Information of any other Party.

32 36.2 Scope. Any confidential, proprietary or trade secret

1 information of a plan, specification, pattern, procedure,
2 design, device, list, concept, policy or compilation
3 relating to the present or planned business of a Party,
4 which is designated in writing as Confidential by the Party
5 supplying the information. Confidential Information may
6 include, without limitation, any information relating to a
7 Party's technology, research and development, business
8 affairs, and pricing, and any such information supplied by
9 any Party to any other Party prior to the execution of this
10 CCA, provided, however, that Confidential Information shall
11 not include any information submitted to FERC, CAISO or the
12 CPUC by the Party claiming confidentiality, unless submitted
13 under a claim of confidentiality by such Party. Information
14 is Confidential Information only if it is clearly designated
15 or marked in writing as confidential on the face of the
16 document. Confidential Information shall not include
17 information that the receiving Party can demonstrate: (1) is
18 generally available to the public other than as a result of
19 a disclosure by the receiving Party; (2) was in the lawful
20 possession of the receiving Party on a non-confidential
21 basis before receiving it from the disclosing Party; (3) was
22 supplied to the receiving Party without restriction by a
23 third party, who, to the knowledge of the receiving Party,
24 after due inquiry, was under no obligation to the other
25 Party to keep such information confidential; (4) was
26 independently developed by the receiving Party without
27 reference to Confidential Information of the disclosing
28 Party; (5) is, or becomes, publicly known, through no
29 wrongful act or omission of the receiving Party or breach of
30 this CCA; or (6) is required, in accordance with this CCA,
31 to be disclosed by any federal or state government or agency
32 or is otherwise required to be disclosed by law, or order,

1 or is necessary in any legal proceeding establishing rights
2 and obligations under this CCA. Confidential Information
3 will no longer be deemed confidential to the extent that the
4 Party that designated the information as confidential
5 subsequently notifies the receiving Party that it no longer
6 is confidential.

7 **36.3 Release of Confidential Information.** No Party shall release
8 or disclose any Confidential Information to any other Party,
9 person, except to its employees or consultants on a need-to-
10 know basis in connection with this CCA, unless such person
11 has first been advised of the confidentiality provisions of
12 this Section 36 and has agreed to comply with such
13 provisions. Notwithstanding the foregoing, a Party
14 providing any other Party's Confidential Information to any
15 person shall remain primarily responsible for any release of
16 such other Party's Confidential Information in contravention
17 of this Section 36. Notwithstanding the foregoing, Trans-
18 Elect may disclose confidential information as required to
19 potential lenders or investors and their consultants on a
20 need-to-know basis provided such lenders execute a non-
21 disclosure agreement and be bound by the confidentiality
22 provisions contained herein.

23 **36.4 Rights.** Each Party retains all rights, title, and interest
24 in the Confidential Information that each Party discloses to
25 any other Party. The disclosure by each Party to any other
26 Party of Confidential Information shall not be deemed a
27 waiver by any Party or any other person or entity of the
28 right to protect the Confidential Information from public
29 disclosure.

30 **36.5 No Warranties.** By providing Confidential Information, no
31 Party makes any warranties or representations as to its
32 accuracy or completeness. In addition, by supplying

1 Confidential Information, no Party obligates itself to
2 provide any particular information or Confidential
3 Information to any other Party nor to enter into any further
4 agreements or proceed with any other relationship or joint
5 venture.

6 36.6 Standard of Care. Each Party shall use at least the same
7 standard of care to protect Confidential Information it
8 receives as that it uses to protect its own Confidential
9 Information from unauthorized use, disclosure, publication
10 or dissemination. Each Party may use Confidential
11 Information solely to fulfill its obligations to the other
12 Parties under this CCA.

13 36.7 Order of Disclosure. If a Court or a government agency or
14 entity with the right, power, and apparent authority to do
15 so requests or requires any Party, by subpoena, deposition,
16 interrogatories, requests for production of documents,
17 administrative order, or otherwise, to disclose any
18 Confidential Information of another party, that Party shall
19 provide the other Party with prompt notice of such
20 request(s) or requirement(s) so that the other Party may
21 seek an appropriate protective order or waive compliance
22 with the terms of this CCA. Notwithstanding the absence of
23 a protective order or waiver, the Party may disclose such
24 Confidential Information which, in the opinion of its
25 counsel, the Party is legally compelled to disclose. Each
26 Party will use reasonable effort to obtain reliable
27 assurance that confidential treatment will be accorded any
28 Confidential Information so furnished.

29 36.8 Termination of Agreement. Upon termination of this CCA for
30 any reason, each Party shall, within ten (10) days of
31 receipt of a written request from another Party, use
32 reasonable efforts to destroy, erase, or delete (with such

1 destruction, erasure and deletion certified in writing to
2 the other Party) or return to the other Party, without
3 retaining copies thereof, any and all written or electronic
4 Confidential Information received from the other Party. In
5 the event Confidential Information is necessary to reliably
6 operate the Project in a prudent manner then such
7 Confidential Information may be retained. Such information
8 will be identified and agreed to by the Parties.

9 **36.9 Remedies.** The Parties agree that monetary damages would be
10 inadequate to compensate a Party for the another Party's
11 breach of its obligations under this Section 36. Each Party
12 accordingly agrees that another Party shall be entitled to
13 equitable relief, by way of injunction or otherwise, if the
14 first Party breaches or threatens to breach its obligations
15 under this Section 36, which equitable relief shall be
16 granted without bond or proof of damages, and the receiving
17 Party shall not plead in defense that there would be an
18 adequate remedy at law. Such remedy shall not be deemed to
19 be an exclusive remedy for the breach of this Section, but
20 shall be in addition to all other remedies available at law
21 or in equity. The Parties further acknowledge and agree
22 that the covenants contained herein are necessary for the
23 protection of legitimate business interests and are
24 reasonable in scope. No Party, however, shall be liable for
25 indirect, incidental or consequential or punitive damages of
26 any nature or kind resulting from or arising in connection
27 with this Section 36.

28
29 **37 NOTICES:** Any notice, demand or request in accordance with
30 this CCA shall be in writing and shall be deemed properly
31 served, given, or made if delivered in person or sent by
32 first class United States mail, postage prepaid, by a

1 confirmed electronic facsimile, or by prepaid commercial
2 courier service to a Party at the address indicated in
3 Appendix A to this CCA.
4

5 38 NO PRECEDENTS: Nothing contained in this CCA shall be
6 construed to establish any precedent for any other agreement,
7 or to grant any rights to or impose any obligations on any
8 Party beyond the scope and term of this CCA.
9

10 39 EXECUTION IN COUNTERPARTS: This CCA may be executed in
11 counterparts and each Party shall deliver its executed
12 counterpart to each other Party.
13

14 40 SIGNATURE CLAUSE: The signatories to this CCA represent that
15 they have been appropriately authorized to enter into this
16 CCA on behalf of the Party for whom they sign.

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IN WITNESS WHEREOF, the Parties have affixed their signatures
as of the date(s) set forth below.

Trans-Elect, Inc.

By: Robert L. Mitchell
Name: Robert L. Mitchell
Title: Executive Vice President
Date: 12/30/2002

Western Area Power Administration

By: _____
Name: James D. Keselburg
Title: Regional Manager
Date: 12/30/2002

Pacific Gas & Electric Company

By: _____
Name: _____
Title: _____
Date: _____

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IN WITNESS WHEREOF, the Parties have affixed their signatures
as of the date(s) set forth below.

Trans-Elect, Inc.

By:

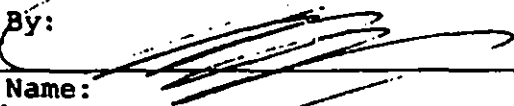
Name: Robert L. Mitchell

Title: Executive Vice President

Date: 12/30/2002

Western Area Power Administration

By:



Name: James D. Keselburg

Title: Regional Manager

Date: 12/30/2002

Pacific Gas & Electric Company

By:

Name:

Title:

Date:

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IN WITNESS WHEREOF, the Parties have affixed their signatures
as of the date(s) set forth below.

Trans-Elect, Inc.

By:

Name: Robert L. Mitchell

Title: Executive Vice President

Date: 12/30/2002

Western Area Power Administration

By:

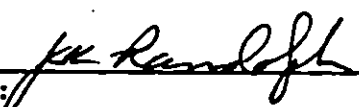
Name: James D. Keselburg

Title: Regional Manager

Date: 12/30/2002

Pacific Gas & Electric Company

By:

JB 

Name: James K. Randolph

Title: Sr. VP and Chief of Utility Operations

Date: 11/7/02

Approved as to Form
James K. Randolph
Attorney

APPENDIX A

ADDRESSES FOR NOTICES

1
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4
5 **To Pacific Gas and Electric Company:**
6 Director, Electric Transmission and Distribution
7 Engineering
8 123 Mission St., Room 1222
9 San Francisco, CA 94105

10
11
12 **To Trans-Elect, Inc.:**
13 President & COO
14 1850 Centennial Park Dr., Ste. 480
15 Reston, VA 20191

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18 **To Western Area Power Administration / Project Manager**
19 Path 15 Project Manager
20 Sierra Nevada Region
21 Western Area Power Administration
22 114 Parkshore Drive
23 Folsom, CA 95630
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6APPENDIX BINITIAL FORM OF PROJECT SCHEDULE

The Project shall be developed consistent with the following milestones.

PATH 15 - LOS BANOS - GATES 500 KV (the "Project")		
Transmission Line - WAPA		
PERMITS		
LAND RIGHTS ACQUISITION		
Environmental Work		
Development, Financing, Underwriting and TE Security		
EPC Contract		
MATERIAL PROCUREMENT		
ACCESS ROADS & TOWER CONSTRUCTION		
LINE CONSTRUCTION		
RELEASE TO OPERATIONS - 500 kv Line		
POST EDRO CONSTRUCTION		
PG&E MODIFICATIONS		
SUBSTATION ENGINEERING		
EQUIPMENT & MATERIAL PROCUREMENT		
CONSTRUCTION		
COMMISSIONING- RELEASE TO OPERATIONS PROJECT CLOSE-OUT		

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APPENDIX C

PG&E MODIFICATIONS AND
TRANSMISSION LINE WORK

The PG&E Modifications are as determined in the Comprehensive Plan of Service, which include, but are not limited to the following:

Los Banos Substation

- Modify the existing Los Banos 500 kV Substation by extending the existing 500 kV bus by one bay and installing two new 500 kV circuit breakers in the new line position.
- Relocate the existing Los Banos - Moss Landing 500 kV transmission line to the new bus position and terminate the new Los Banos - Gates 500 kV transmission line at the existing Moss Landing line position.
- Install 250 MVAR of 230 kV shunt capacitors.
- Install miscellaneous electrical equipment, including 500 kV and 230 kV disconnecting switches, reactors, instrument transformers, protective relaying, metering and control equipment, supervisory control and data acquisition equipment, telemetering equipment, auxiliary alternating current and direct current power system, electrical grounding system, and underground conduits or trench systems.

Gates Substation

- Modify the existing Gates 500 kV substation by installing two new 500 kV circuit breakers at existing 500 kV bay position #4.
- Relocate the existing Los Banos-Gates #1 transmission line

1 to the existing bay #4

- 2 • Terminate the new Los Banos - Gates #3 500 kV transmission
- 3 line at the existing Los Banos #1 line position.
- 4 • Install two new 500 kV circuit breakers for the existing
- 5 500/230 kV Transformer Bank 11.
- 6 • Modify the arrangement of the 500 kV bus from a ring bus to
- 7 a breaker-and-a-half scheme.
- 8 • Install 250 MVAR of 230 kV shunt capacitors.
- 9 • Install miscellaneous electrical equipment, including
- 10 500 kV and 230 kV disconnecting switches, reactors,
- 11 instrument transformers, protective relaying, metering and
- 12 control equipment, supervisory control and data acquisition
- 13 equipment, telemetering equipment, auxiliary alternating
- 14 current and direct current power system, electrical
- 15 grounding system, and underground conduits or trench
- 16 systems.

17
18 **Gates-Midway 230 kV Reinforcement¹**

- 19 • There are two options for upgrading this path. Option 1
- 20 reconductors the 230 kV transmission from Midway to Arco
- 21 including the Arco loop. Option 2 reconfigures the Gates-
- 22 Midway transmission by establishing two circuits between
- 23 Gates and Midway. PG&E is in the process of evaluating
- 24 these options.

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TRANSMISSION LINE PARTIES

TRANSMISSION LINE WORK

- Land Acquisition
- Environmental Work
- Material Procurement
- Construction Access Roads
- Communication Facilities, VHF Radio
- Tower Design
- Tower Construction

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APPENDIX D

SPECIAL FACILITIES AGREEMENT



**Pacific Gas and
Electric Company**

WE DELIVER ENERGY.™

SPECIAL FACILITIES AGREEMENT

At the request of **WESTERN AREA POWER ADMINISTRATION**, ("Applicant"), **PACIFIC GAS AND ELECTRIC COMPANY** ("PG&E") hereby agrees to furnish at Applicant's expense certain 500 kV substation facilities at PG&E's Gates Substation and Los Banos Substation, and certain related 230 kv and 115 kv reinforcements and system upgrades, as more fully set forth in the CCA (as defined below) and exhibits thereto (collectively, the "Special Facilities"). Such Special Facilities are expected to be necessary to interconnect with Applicant's 500-kV transmission line and the 230kv and 115kv reinforcements will be completed on or about December 2004 Applicant, PG&E and Trans-Elect, Inc. (together with its permitted successors and assigns under the CCA, "TE") entered into a Construction Coordination Agreement dated December 30, 2002, (the "CCA"), a copy of which is attached hereto as Attachment A, under which PG&E agreed to develop the Special Facilities as set forth therein. Whereas, PG&E is no longer a party to the CCA pursuant to the terms of Section 11.3 and/or 11.4 of the CCA, which terms are incorporated herein by reference.

1. (a) This Special Facilities Agreement (this "Agreement") includes the following appendices: Appendix A, Comprehensive Plan of Services, Appendix B, Detail of Special Facilities Charges, and Appendix C, Project Development Milestones, (collectively, the "Appendices") all of which are attached hereto and incorporated herein by reference. The Appendices may be amended from time to time, revised or superseded upon agreement of the parties and TE, and without formal amendment of the remainder of this Agreement. In addition, Appendix C may be revised or superseded pursuant to orders of the Federal Energy Regulatory Commission or its successor ("FERC") without formal amendment of the remainder of this Agreement.
- (b) Any dispute arising between the Parties regarding the performance of their obligations under this SFA shall be resolved according to the following procedures:

(i) Informal Settlement Procedure: The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this SFA promptly by negotiations between a vice president of PG&E or his or her designated representative and an executive of similar authority of Applicant. Either Party may give the other Party written notice of any dispute, and within twenty (20) days after delivery of such notice, the executives shall meet at a mutually acceptable time and place (for a total of no less than six meetings), and thereafter as often as they reasonably deem necessary (but at least weekly) to exchange information and to attempt to resolve the dispute. If the matter has not been resolved within forty-two (42) days of the first meeting, either Party may initiate a mediation of the controversy.

All negotiations, settlement conferences, compromise discussions and any mediation conducted pursuant to this subparagraph 1(b)(i) are confidential and shall be treated as compromise and settlement negotiations.

Preliminary Injunction: Notwithstanding the foregoing provisions, a Party may seek a preliminary injunction or other provisional judicial remedy if in its judgment such action is necessary to avoid irreparable damage or to preserve the status quo. In the event a Party fails to obtain an

injunction, nothing in this subparagraph 1(b)(ii) shall affect the Project Development Milestones set forth in Appendix C or a Party's obligations thereunder.

(ii) Formal Dispute Resolution: In the absence of a voluntary resolution reached in accordance with subparagraph 1(b)(i), or if not resolved within 42 calendar days of the first meeting identified in subparagraph 1(b)(i), either Party may seek to resolve a dispute by seeking judicial relief or regulatory relief at FERC. The Party, with the written consent of the other Party, in the alternative may submit the dispute to non-binding arbitration, which shall be conducted using any procedures agreed to by such Parties. No litigation or arbitration shall be commenced until not less than twenty (20) days after notice of the initiation of proceedings has been provided to both Parties, provided further, however, that the preceding requirement shall not preclude either Party from initiating litigation or arbitration to secure any legal right which may otherwise be forfeited due to limitation or requirements imposed by rule or statute.

(iii) Continuation of Project Work: Unless otherwise agreed upon by the Parties or ordered by a court, both parties shall continue to perform under this Agreement until a judgment or award is issued ("Dispute Period"), provided that any Party performing work hereunder shall take all reasonable measures, to the extent available, to avoid aggravating the dispute being settled, arbitrated or litigated, giving due consideration to any scheduled completion date for the work to be performed under this Agreement related to the dispute; further provided that Applicant shall be required to pay PG&E pursuant to the terms set forth in paragraph 2 below, for PG&E's continued work on the Special Facilities during such Dispute Period.

2. Applicant shall pay PG&E, on written demand prior to commencement of any work by PG&E under this Agreement, for all work previously performed in accordance with the terms of the CCA, including Appendix C of the CCA, to implement the Special Facilities prior to the effectiveness hereof. Such payment amounts may be calculated and adjusted under the CCA, and shall include applicable taxes. Thereafter, Applicant shall from time to time pay PG&E, within thirty (30) days of demand (such demand to be accompanied by reasonably detailed invoices or other billing support documents), the amount of PG&E's actual costs reasonably incurred in connection with installing the Special Facilities, including applicable taxes, at the rate set forth in Appendix B, unless any governmental authority with taxing or rate jurisdiction over PG&E directs PG&E not to report payments from Applicant for such costs as taxable income. Within 180 days of completion of the work, PG&E shall determine the actual cost of installing the Special Facilities and shall provide Applicant a final accounting. If the actual cost is greater than the total amount that has been paid by Applicant, then PG&E shall bill Applicant for the remaining amount. If Applicant receives a proper invoice and fails to make timely payment as required by the Prompt Payment Act, 31 USC §3901-3906, then Applicant shall pay the amount due plus interest determined pursuant to Section 35.19a(a)2 of FERC's Regulations, 18 CFR § 35.19a(a)2. If the actual cost is less than the total amount that has been paid by Applicant, then PG&E shall pay Applicant the difference, including interest determined pursuant to Section 35.19a(a)2 of FERC's Regulations, 18 CFR § 35.19a(a)2.
3. In addition to the fees set forth in paragraph 2, within thirty (30) days of the completion of the Special Facilities, Applicant shall pay to PG&E at Applicant's election (such election to be made no later than thirty (30) days after the completion of the Special Facilities), an ownership charge calculated in accordance with either (a) or (b) below, in the amounts specified in Appendix B:
 - (a) COST-OF-OWNERSHIP CHARGE representing PG&E's continuing monthly cost of owning, replacing, and, operating and maintaining the Special Facilities which equals the product of the original estimated cost of the Special Facilities (less Network Upgrade Charges, if applicable) and PG&E's current Cost of Ownership Rate for transmission-level, customer-financed special facilities; or
 - (b) An EQUIVALENT ONE-TIME CHARGE which is equal to the present net worth of the monthly COST-OF-OWNERSHIP CHARGE that would accrue over the next thirty (30) years. The COST-OF-OWNERSHIP CHARGE shall commence on the date Special Facilities are first available for Applicant's use, as such date is established in PG&E's records. PG&E will notify Applicant, in writing, of such commencement date.

Applicant shall at its sole cost (as such cost may be allocated under the CCA and COIA, as defined below) have sole responsibility for planning, constructing, maintaining, servicing, and repairing and replacing all portions of the Transmission Line that do not lie within PG&E's property and are not part of the Special Facilities hereunder.

4. The COST-OF-OWNERSHIP CHARGE for FERC jurisdictional interconnections set forth herein is determined in accordance with FERC-approved methodology. Initially, the ownership charge is determined in accordance with the applicable percentage rates established in the Special Facilities section of PG&E's Electric Rule 2 as approved by the FERC. Should the California Public Utilities Commission or any successor agency thereto ("CPUC") or FERC, as applicable, subsequently authorize higher or lower percentage rates, the monthly COST-OF-OWNERSHIP CHARGE shall automatically increase or decrease without formal amendment to Appendix Bas of the effective date of the CPUC's or FERC's authorization. Any such change in CPUC or FERC authorized rates shall have no effect on Applicant's EQUIVALENT ONE TIME CHARGE if that is the option chosen by Applicant.

5. Where it is necessary to install Special Facilities on Applicant's premises in accordance with the plans and specifications set forth in Appendices A and C, Applicant hereby grants to PG&E on terms that are mutually agreeable to the parties:

(a) the right to make such installation on Applicant's premises along the shortest practical route thereon with sufficient legal clearance from all structures now or hereafter erected on Applicant's premises; and

(b) the right of ingress and egress from Applicant's premises at all reasonable hours for any purposes reasonably connected with the operation and maintenance of Special Facilities

6. Where formal rights of way or easements are required on or over property of Applicant or the property of others for the installation of Special Facilities, the parties agree that Applicant shall use its authority to obtain such rights of way or easements which shall be at Applicant's expense (as such expense may be allocated under the CCA) and shall be the sole property of Applicant. If any such rights of ways or easements are required to be obtained by any other manner, Applicant shall obtain such permanent rights of way or easements without cost to PG&E provided that Applicant shall allow PG&E reasonable access through such property, on terms that are mutually agreeable to PG&E and Applicant, in order to allow PG&E to maintain the Special Facilities or make any installations with respect to the Special Facilities.

7. (a) PG&E shall not be responsible for any delay in completion of the installation of Special Facilities resulting from any cause beyond its reasonable control which renders it unable to perform such obligation hereunder, including, but not limited to, the following: (i) failure of or imminent threat of failure of facilities due to flood, earthquake, volcanic activity, tsunami, tornado, storm, fire, pestilence, lightning, and other natural catastrophe, epidemic, war, riot, civil disturbance or disobedience, vandalism, strike, labor dispute, labor or material shortage, sabotage, terrorism, government priorities, restraint by court order or public authority, (ii) condemnation of the Special Facilities or any portion thereof by a public authority other than Applicant (for purposes of clarification "condemnation" does not include the ceding or assignment of operational control of the Special Facilities or any portion of the surrounding substation(s) to any body); (iii) inability to obtain the necessary permits, authorizations or approvals from, any governmental, quasi governmental (including, but not limited to the California Independent System Operator ("CAISO")) or regulatory agency (not meant to include Applicant) or authority, which by exercise of due diligence such Party could not reasonably have expected or foreseen or cannot be overcome, including, (iv) any action or non-action by any governmental, quasi governmental (including, but not limited to the California Independent System Operator ("CAISO")) or regulatory agency (not meant to include Applicant) or authority, or (v) delays in obtaining necessary rights of way and easements, which delays are beyond the reasonable control of PG&E (collectively, "Force Majeure Events"), nor shall PG&E be liable for incidental, indirect, special, punitive, or consequential damages for any such delay.

(b) In the event of any emergency (being any event which threatens public health or safety or the integrity or safety of the PG&E transmission system) or in the event that PG&E is unable to obtain materials or labor for all of its construction requirements because of any Force Majeure

Event, PG&E shall have the right to allocate materials and labor to construction projects which it deems, in its sole discretion, most important to address such emergency or Force Majeure Event, and any delay in construction, hereunder resulting from such allocation shall be deemed to be a cause beyond PG&E's control.

(c) PG&E shall notify Applicant promptly upon the occurrence of any event under paragraph 7(a) or (b), and shall use commercially reasonable efforts to overcome such event, provided, that PG&E's total liability for any delay in the completion of the installation of Special Facilities under paragraph 7(a) or (b) shall not exceed the amount of Special Facilities Charges paid by Applicant; provided further, that in the event that pursuant to paragraph 7(b) PG&E must reallocate materials or labor purchased by Applicant, PG&E shall not be permitted to charge Applicant for the purchase of additional materials or labor required to replace such reallocated materials or labor.

(d) Subject to the limitations in paragraph 7(c), PG&E shall use commercially reasonable efforts to negotiate adjustments to schedules, plans and/or costs arising from any Force Majeure Event under paragraph 7(a).

8. In the event that PG&E is prevented from completing the installation of Special Facilities after one hundred and eighty (180) days following the date of completion specified in Appendix C of this Agreement and such delay is caused by Applicant's failure to meet the date of completion deadline set forth in the Project Development Milestones, PG&E shall have the right to supersede this Agreement, subject to Applicant's election as provided below, and adjust any amounts paid or required to be paid by Applicant hereunder that may be due based on that portion of the Special Facilities then completed, if any, utilizing the estimated costs developed by PG&E for this Agreement. The date of completion deadline referenced above shall be the most recent deadline mutually agreed upon by the Parties and TE pursuant to the terms of the CCA. Such a superseding agreement, if any, shall be in substantially the same form as this Agreement, be executed by both parties hereto, and shall provide that costs be allocated to the portion of the Special Facilities then completed, if any, consistent with those costs estimated by PG&E for this Agreement. Such a superseding agreement shall be effective upon grant of FERC approval. If Applicant elects not to execute a superseding agreement, PG&E shall have the sole right to terminate this Agreement by providing notice to FERC, Applicant, and TE ("Default Termination"). Termination of this Agreement per this paragraph 8, shall be effective upon the later of (i) FERC approval for termination of this Agreement and (ii) sixty (60) days from the date on which PG&E provided written notice to Applicant. In the event the Agreement is terminated per this paragraph 8, the provisions of paragraph 11 herein shall be applied to that portion of Special Facilities then completed, and Applicant shall reimburse PG&E for any expenses it may have incurred for engineering, surveying, right of way acquisition and other work associated with that portion of the Special Facilities not installed.

9. If Applicant causes PG&E to make necessary alterations, rearrangements or any addition to Special Facilities following their completion, because of any modification to the Transmission Line, PG&E shall notify Applicant, in writing, of such necessity and shall give Applicant the option either to (a) terminate this Agreement upon thirty (30) days' written notice ("Transmission Line Termination") or (b) adjust the charges due as with respect to the Special Facilities, such adjustment to include as applicable:

(a) a facility termination charge for that portion of Special Facilities, which is being removed because of alteration, rearrangement or addition to Special Facilities, such charge to be determined in the same manner as described in paragraph 11 herein;

(b) an additional ADVANCE and/or REARRANGEMENT CHARGE, if any for any new Special Facilities which shall be applied in the same manner as prescribed in paragraph 2 herein; and/or

(c) a revised monthly COST-OF-OWNERSHIP CHARGE or EQUIVALENT ONE-TIME CHARGE based on the estimated installed costs of all new and remaining Special Facilities. Such revised monthly COST-OF-OWNERSHIP CHARGE or EQUIVALENT ONE-TIME CHARGE shall be applied in the same manner as prescribed in paragraph 3 herein.

Notwithstanding the foregoing, the parties agree and acknowledge that additional cost adjustments and accountings may be due under the COIA, and nothing in the foregoing is meant to supersede the COIA with respect thereto.

10. This Agreement shall become effective when executed by the Parties hereto pursuant to the terms of Section 11.3 and/or 11.4 of the CCA and shall remain in force until one of the following events occurs:
- (a) The COIA or other interconnection agreement with respect to the Path 15 Upgrade Project no longer exists between Applicant and PG&E;
 - (b) The need for Special Facilities has ceased to exist;
 - (c) A final order of a court of appropriate jurisdiction is issued, which prohibits or prevents a Party from carrying out its obligation(s) under this Agreement
 - (d) Applicant fails to pay (i) any payment obligation pursuant to paragraph 2 of this Agreement, or (ii) the monthly COST-OF-OWNERSHIP CHARGE prescribed in this Agreement, if applicable.
 - (e) Default Termination, as provided for in paragraph 8 of this Agreement;
 - (f) Transmission Line Termination, as provided for in paragraph 9 of this Agreement; or
 - (g) Applicant fails to receive necessary appropriations required to continue performance under this Agreement and is released from all liability due to the failure of Congress to make such appropriations, as provided in subparagraph 15(a) of this Agreement and such appropriations have not been made within 180 days from the date that Applicant first knew or should have known that the appropriation required to continue performance had not been made and a payment obligation has not been made pursuant to 10(d).

With respect to subparagraph (d), PG&E shall provide Applicant at least thirty (30) days' written notice of termination and an opportunity to cure before termination becomes effective pursuant to this paragraph.

11. Upon termination of the Agreement for any reason prior to completion of the Special Facilities the parties shall adjust any amounts due to PG&E (such adjustment to be in addition to all other monies to which PG&E or Applicant may be legally entitled by virtue of such termination) such adjustment to include as applicable (a) any amounts unpaid and due under paragraph 2 of this Agreement for work performed or costs incurred in the installation of the Special Facilities completed by PG&E prior to the date of termination, (b) the estimated removal cost less the estimated salvage value for any Special Facilities which, can be removed, as determined by PG&E in accordance with its standard accounting practices and (c) the credit to Applicant of the unamortized balance of the EQUIVALENT ONE-TIME CHARGE previously paid, if applicable. If the adjustment results in a decrease in amounts owed to PG&E below the amount that Applicant has already paid to PG&E, then PG&E shall refund the difference, without interest to Applicant, within thirty (30) days of such adjustment.
12. Special Facilities shall at all times be the property of PG&E. Each of PG&E's, the Applicant's and TE's rights to use the Special Facilities are as allocated under the CCA and/or the Coordinated Operations and Interconnection Agreement by and among, Applicant, PG&E, and TE, dated _____ (the "COIA").
13. This Agreement does not give the Applicant any right to build, place or maintain any of Applicant's or third party facilities on, under, or over any PG&E land, easements or property. If Applicant wishes to build, place, or maintain its facilities (or a third party's facilities) associated with the Project under or over any PG&E land, easements or property, Applicant must specifically request the right to make such use and identify the PG&E property involved, regardless of whether Applicant wants a lease, easement, license or other agreement from PG&E. PG&E will

separately consider whether or not it is willing to permit such use. In addition, under certain circumstances PG&E may need to obtain approval from the CPUC through filing under Section 851 of the California Public Utility Code, or obtain a waiver of such filing requirements, before PG&E can provide Applicant with any right to use the land. If such approval or waiver is necessary, and the facilities are necessary to build the Special Facilities and PG&E is willing to permit such use, then PG&E will use its reasonable efforts to obtain such approval from the CPUC. This CPUC approval could potentially take six to eighteen months or longer to obtain, and the CPUC may deny such applicants. Applicant should notify PG&E as soon as possible of any potential request for permission to use or cross PG&E land, easements or property, and Applicant acknowledges that PG&E's agreement to such a request may be subject to certain regulatory requirements and that PG&E shall bear no responsibility for any inability to obtain any CPUC or other governmental approvals or for any CPUC or other governmental delays connected with obtaining such approval. Nothing in this paragraph shall affect any allocation of responsibility and/or costs for any delays which accrued under the CCA prior to the effectiveness of this Agreement, nor shall the foregoing alter or supersede any other allocations of responsibility and cost provisions set forth in the COIA.

14. This Agreement shall be subject to all of PG&E's applicable tariffs on file with and authorized by the FERC, and shall at all times be subject to such changes or modifications as the FERC may direct from time to time in the exercise of their jurisdictions, except that any such changes or modifications shall not effect the EQUIVALENT ONE TIME CHARGE as provided in paragraph 3(b) if elected by Applicant.

15. Federal Provisions

(a) Contingent Upon Appropriations: Where activities provided for in this Agreement extend beyond the current fiscal year, continued expenditures by the United States are contingent upon Congress making the necessary appropriations required for the continued performance of the United States' obligations under this Agreement. In case such appropriation is not made, the Parties hereby release the United States from all liability due to the failure of Congress to make such appropriation. In the event that Applicant fails to receive the necessary appropriations, Applicant shall notify PG&E in writing promptly after learning that the appropriation required to continue performance has not been made.

(b) Covenant Against Contingent Fees: The Parties warrant that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fees, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Parties for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul, as to Western, this Agreement without liability or, in its discretion, to deduct from this Agreement price of consideration the full amount of such commission, percentage, brokerage, or contingent fee.

(c) Contract Work Hours and Safety Standards: This Agreement, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C.A. 329 (1926), is subject to the provision of the Act, 40 U.S.C.A. 327-333 (1966), and to regulations promulgated by the Secretary of Labor pursuant to the Act.

(d) Equal Opportunity Employment Practices: Section 202 of Executive Order No. 11246, 43 Fed. Reg. 16501 (1972), which provides, among other things, that the Parties will not discriminate against any employee or applicant or employment because of race, color, religion, sex, or national origin, is incorporated by reference in this Agreement.

(e) Use of Convict Labor: The Parties agree not to employ any person undergoing sentence of imprisonment in performing this Agreement except as provided by 18 U.S.C. 4082(c)(2) and Executive Order 11755, December 29, 1973.

16. Nothing contained herein shall be construed as affecting in any way the right of PG&E to unilaterally make application to the FERC for a change in rates under Section 205 of the Federal Power Act (FPA) and pursuant to the FERC's Rules and Regulations promulgated thereunder. Applicant 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 rights under Section 206 of the FPA. The term "rates" as used herein shall mean all rates, contracts, or terms and conditions contained in this Agreement. 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.
17. Except for the foregoing, no transfer or assignment of either Party's rights, benefits or duties under this Agreement shall be effective without the prior written consent of the other Party, which consent shall not be unreasonably withheld. This paragraph 18 shall not preclude interests that arise by reason of any deed of trust, mortgage, indenture or security agreement previously granted or executed by either Party. No partial assignment of either Party's rights, benefits or duties shall be permitted under this Agreement unless otherwise agreed to by the parties. 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 Agreement to the same extent as though such successor, transferee, or assignee were an original party. Notwithstanding the above, Congress may assign Applicant's rights without the consent of PG&E. Any assignment in whole or in part by PG&E in accordance with any Plan of Reorganization approved by the U.S. Bankruptcy Court in re Pacific Gas and Electric Company, Case No. 01-30923 DM (Bankruptcy Ct., N.D. Cal.) shall be a permitted assignment hereunder not subject to further rights of consent from Applicant. A Party's assignee shall expressly assume in writing the duties and obligations of such Party under this Agreement, the MOU, the LA, and the COIA, as applicable, and shall immediately furnish or cause to be furnished to all other Parties a true and correct copy of the documents evidencing such Assignment and assumption of duties and obligations. The assigning Party shall give notice to and provide the other Parties with a copy of the documents evidencing such proposed assignment no less than thirty (30) days prior to the proposed effective date of the assignment. Each Party shall give notice of its consent or denial of consent within such thirty (30) day period in accordance with this paragraph 17. No assignment shall be made except to an entity that also receives a transfer of the assignor's interest under the MOU, the Letter Agreement and the Coordinated Operation and Interconnection Agreement (if in effect), and the Parties hereby consent to the assignment of such other agreements to an entity to which a valid assignment is made hereunder.
18. **Taxes Resulting from Applicant's Contribution of Special Facilities**
- (a) **Payment of Taxes Imposed Upon PG&E.** As provided in paragraph 2 of this Agreement, PG&E shall include a gross-up for income taxes in the amounts it charges Applicant under paragraph 2 of this Agreement unless any governmental authority with taxing or rate jurisdiction over PG&E directs PG&E not to report such payments or property transfers as taxable income
- (b) **Private Letter Ruling.** At Applicant's timely and reasonable written request and sole expense, PG&E shall file with the IRS a request for a private letter ruling as to whether any property transferred or sums paid, or to be paid, by Applicant to PG&E under this Agreement are subject to federal income taxation. Applicant will provide the initial draft of the request for a private letter ruling, and will have the draft certified by the person or entity that has prepared such request under penalties of perjury that all facts represented in such request are true and accurate to the best of preparer's knowledge. Applicant shall be given the opportunity to review any subsequent or final drafts of such request as well as any subsequent communications, and PG&E and Applicant shall cooperate in good faith with respect to the submission of such request and any subsequent communications with respect to the private letter ruling. PG&E may retain tax counsel, as agreed to by both Parties with Applicant's agreement not to be unreasonably withheld, for assistance with such private letter ruling at Applicant's sole expense. In addition to the reasonable costs of retaining such tax counsel, Applicant shall be responsible for all reasonable costs incurred by Applicant or PG&E in pursuing the private letter ruling, including, but not limited to all regulatory, filing and application fees, and any other reasonable expenses, including apportioned salary and overhead costs of PG&E and its affiliated personnel, appropriate

and necessary for preparing, managing and obtaining the ruling. PG&E shall bill Applicant monthly for all such costs and Applicant shall pay such costs within thirty (30) days of the date of such bill. PG&E shall not be required to continue to pursue the private letter ruling if Applicant does not comply with the payment provisions of this paragraph. PG&E shall keep Applicant informed of the status of such request for a private letter ruling. PG&E shall allow Applicant to attend all meetings with the IRS about the request and shall permit Applicant to prepare the initial drafts of any follow-up letters in connection with the request.

(c) Refund. In the event that a private letter ruling is issued to PG&E which holds that any amount paid or the value of any property transferred by Applicant to PG&E is not subject to federal income taxation, and such ruling is made without contingencies, PG&E shall refund, within 30 days of the issuance of such ruling, to Applicant any payment made by Applicant under this Agreement for taxes that is attributable to the amount determined to be non-taxable, together with interest at the adjusted federal long-term rate thereon.

19. Subject to the reimbursement provisions of paragraph 2 of this Agreement, the Applicant and PG&E agree that this Agreement alone covers the rights and obligations of each of them with regard to the Special Facilities, and supersedes any and all prior agreements with respect thereto, including but not limited to the CCA. As between Applicant and TE, the CCA remains unmodified by this Agreement unless this Agreement explicitly provides otherwise in a given paragraph.
20. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. In the event that any signature is delivered by facsimile transmission, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) the same with the same force and effect as if such facsimile signature page were an original thereof.
21. As used in this Agreement:

"Control Area Operator" means the operator of a Control Area. Unless otherwise stated, this term shall refer to the operator of the Control Area in which the System is located.

"Existing Path 15 Transmission System (ETS)" means the existing PG&E owned Path 15 transmission system, consisting of the Los Banos-Gates 500-kV line, the Los Banos-Midway 500-kV line, the Gates-Panoche #1 230-kV line, the Gates-Panoche #2 230-kV line, the Gates-McCall 230-kV line and the Gates-Gregg 230-kV line, the associated substations and the existing Remedial Action Scheme.

"Gates Substation" means the 500/230-kV substation owned and operated by PG&E, which interconnects with the Project at 500 kV and is the southern terminus of the Project.

"Good Utility Practice" means 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.

"Los Banos Substation" means the PG&E 500/230-kV AC substation located near Los Banos, California, owned and operated by PG&E which interconnects with the Project at 500-kV and is the northern terminus of the Project.

"Party" or "Parties" means those entities that have executed this Agreement, hereinafter sometimes referred to individually as "Party" and collectively as "Parties"

"PG&E Modification" means those modifications necessary to interconnect the completed and functioning Transmission Line with the PG&E electric system, including the Substation Modifications and modifications to the electric system, if any, and RAS Modifications required to obtain the transfer capability determined from the Project Design Studies.

"Project" or **"Path 15 Upgrade Project"** means the new 500-kV transmission line and associated substation facilities, which extend between the Los Banos Substation and the Gates Substation, including 230-kV and 115-kV reinforcements and reconfigurations, and RAS modifications.

"Project Design Studies" means those studies conducted and relied upon to satisfy the WECC requirements for obtaining an accepted transfer capability rating for the upgraded electrical system, specified separately in each direction.

"Remedial Action Schemes (RAS)" means the facilities and associated automated procedures that are designed in accordance with Good Utility Practice to maintain reliable operation of the Control Area after a disturbance.

"System" means the combined Project and the Existing Transmission System (ETS).

"Transmission Line" means the physical 84-mile 500-kV Los Banos-Gates transmission line including associated structures to be constructed pursuant to the CCA, as such obligations are now assumed by PG&E and Western under this Agreement, but not including any part of the PG&E Modifications.

"WECC" means the Western Electric Coordinating Council or its successor.

Dated this _____ day of _____, 200__.

WESTERN AREA POWER ADMINISTRATION

PACIFIC GAS AND ELECTRIC COMPANY

BY: _____
(Signature)

BY: _____
(Signature)

(Type or Print Name)

(Type or Print Name)

TITLE: _____

Manager, _____

Mailing Address:

Western Area Power Administration
Sierra Nevada Customer Service Region
114 Parkshore Dr.
Folsom, CA 95630-4710

Attachments:
Attachment A

- Appendix A
- Appendix B
- Appendix C

Attachment A

Construction Coordination Agreement dated December 30, 2002

Appendix A

The Comprehensive Plan of Service, attached as Appendix C to the COIA, in effect as of the date of execution of this Agreement shall be included herein as Appendix A to this Agreement

Appendix B

DETAIL OF SPECIAL FACILITIES CHARGES

(1) Path 15 Upgrade Interconnection Project Cost Estimates

Work Item	Costs
A. Transmission Related Costs	\$50,000,000.00
Substation Costs (Design, construct and test 230kV bus extensions)	
Telecommunications (included above)	\$.00
Right-of-Way Acquisition	N/A
Land	N/A
Total – Transmission Related Cost	\$50,000,000.00
I.T.C.C. Tax for Interconnection (@34%)	\$17,000,000.00
Sub-Total	\$67,000,000.00
B. Temporary Relocation, and Rearrangement	N/A
Cost of Ownership (see below)	N/A
 Total Cost	 \$67,000,000.00

2) Monthly Cost of Ownership Charge

The monthly Cost of Ownership Charge reflects the CPUC authorized PG&E Electric Rule 2 cost of Ownership rates applied to the Special Facilities to be installed. PG&E intends to change the Cost of Ownership Charge from time to time to reflect any changes in the cost of the Special Facilities or any CPUC authorized changes in the Electric Rule 2 Cost of Ownership rates¹, based on the following formula:

$$\text{Estimated Installed Cost} \times \text{Transmission-level Customer-financed Monthly Cost of Ownership Rate, per Rule 2} = \text{Monthly Charge}$$

Using this formula, the proposed monthly charges, which are subject to change in accordance with the formula set forth above, are stated below:

<u>Estimated Installed Cost</u>	X	<u>Transmission-level Customer-financed Monthly Cost of Ownership Rate, per Rule 2</u>	=	<u>Monthly Charge</u>
\$50,000,000.00	X	0.31%	=	\$155,000.00

(3) Equivalent One-time Charge (in lieu of monthly Cost of Ownership Charge)

Check here if applicable

<u>Estimated Installed Cost</u>	X	<u>Transmission-level Customer-financed Equivalent, per CPUC Rule 2</u>	X	<u>Present Worth Factor</u>	=	<u>Equivalent One-Time Payment</u>
\$67,000,000.00	X	0.31% x 12 3.72%	X	12.80	=	\$23,808,720

¹ PG&E will make a timely filing with FERC and obtain FERC acceptance prior to collecting revised cost of ownership charges resulting from Electric Rule 2 changes and/or construction of additional facilities.

Appendix C

Table I: Milestone Table
Milestone Table provided pursuant to the CCA , which is in effect as of the date of execution of this Agreement shall be included as Appendix C



Department of Energy
Western Area Power Administration
Sierra Nevada Customer Service Region
114 Parkshore Drive
Folsom, California 95630-4710

Letter Agreement 02-SNR-00536

DEC 30 2002

Mr. Kevin Dasso
Director, Electric Transmission
Distribution Engineering
Pacific Gas and Electric Company
123 Mission Street, H12A
San Francisco, CA 94105

Dear Mr. Dasso:

The Pacific Gas and Electric Company, Trans-Elect, Inc., and Western Area Power Administration agree to make the following changes to the Construction and Coordination Agreement (Agreement). This Agreement was signed by Pacific Gas and Electric Company on November 7, 2002.

Cover Sheet – Change the executed date from November 7, 2002, to December 30, 2002

Page 4 – Line 6, Change November 7, 2002, to December 30, 2002

Page 5 – Line 31, Change November 7, 2002, to December 30, 2002

Page 6, - Lines 11-13, change the Assignment definition to read “Assignment: Any transfer of rights, title, interests, and obligations under this CCA, the MOU and/or the LA of all or any portion of a Party’s share of the Project.

Page 29 – Line 29, change November 15, 2002, to December 31, 2002

Please sign and date all three copies of the signature pages and return this document to Gloria S. Davis, N6205 at this office. When all parties have signed, an original will be returned to you for your files.

IN WITNESS WHEREOF, Pacific Gas and Electric Company, Trans-Elect., and Western Area Power Administration have affixed their signatures as of the date(s) set forth below.

PACIFIC GAS & ELECTRIC COMPANY

By: Kevin J. Dasso

Name: Kevin J. Dasso

Director, Electric Transmission and

Title: Distribution Engineering

Date: 12/30/02

WESTERN AREA POWER ADMINISTRATION

By: _____

Name: James D. Keselburg

Title: Regional Manager

Date: _____

TRANS-ELECT, INC.

By: _____

Name: Robert L. Mitchell

Title: Executive Vice President

Date: _____

IN WITNESS WHEREOF, Pacific Gas and Electric Company, Trans-Elect., and Western Area Power Administration have affixed their signatures as of the date(s) set forth below.

PACIFIC GAS & ELECTRIC COMPANY

By: _____

Name: Kevin J. Dasso

Director, Electric Transmission and

Title: Distribution Engineering

Date: _____

WESTERN AREA POWER ADMINISTRATION

By: _____

Name: James D. Kesselburg

Title: Regional Manager

Date: 12/30/02

TRANS-ELECT, INC.

By: _____

Name: Robert L. Mitchell

Title: Executive Vice President

Date: _____

IN WITNESS WHEREOF, Pacific Gas and Electric Company, Trans-Elect., and Western Area Power Administration have affixed their signatures as of the date(s) set forth below.

PACIFIC GAS & ELECTRIC COMPANY

By: _____

Name: Kevin J. Dasso

Director, Electric Transmission and

Title: Distribution Engineering

Date: _____

WESTERN AREA POWER ADMINISTRATION

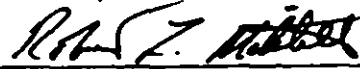
By: _____

Name: James D. Keselburg

Title: Regional Manager

Date: _____

TRANS-ELECT, INC.

By: 

Name: Robert L. Mitchell

Title: Executive Vice President

Date: _____

**CONSTRUCTION AND COORDINATION AGREEMENT
FOR PATH 15 UPGRADE**

AMONG

TRANS-ELECT, INC.,

WESTERN AREA POWER ADMINISTRATION,

AND

PACIFIC GAS & ELECTRIC COMPANY

EXECUTED

December 30, 2002

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**PATH 15 UPGRADE
CONSTRUCTION AND COORDINATION AGREEMENT**

1 PARTIES: This Path 15 Upgrade Construction and Coordination Agreement (CCA) is entered into as of December 30, 2002 pursuant to the Acts of Congress approved June 17, 1902 (32 Stat. 388), March 4, 1921 (41 Stat. 1404); January 12, 1927 (44 Stat. 957), August 4, 1977 (91 Stat. 565), July 16, 1984 (98 Stat. 403, 416), August 15, 1985 (99 Stat. 293, 321), as amended or supplemented. This CCA is among the following entities (each a "Party" and collectively the "Parties"): Trans-Elect, Inc. ("Trans-Elect"), Western Area Power Administration ("Western" and, collectively with Trans-Elect, the "Line Parties") and Pacific Gas & Electric Company ("PG&E").

2 RECITALS

2.1 Congress authorized the construction of the California Oregon Transmission Project, including the Los Banos-Gates Transmission Line, in the 1985 Energy and Water Development Appropriations Act (98 Stat. 403, 416 (1984), *see, also*, Supplemental Appropriations for Fiscal Year 1985, (99 Stat. 293,321 (1985))).

2.2 Section 302 of the Department of Energy Organic Act (42 U.S.C. § 7152) authorizes Western's Administrator to carry out the power marketing duties under the Reclamation Laws, which includes the authority to execute contracts.

2.3 Western Order O 110.2 delegates to Western's Regional Managers the authority to execute contracts on behalf of Western's Administrator.

1 2.4 The Parties signed that certain Memorandum of Understanding
2 for Path 15 Project ("MOU") dated October 16, 2001 and the
3 Secretary of Energy approved the Project, as defined in the
4 MOU, on October 16, 2001.

5 2.5 The Parties entered into that certain Path 15 Upgrade Project
6 Letter Agreement ("LA") on April 25, 2002, with respect to
7 the Project and their commitment to negotiate and execute
8 additional contractual documents setting forth each Party's
9 responsibilities and operational details of the Project.

10 2.6 The LA contemplates the execution of a Participation
11 Agreement to provide additional and supplemental terms for
12 construction and coordination of Project Work. This CCA
13 replaces the Participation Agreement contemplated in the LA.

14 2.7 The Path 15 Upgrade Project will promote reliability, enhance
15 power transfer capability between northern and southern
16 California, and promote a more competitive electrical market
17 in the West.

18 2.8 The Parties desire to coordinate the Transmission Line Work
19 by Line Parties and PG&E Modifications (collectively the
20 "Project Work") to mitigate the risks to each Party and to
21 assure timely and efficient completion of the Project Work

22 2.9 This CCA provides terms and conditions for the activities and
23 their coordination to complete the construction of the Los
24 Banos-Gates 500-kV transmission line, substation and
25 associated facilities, including design work, material
26 acquisition, substation work, additional environmental work,
27 land acquisition, construction activities and post
28 construction activities.

29
30 3 TERM AND TERMINATION: This CCA shall become effective on
31 December 30, 2002 (the "Effective Date"). This CCA shall
32 terminate only by a unanimous written decision by the Parties

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unless terminated earlier in accordance herewith or in a subsequent written agreement among the Parties.

4 DEFINITIONS: Whenever used in this CCA, the following terms when initially capitalized shall have the below meaning. The singular of any definition shall include the plural and the plural shall include the singular. Any reference to a single Party shall, following a valid Assignment by such Party, be deemed a reference to the applicable assignee.

4.1 Assignment: Any transfer of rights, title, interests, and obligations under this CCA, the MOU and/or the LA of all or any portion of a Party's share of the Project.

4.2 CAISO: The California Independent System Operator or its successor.

4.3 CCA: This Construction and Coordination Agreement.

4.4 COIA or Coordinated Operation and Interconnection Agreement: An agreement to be negotiated and executed among the Parties (or their permitted successors) setting forth the terms and conditions for the coordination, operation and the interconnection of the Project with PG&E's electric system at PG&E's Los Banos and Gates Substations.

4.5 Communication Facilities: The Land, equipment, and facilities included in the Project that are necessary and useful for communication to monitor the status and to maintain control of the Project's operations.

4.6 Confidential Information: Confidential information as more fully described in Section 36.

4.7 Construction Work: Project Work including but not limited to design work, material acquisition, substation modification work, additional environmental work, land acquisition, construction and any other work necessary for the

1 been reached. If the "second opinion" supports the
2 position taken by the TLCC representative appointed by
3 the Non-consenting Line Party, then the executive
4 officer who provided that "second opinion" may request a
5 countervailing opinion with respect to the same proposed
6 action from the executive officer identified by the
7 other TLCC Line Party. If the two executive officers
8 are then unable to reach a consensus, the matter shall
9 be considered to be a dispute subject to resolution in
10 accordance with Section 20 of this CCA.

11 9.1.6. Meetings: The TLCC shall meet at least monthly, at
12 times and locations reasonably determined by the Chair.
13 With the consent of all TLCC members a regular meeting
14 monthly meeting may be cancelled. In addition to
15 assembled meetings, meetings, at the request of either
16 Party, also shall be conducted telephonically, so long
17 as all Parties' representatives can hear each other
18 contemporaneously and are assured as to the other
19 Parties' representatives identity. Special meetings of
20 the TLCC may be held at reasonable and mutually
21 convenient times and places at the request of either of
22 Trans-Elect or Western.

23 9.2 Provision of TE Security: Trans-Elect will provide the TE
24 Security and shall have responsibility for managing the
25 drawing of funds from the TE Security and making such funds
26 available on a timely basis to the Trust Account.

27 9.3 Funding and Payments:

28 9.3.1. General: Trans-Elect shall pay Western \$4,277,658,
29 on December 31, 2002. Following the initial payments,
30 Trans-Elect shall make payment in full for any amounts
31 owed in accordance with this CCA within twenty-five
32 (25) calendar days from the date on which an invoice

Trans-Elect NTD Path 15, LLC

September 17, 2003

U.S. Department of Energy
Western Area Power Administration
Sierra Nevada Region
114 Parkshore Drive
Folsom, CA 95630
Attention: Don Roberts

Pacific Gas and Electric Company
123 Mission Street, Room 1222
San Francisco, CA 94105
Attention: Director, Electric Transmission and Distribution Engineering

Re: Path 15 Upgrade

Ladies and Gentlemen:

A. The Western Area Power Administration ("Western"), Trans-Elect NTD Path 15, LLC ("Trans-Elect") and Pacific Gas and Electric Company ("PG&E") intend to, among other things, (i) construct an approximately 83-mile, 500 kV transmission line between certain substations (the "Substations") owned by PG&E near Los Banos and Coalinga, California ("Path 15"), (ii) upgrade the Substations ("Path 15 Upgrade") and (iii) upgrade a 230 kV transmission line that adjoins Path 15 (collectively, "Project").

B. As part of the Project, Trans-Elect, Inc. ("TE") has entered into (i) a Memorandum of Understanding dated as of October 16, 2001 (the "MOU") with Western and PG&E, among others, (ii) a Letter Agreement dated as of April 25, 2002 (the "Letter Agreement") with Western and PG&E and (iii) a Construction and Coordination Agreement for Path 15 Upgrade dated as of December 30, 2002 with Western and PG&E (the "Coordination Agreement"), pursuant to which, among other things, Western has agreed to construct Path 15 and PG&E has agreed to upgrade the Substations and upgrade the 230 kV Line. TE has assigned all of its rights and obligations in and under the Coordination Agreement, the Letter Agreement and the MOU to Trans-Elect. Capitalized terms that are not otherwise defined herein are used with the meanings assigned to such terms in the Coordination Agreement.

C. Trans-Elect, Western and PG&E have entered into a Coordinated Operations and Interconnection Agreement executed in August 2003 (the "COIA") pursuant to which, among other things, arrangements for interconnection and operation of the Project are established.

D. Trans-Elect, WAPA and PG&E are entering into this letter agreement (the "2003 Letter Agreement", and together with the MOU, the Letter Agreement, and the COIA, the "Path 15 Documents") with respect to the MOU, the Letter Agreement, the Coordination Agreement and the COIA.

E. Trans-Elect, Western and PG&E wish to document certain supplementary agreements with respect to the Path 15 Agreements.

Western, PG&E and Trans-Elect hereby agree as follows:

1. (a) If Western or Trans-Elect defaults in the performance of any of its obligations under the Letter Agreement or the Coordination Agreement (the "Subject Agreements") or upon the occurrence or non-occurrence of any event or condition under the Subject Agreements which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable any other Project Party (a "Non-Defaulting Party") to terminate any Subject Agreement (each hereinafter a "default"), each Non-Defaulting Party shall not terminate any Subject Agreement until it first gives written notice of such default to the collateral agent for the T-E Lenders (the "Collateral Agent") and affords the Collateral Agent a period of at least 60 days (or if such default is a non-monetary default, such longer period (not to exceed 120 days) as may be required so long as the T-E Lenders have commenced and are diligently pursuing appropriate action to cure such default) from the later of (x) the end of the Cure Period and (y) receipt of such notice, to cure such default; provided, however, that (i) the foregoing provisions of this paragraph shall not require Western to perform any obligations under the Subject Agreements unless funding has been provided to Western for such performance in accordance with the Subject Agreements, (ii) if possession of Path 15 is necessary to cure such non-monetary default and the Collateral Agent has commenced proceedings pursuant to Section 9.5 of the Coordination Agreement to take possession thereof, the Collateral Agent shall be allowed a reasonable time not to exceed 180 days to complete such proceedings, and (iii) if the T-E Lenders are prohibited from curing any such non-monetary default by any process, stay or injunction issued by any governmental authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving Trans-Elect, then the time periods specified herein for curing a default shall be extended for the period of such prohibition, provided that such additional period shall not exceed 180 days, (iv) PG&E shall continue during any extended cure period provided for in this Section to have its right (A) under Section 8.3(c) of the Coordination Agreement not to undertake a PG&E Milestone in the event that corresponding Transmission Line Project Milestone is not met and shall also have the right not to commence, undertake or continue a PG&E Milestone during any extended cure period while the related default remains uncured, and (B) under Section 8.4 of the Coordination Agreement not to commence any particular PG&E Milestone while a Default by Western or Trans-Elect is continuing, and (v) Western and PG&E, in the case of a Trans-Elect default, shall have the right to reasonably adjust Transmission Line Project Milestones (in the case of Western) or PG&E Milestones (in the case of PG&E) to take account of any delay that may have resulted from a default being cured during an extended cure period rather than during the Cure Period.

(b) Western agrees that if Maslonka & Associates, Inc. ("Maslonka") defaults in the performance of any of its obligations under the Agreement for Engineering, Procurement and Construction of Los Banos – Gates 500-kV Transmission Line, dated as of May 27, 2003 (the "EPC Contract") between Western and Maslonka, or upon the occurrence or non-occurrence of any event or condition under the EPC Contract which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable Western to terminate or suspend its performance under the EPC Contract (each hereinafter a "default"), Western shall not terminate or suspend its performance under the EPC Contract until it first gives written notice of such default to the Collateral Agent and affords the Collateral Agent a period of at least 60 days (or if such default is a nonmonetary default, such longer period (not to exceed 120 days) as may be required so long as the Collateral Agent has commenced and are diligently pursuing appropriate action to cure such default) from receipt of such notice to cure such default; provided, however, that if the Collateral Agent is prohibited from curing any such nonmonetary default by any process, stay or injunction issued by any governmental authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving Western, then the time periods specified herein for curing a default shall be extended for the period of such prohibition. Western

shall be entitled to reasonably adjust the Transmission Line Project Milestones to take account of any delay in achieving Project Milestones that may result from any delay in termination of the EPC Contract due to such extended cure periods.

2. Each of Western and PG&E acknowledges and agrees, notwithstanding anything to the contrary contained in any Path 15 Agreement, that none of the following shall constitute, in and of itself, a default by Trans-Elect under any Path 15 Agreement or shall result in a termination thereof: (i) the assignment of each Path 15 Agreement to the T-E Lenders (pursuant to security documents entered into for the benefit of the T-E Lenders ("TE Security Documents")); (ii) foreclosure or any other enforcement action (any such action, an "Enforcement Action") undertaken by the T-E Lenders in respect of their rights under any of the Security Documents; (iii) acquisition of the rights of Trans-Elect under any Path 15 Agreement as a consequence of any Enforcement Action by the T-E Lenders or any third party (or acceptance of an absolute assignment of any Path 15 Agreement in lieu of an Enforcement Action); (iv) assignment of any Path 15 Agreement by the T-E Lenders following a purchase after an Enforcement Action or following an absolute assignment thereof in lieu of an Enforcement Action; provided that if such assignment occurs prior to the completion of the Transmission Line the assignee shall demonstrate to PG&E's and Western's reasonable satisfaction that it has access to the financial resources to perform its obligations under the Path 15 Agreements and that it will comply with law in performing such obligations; (v) failure by any T-E Lender to advance funds to Western under the T-E Security following a failure by Trans-Elect to provide funding to Western as contemplated in Section 9.3.3 of the Coordination Agreement if such funds are otherwise being provided to Western by or on behalf of Trans-Elect or the T-E Lenders; or (vi) failure of Trans-Elect to authorize disbursements to Western under the T-E Security or assign to Western the right to draw funds under the T-E Security as contemplated in Section 9.3.4 of the Coordination Agreement if sufficient funds in the amounts required under Section 9 of the Coordination Agreement are otherwise being provided to Western by or on behalf of Trans-Elect or the T-E Lenders.

3. Western and PG&E each agree that it shall not, without the prior written consent of the Collateral Agent, (i) approve any material amendment to the performance dates of one or more of the milestones for the Project Work, as provided in Section 5.2(a) of the Coordination Agreement or (ii) agree to any material modification to the schedule for completion of any or all other portions of the Project Work as provided in Section 5.3 of the Coordination Agreement, except to the extent that Trans-Elect has notified Western and PG&E (with a copy to the Collateral Agent) that Trans-Elect is permitted under the T-E Security and the related financing documents (the "Financing Documents") to enter into such modifications of the Path 15 Agreements. If Trans-Elect does provide such notice, Western and PG&E may rely thereon without further inquiry. Western and PG&E shall not incur any liability with respect to non-compliance with this paragraph in the absence of willful action or gross negligence. In the event that the consent of the Collateral Agent is required for an action described by this Section 3, neither Western nor PG&E shall have any obligation to request such consent, but rather such responsibility shall rest solely with Trans-Elect.

4. Western and PG&E each agree that it shall not, without the prior written consent of the Collateral Agent, enter into any other supplement, restatement, extension, novation, material amendment or other material modification of any Path 15 Agreement except to the extent Trans-Elect has notified Western and PG&E (with a copy to the Collateral Agent) that Trans-Elect is permitted under the Financing Documents to enter into such modification of the Path 15 Agreements. If Trans-Elect does provide such notice, Western and PG&E may rely thereon without further inquiry. Western and PG&E shall not incur any liability with respect to non-compliance with this paragraph in the absence of willful action or gross negligence. In the event that the consent of the Collateral Agent is required for an action described by this Section 4, neither Western nor PG&E shall have any obligation to request such consent, but rather such responsibility shall rest solely with Trans-Elect.

5. Notwithstanding any provision or implication in the definition of "T-E Security" or Section 9.3 of the Coordination Agreement to the contrary, in no event shall Western have the ability to draw on the T-E Security.

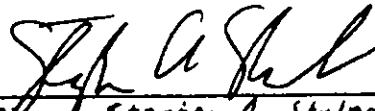
6. Trans-Elect, PG&E and Western ratify and confirm their obligations under the Path 15 Documents.

This agreement is made and entered into by Western and PG&E in the State of California. Interpretation of this agreement, and performance and enforcement thereof, shall be determined in accordance with the law that is applicable to the Coordination Agreement. Western is solely subject to the jurisdiction of the United States Government and Federal law.

The terms of this letter shall not be terminated, amended, supplemented, waived or modified except by an instrument in writing signed by Trans-Elect, Western and PG&E.

Very truly yours,

TRANS-ELECT NTD PATH 15, LLC


By: 
Name: *Stephen A. Skulman*
Title: *VP Finance and Treasurer*

Agreed and acknowledged:

WESTERN AREA POWER ADMINISTRATION

By: _____
Name:
Title:

PACIFIC GAS AND ELECTRIC COMPANY

By: ³⁶ 
Name: *James K. Randolph*
Title: *Senior Vice President, Chief of Utility Operations*

5. Notwithstanding any provision or implication in the definition of "T-E Security" or Section 9.3 of the Coordination Agreement to the contrary, in no event shall Western have the ability to draw on the T-E Security.

6. Trans-Elect, PG&E and Western ratify and confirm their obligations under the Path 15 Documents.

This agreement is made and entered into by Western and PG&E in the State of California. Interpretation of this agreement, and performance and enforcement thereof, shall be determined in accordance with the law that is applicable to the Coordination Agreement. Western is solely subject to the jurisdiction of the United States Government and Federal law.

The terms of this letter shall not be terminated, amended, supplemented, waived or modified except by an instrument in writing signed by Trans-Elect, Western and PG&E.

Very truly yours,

TRANS-ELECT NTD PATH 15, LLC
By: Trans-Elect NTD Holdings Path 15, LLC,
its Sole Member
By: New Transmission Development Company,
its Manager


By: _____
Name:
Title:

Agreed and acknowledged:

WESTERN AREA POWER ADMINISTRATION

By: _____
Name:
Title:

PACIFIC GAS AND ELECTRIC COMPANY

sb
By: 
Name: James K. Randolph
Title: Senior Vice President, Chief of Utility Operations

Very truly yours,

TRANS-ELECT NTD PATH 15, LLC
By: Trans-Elect NTD Holdings Path 15, LLC,
its Sole Member
By: New Transmission Development Company,
its Manager

By: _____
Name:
Title:

Agreed and acknowledged:

WESTERN AREA POWER ADMINISTRATION

By: _____
Name: James D. Keselburg
Title: Regional Manager

PACIFIC GAS AND ELECTRIC COMPANY

By: _____
Name:
Title:

ATTACHMENT 3

Western Area Power Administration

**July 21, 2003 Response to Intervenors' Comments
FERC Docket No. ER02-1672-000**



Department of Energy
Western Area Power Administration
Office of General Counsel
P.O. Box 281213
Lakewood, CO 80228-8213

July 21, 2003

Dear Sir or Madam:

Thank you for the interest you have taken in the Path 15 Upgrade. Attached you will find Western's responses and a summary of the comments submitted on the Coordinated Operations and Interconnection Agreement (COIA) among Pacific Gas and Electric Company (PG&E), Trans-Elect and Western. The COIA will govern the coordinated operations of and interconnection of the existing Path 15 transmission system and the Path 15 Upgrade.

We greatly appreciate the time and effort you and your organization have taken to participate in the process. Western received comments from Southern California Edison Company (SCE), Turlock Irrigation District (TID) and the Transmission Agency of Northern California (TANC).

Summary of Comments and Western's Responses

Comment: SCE comments that nothing in the agreement assures the scheduling timelines of the Path 15 Upgrade will be consistent with the existing timelines of the current control area.

Response: PG&E is currently a Participating Transmission Owner. Trans-Elect has filed its application to become a Participating TO. Western intends to file an application to become a Participating TO by December 30, 2003 and will work with the CAISO to seek a waiver pursuant to the FERC's Order of May 30, 2003, 103 FERC ¶ 61,260. The Parties intend to turn over the entire upgrade to the CAISO and its use will therefore be governed by CAISO tariff and thus the users (i.e. Market Participants) of the associated transmission capacity will schedule under the CAISO timelines.

Comment: SCE believes that Path 15 should be within the same control area and seeks to delete Section 12.2.2 of the draft.

Response: The Path 15 Upgrade Participants have agreed to remove Section 12.2.2.

Comment: SCE comments that today's rating on Path 15 is higher in the north to south direction and raises concern that the draft documents identify south to north rating as higher.

Response: Based on the current WECC studies, the south to north Path 15 rating is higher than the north to south rating.

Comment: SCE comments that it would like the opportunity to examine and comment on the document and studies regarding the Path 15 Upgrade rating.

Response: PG&E on behalf of the Path 15 Upgrade Participants has worked through the WECC rating process for the Path 15 Upgrade. SCE participated in those proceedings. PG&E presented detailed documents and studies during the WECC rating process. Ying He represented SCE in the WECC studies process.

Comment: SCE comments that the upgrade will increase the existing South to North capability by 1500 MW. SCE states that they have not seen any documents or studies to support the rating claim and would like to have an opportunity to review and comment in the studies.

Response: PG&E on behalf of the Path 15 Upgrade Participants has worked through the WECC rating process for the Path 15 Upgrade. SCE participated in those proceedings. PG&E presented detailed documents and studies during the WECC rating process. Ying He represented SCE in the WECC studies process.

Comment: SCE asks why the existing system in the north to south direction receives a smaller percentage of the capacity than the south to north.

Response: The allocation of capacity occurs pro rata based on the ratio of the total capacity the upgrade adds to the system to the total system capacity. Since the capacity added and the total capacity south to north and north to south is different, the results are different.

Comment: SCE requests clarification on the role the CAISO and non-contract parties will have with respect to the energization of the Path 15 upgrade and the impact of that energization.

Response: Under Section 9.2 of the COIA, Western and PG&E will develop an energization plan. Under Section 9.4 of the COIA, PG&E will coordinate the energization with the CAISO.

Comment: SCE comments that the Path 15 Upgrade Participants have an obligation to protect the existing capacity to ensure the project does not negatively impact the current right holders.

Response: The WECC Rating Process determines the rating of a new transmission line. In the event an entity believes the construction of a new transmission line will adversely impact their rights, the appropriate venue to protest the construction and subsequent rating for that transmission line is through the WECC process. While the Path 15 Upgrade Participants do not have an obligation under the COIA to protect the existing right holders (other than those established during the WECC Process), the Path 15 Upgrade Participants intend that the ETS ASC shall be no less than the megawatt amount of what the ETS ASC share would have been without the construction of the Project under comparable pre-construction operating conditions. Thus, the rights that other parties have under separate arrangements should not be adversely impacted, and should, if desired, be discussed by the Parties to such arrangements.

Comment: TID comments that it would like to ensure that its existing rights are not curtailed or reduced as a result of construction or operation of the Path 15 Upgrade Project. TID proposes to add the following language:
"During all phases of the Project (e.g., construction, testing, operation), the Parties shall use best efforts, in accordance with Good Utility Practice, to avoid any curtailment or diminution of ASTC or existing service on the ETS."

Response: The Path 15 Upgrade Participants believe the language is unnecessary, because the concerns raised are already covered elsewhere. For instance, Section 10.3 of the agreement already provides that the Project shall be operated, maintained and modified in accordance with Good Utility Practice, including applicable Control Area Operator, NERC and WECC operating criteria and PG&E and Western operating instructions and standard operating practice. Section 9.4 addresses the coordination of the energization plan (which would include review of necessary clearances during energization) with the CAISO. In addition, PG&E, as operator of the existing Path 15 facilities, will coordinate any clearances needed during

construction with the CAISO. Section 12.4.2 of the agreement provides that the Parties shall meet applicable industry and Control Area performance and reliability standards consistent with Good Utility Practice including "Operating and maintaining the Project and the ETS in order to minimize Electric System disturbances." Section 15.3 identifies the parties intend that the ETS ASC shall be no less than the megawatt amount of what the ETS ASC share would have been without the construction of the Project under comparable pre-construction operating conditions.

Comment: TANC Comments that there do not appear to be any significant items in the draft agreement that would impact TANC's SOTP rights. Thus during all phases of the project there will be an on-going coordination of efforts to minimize disruptions of system capabilities.

Response: The comment is noted.

Comment: TANC raises a question on whether Western can come up with load to meet its RAS requirement in the event that Western is unable to turn over its rights to the CAISO.

Response: Provided the CAISO and Western can obtain a waiver from the FERC for Western to turn over the Path 15 Upgrade, Western intends to turn over its rights to the CAISO. As a result, the RAS requirements will not be an issue. In the unlikely event FERC denies the waiver, the RAS applies only to retail loads.

Comment: TANC raises concern that Section 26.3 provides unilateral rights to PG&E to make modifications in the event the "world has changed."

Response: Section 26.3 provides any party with the right to seek to make modifications in the event of a significant regulatory change. Any such modifications shall be as negotiated or as resolved through a FERC proceeding.

Again, on behalf of the Path 15 Upgrade participants, Western would like to thank you for your participation.

Sincerely,

Koji Kawamura

ATTACHMENT 4

California Public Utilities Commission

Decision 03-05-083, May 22, 2003

COM/MP1/kpc/acb

Mailed May 29, 2003

Decision ~~03-05-083~~ May 22, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation Into
Implementation of Assembly Bill 970 Regarding
the Identification of Electric Transmission and
Distribution Constraints, Actions to Resolve
Those Constraints, and Related Matters Affecting
the Reliability of Electric Supply.

Investigation 00-11-001
(Filed November 2, 2000)

Conditional Application of PACIFIC GAS AND
ELECTRIC COMPANY (U 39 E) for a Certificate
of Public Convenience and Necessity Authorizing
the Construction of the Los Banos-Gates 500 kV
Transmission Project.

Application 01-04-012
(Filed April 13, 2001)

(See Attachment 1 for List of Appearances.)

I.00-11-001, A.01-04-012 COM/MP1/kpc/acb

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LIST OF ATTACHMENTS

Attachment 1 - List of Appearances

Attachment 2 - List of Acronyms and Abbreviations

I.00-11-001, A.01-04-012 COM/MP1/kpc/acb

OPINION

1. Introduction and Summary¹

Path 15 is the major transmission interface between northern and southern California. During the latter part of 2000 and early 2001, congestion occurred on Path 15 on a regular basis. Although it was the middle of winter when demand was low, generation resources proved to be scarce. The California Independent System Operator (ISO) was forced to regularly call a stage three emergency, which is defined as the point where operating reserves are so low that rolling blackouts are imminent. California experienced two days of rotating outages of firm customer load and numerous days of threatened outages. On February 13, 2001, the Commission's Energy Division issued a report on transmission constraints in California and their impacts on system reliability and electric prices.² In that report, the Energy Division identified constraints on Path 15 between southern and northern California as a major factor affecting system reliability and resulting in unnecessarily high electric prices. In response to this report, on March 29, President Lynch issued an Assigned Commissioner's Ruling in the Transmission Investigation (I.) 00-11-01 that ordered Pacific Gas and Electric Company (PG&E) to file an application for a Certificate of Public Convenience and Necessity (CPCN). PG&E filed a conditional application on April 13, 2001.

¹ Attachment 2 explains each acronym or other abbreviation that appears in this decision.

² "Relieving Transmission Constraints" prepared by Energy Division, February 13, 2001, which is appended to D.01-03-077.

I.00-11-001, A.01-04-012 COM/MP1/kpc/acb

On November 6, 2001, PG&E filed a motion to withdraw Application (A.) 01-04-012 because the United States Secretary of Energy announced a Memorandum of Understanding among various public and private entities regarding an upgrade to Path 15 led by the Western Area Power Administration (WAPA). On November 30, 2001, the assigned Commissioner denied PG&E's motion.

By today's decision, we grant PG&E's motion to withdraw its Application for a CPCN for Path 15. Before we grant that motion, we certify the Final Supplemental Environmental Impact Report (FSEIR) as the Environmental Impact Report (EIR) for the project which is the subject of this application and is certified for use by other agencies in considering subsequent approvals of the project, or for portions thereof. Finally, by this decision, the issue of whether or not to construct Path 15 is excluded from any further action by the Commission in I.00-11-001.

2. Procedural Background

2.1 General

By ruling dated March 29, 2001, the Assigned Commissioner directed PG&E to file a Certificate of Public Convenience and Necessity (CPCN) to upgrade the portion of Path 15 between Los Banos and Gates substations. On April 13, 2001, PG&E submitted a conditional CPCN Application (A.) 01-04-012, as directed. A prehearing conference (PHC) was held on May 10, 2001 and another on June 27, 2001 to address scheduling issues for A.01-04-012. Public participation hearings were held on September 19, 2001 in Los Banos and Coalinga.

PG&E and the ISO served opening testimony on September 25, 2001. PG&E's testimony focused on more fully describing the project and the expected

I.00-11-001, A.01-04-012 COM/MP1/kpc/acb

costs to build the project. The ISO testimony addressed the economic need for the project. The Office of Ratepayer Advocates (ORA) submitted testimony criticizing the ISO's economic analysis on November 8, 2001. ISO responded with rebuttal testimony on November 15, 2001. Evidentiary hearings were scheduled to begin on November 26, 2001.

Before the testimony could be subject to evidentiary hearings, PG&E filed a motion to withdraw A.01-04-012.³ In its motion, PG&E stated that it would not build a stand alone Path 15 project in light of a recent agreement among various public and private entities to participate in a Path 15 expansion project, i.e., the October 16, 2001 Memorandum of Understanding (MOU) executed by WAPA, PG&E, PG&E National Energy Group, Kinder Morgan, Transmission Agency of Northern California (TANC), Trans-Elect, and Williams Energy Marketing and Trading Company. The document provides a general discussion of the planned Path 15 expansion project, and leaves to future agreements the definition of parties' shares of the project costs and benefits, as well as specific roles and responsibilities. The MOU states that such agreements are to be executed no later than 90 days after the MOU was executed (i.e., by January 14, 2002.)

ORA and ISO filed responses to PG&E's motion on November 13, 2001. By ruling dated November 30, 2001, the Assigned Commissioner denied PG&E's motion and consolidated A.01-04-012 with the Commission's generic investigation of transmission constraints, stating:

³ On November 6, 2001, PG&E filed a "Notice of Withdrawal" of A.01-04-012. The Commission Docket Office accepted the filing as a "Motion to Withdraw".

I.00-11-001, A.01-04-012 COM/MP1/kpc/acb

"I.00-11-001 provides a logical forum to further explore the issue of project economics and to examine the allocation of benefits among project participants under the MOU development approach or a PG&E stand-alone project.... PG&E is currently a respondent to I.00-11-001 and matters surrounding the economics of transmission projects throughout the state are the subject of the investigation. Parties to A.01-04-012 should be prepared to discuss a schedule for supplemental testimony regarding the allocation of costs and benefits of the federal project at the December 19, 2001 prehearing conference already scheduled in I.00-11-001.... [T]he assigned Administrative Law Judge in I.00-11-001 will establish the scope and schedule for further consideration of the Path 15 expansion application, previously served testimony and supplemental testimony."⁴

A further PHC was held on December 19, 2001, followed by the assigned ALJ ruling regarding the schedule and scope of evidentiary hearings.⁵ The ISO filed Errata to the September 25 testimony on January 25, 2002, and ORA filed additional rebuttal testimony on February 8, 2002. Three days of evidentiary hearings were held on February 25, 26 and 27. During these hearings, the ALJ requested additional information from the ISO regarding the assumptions and methodology used to perform the economic analysis. This information was examined during a fourth day of evidentiary hearings on March 27, 2002.

Opening briefs were filed on April 10, 2002 by PG&E, ORA and ISO. ORA and the ISO filed reply briefs on April 22, 2002.

⁴ Assigned Commissioner's Ruling in I.00-11-001/A.01-04-012, November 30, 2001, p. 5.

⁵ Assigned Administrative Law Judge's Ruling Regarding Hearings on the Path 15 Expansion Project, December 28, 2001.

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On April 30, 2002, WAPA filed a letter agreement at the Federal Energy Regulatory Commission (FERC) describing who will own the land, the lines and the transmission rights on the Path 15 upgrade and seeking pre-approval of a proposed ratemaking treatment for the project participants. Those project participants are identified as WAPA, PG&E and Trans-Elect. The letter agreement states that subsequent implementation agreements will provide more detail on the ownership percentages, project scope, and the nature of the ownership rights and responsibilities, including payments for project costs.⁶

On June 17, 2002, PG&E filed opening testimony on the expected net present value (NPV) of a PG&E financed project compared to the NPV of the project financed under the terms of the letter agreement. ORA filed its opening testimony on July 3, 2002, and PG&E filed rebuttal on July 15, 2002. One day of evidentiary hearing were held in San Francisco on July 25, 2002. Subsequent to hearings, the assigned Administrative Law Judge (ALJ) directed PG&E, ORA and Energy Division to clarify the treatment of entitlements under the letter agreement and the ISO tariff. They filed a joint statement on this issue on September 6, 2002. Also on that day, PG&E and ORA filed opening briefs on the July 25, 2002 hearings. PG&E and ORA filed reply briefs on September 18, 2002. On April 18, 2003, PG&E filed a request for an expedited decision by the full Commission that would reverse Assigned Commissioner Lynch's ruling that denied PG&E's withdrawal of A.01-04-012.

⁶ Path 15 Upgrade Project Participant's Letter Agreement, executed April 25, 2001, filed with FERC on April 30, 2002; Section 9.

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2.2 Environmental

In conjunction with its application, PG&E filed a Proponent's Environmental Assessment (PEA).⁷ The Commission, as state lead agency, retained outside consultants to prepare a supplemental EIR for the proposed project pursuant to the California Environmental Quality Act (CEQA),⁸ and to examine alternatives, including the "No-Project" alternative. The WAPA undertook an environmental review process for the Path 15 Expansion under the National Environmental Policy Act, resulting in an August 2001 Supplement Analysis that determined no supplemental EIS was required. A Record of Decision was issued by WAPA on December 20, 2001.

As described below, the Commission staff held public scoping meetings in July 2001. The Commission issued its Draft Supplemental EIR (DSEIR) in October 2001. The Administrative Law Judge (ALJ) presided over public participation hearings in September 2001. In February 2002, the Commission issued its FSEIR.⁹ The FSEIR considered each timely comment letter in reaching its conclusions. The FSEIR identifies the environmentally superior "build" alignments and an overall environmentally superior project taking the "No-Project" analysis into consideration. This decision deals only with whether the Commission should certify the FSEIR and does not determine whether PG&E

⁷ PG&E's PEA consisted of the documents comprising the EIR and Environmental Impact Statement (EIS) adopted by the Transmission Agency of Northern California in 1988, when Path 15 was first considered.

⁸ The CEQA statute appears at Cal. Pub. Res. Code § 21000 *et seq.*

⁹ We do not reproduce the FSEIR in its entirety in this decision. However, the FSEIR was identified as Exhibits A and B and is part of the record of this proceeding. The FSEIR is also available on the Commission's website at <http://www.cpuc.ca.gov>.

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should be granted a CPCN or if so, what alignment for the project should be adopted. Certification of the FSEIR does not prejudice final selection of a route for the project; nor does it impose mitigation measures on Path 15 project participants.

2.2.1 Notice and Public Participation

The process of preparing the FSEIR included the steps described below, which offered numerous opportunities for public involvement and were designed to maximize agency and public input for the Path 15 Expansion environmental review process. The scoping process for the Path 15 Expansion EIR consisted of four elements:

1. Publication of a Notice of Preparation (NOP) of an EIR and Notice of Public Scoping Meetings soliciting comments from affected public agencies, as required by CEQA, as well as from the public;
2. Public scoping meetings;
3. Review of scoping comments; and
4. Establishment of an Internet web site, electronic mail address, a telephone hotline, and local EIR Information Repositories.

The Commission issued the NOP on July 10, 2001 and distributed it to the State Clearinghouse and city, county, state and federal agencies, affected state and federal legislators, and local elected officials. Interested parties received 30 days to submit comments regarding the content of the EIR. Approximately 200 copies were distributed.

Scoping meetings are held prior to selection of alternatives to be studied in order to receive input from the public regarding the proper scope and content of the EIR. The scoping process is also used to identify alternatives and mitigation measures that should be considered in the analysis. Two public scoping meetings were conducted as part of the EIR scoping process. The dates,

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times and locations of the two scoping meetings were included in the NOP mailed to affected agencies and parties to this proceeding, about two weeks in advance of the meetings. This information was also posted on the Commission's project website and on the project hotline. On July 18, 2001, advertisements were published in the Hanford Sentinel, Fresno Bee, and Merced Sun Star, three newspapers in the project area. Both scoping meetings were held July 24, 2001.

A Notice of Release of the DSEIR was mailed in October 2001 to property owners on or adjacent to the proposed project and alternatives. The DSEIR was released on October 5, 2001. A newspaper notice was also published in the Hanford Sentinel, Fresno Bee, and Merced Sun Star during the week of October 15, 2001 to announce the release of the DSEIR. A 45-day public review period for the DSEIR was established, ending on November 19, 2001.

We have described the public participation and notice process in detail. CEQA requires that a notice of availability for a DSEIR must be issued to the county clerk, all responsible and trustee agencies, and any person or organization requesting, or who previously requested, a copy. In addition, CEQA requires that notice be issued in one of the following three manners: publication in a newspaper of general circulation; posting on and off the project site; and direct mailing to owners and occupants of contiguous property. Rule 17.1 of the Commission's Rules of Practice and Procedure requires two notices in newspapers. Consistent with these requirements, notices of availability were published in the Hanford Sentinel, Fresno Bee, and Merced Sun Star during the week of October 15, 2001. Thus, the notification procedures employed for this project meet the requirements of CEQA.

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2.2.2 Adequacy and Certification of the FEIR

The FSEIR must be certified by the lead agency under CEQA before a project may be approved. Certification consists of two steps. First, the agency must conclude that the document has been completed in compliance with CEQA, and second, the agency must have reviewed and considered the FSEIR prior to approving the project. Additionally, the lead agency must find that the FSEIR reflects its independent judgment (Pub. Res. Code § 21082.1(c)(3).)

A. Adequacy of the FSEIR

The FSEIR must contain specific information according to the CEQA Guidelines, Sections 15120 through 1532 (CEQA Guidelines).¹⁰ The various elements of the FSEIR satisfy these CEQA requirements. THE FSEIR consists of the DSEIR, with revisions in response to comments and other information received. Section A of the FSEIR contains the comments received on the DSEIR; individual responses to these comments appear in the same section of the FSEIR.¹¹

B. Certification of the FSEIR

The Commission must conclude that the FSEIR is in compliance with CEQA before finally addressing PG&E’s request for a certificate of public convenience and necessity. The basic purpose is to insure that the environmental document is a comprehensive, accurate, and unbiased tool to be used by the lead agency and other decisionmakers in addressing the merits of the project. The document should embody “an interdisciplinary approach that will

¹⁰ Ca. Admin. Code §§ 15122-131.

¹¹ CEQA Guidelines, § 15132.

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ensure the integrated use of the natural and social sciences and the consideration of qualitative as well as quantitative factors.”¹² It must be prepared in a clear format and in plain language.¹³ It must be analytical rather than encyclopedic, and emphasize alternatives over unnecessary description of the project.¹⁴ Most importantly, it must be “organized and written on such a manner that [it] will be meaningful and useful to decisionmakers and the public.”¹⁵

3. Project Description

Path 15 is a transmission interface located in the southern portion of PG&E’s service area that is in the middle of the ISO control area. It is comprised of two 500 kilovolt (kV), four 230 kV and several 70 kV lines and stretches for approximately 90 miles between the Los Banos and Gates substations in the San Joaquin Valley. The majority of the flow of power from southern California to northern California and to the Pacific Northwest flows through Path 15; the remaining small percentage (loop flow) goes through Arizona, Nevada, Utah and Idaho. Path 15 currently has the capacity to transfer 3950 MW from south to north on its existing lines. It is currently constrained to a lower transfer limit than the rest of the 500 kV system in northern California because there are just two 500 kV lines in this area.

Historically, during periods of low hydroelectric generation availability, PG&E draws on resources from southern California to meet customer demand in

¹² *Id.*, § 15142

¹³ *Id.*, §§ 15006 (q) and (r), 15120, 15140.

¹⁴ *Id.*, §§ 15006, 15141; Pub. Res. Code § 21003(c).

¹⁵ Pub. Res. Code § 21003(b).

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its service territory. At certain times, and due to a number of factors, the transfer capability of Path 15 between the zone south of Path 15 (SP15) and the zone north of Path 15 (NP15) reaches its limit before all available electrical resources can be moved between the zones. Congestion occurs, causing power shortages, increased prices, or both in the PG&E control area. During the later part of 2000, congestion on this path began to occur more frequently. The problem escalated further in the first part of 2001 as a shortage of generation in Northern California and reduced imports from the Northwest led to two days of rotating outages of firm customer load and numerous days of threatened outages.

In its application, PG&E identifies the following plan of service to upgrade Path 15:¹⁶

- Construct an uncompensated, single circuit 500 kV transmission line between Los Banos and Gates substations.
- Convert the Gates 500 kV bus from a ring bus arrangement to a breaker-and-a-half arrangement.
- Install 250 MVAR of 500 kV of shunt capacitors at both Gates and Los Banos
- Upgrade the Gates-Midway 230 kV line by either reconductoring portions of this line or by applying a temperature adjusted rating.

We refer to this plan of service as the Path 15 “upgrades” or “the project” throughout this decision. The project would add 1500 MW of power transfer capability to Path 15, increasing the total capability to approximately 5400 MW.

¹⁶ PG&E’s power system study that evaluated this plan of service, along with alternatives, is described in Exhibit (Exh.) 214, Section 6.

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In its application, PG&E projects that construction could be completed by summer 2004, if the CPCN were approved by early 2002.

4. Estimated Project Costs

PG&E estimates the cost of Path 15 upgrades along its preferred route at \$323.1 million, including reconductoring of the Gates-Midway 230 kV line.¹⁷ The annual revenue requirement associated with this cost would be between \$48 million and \$58 million/year depending on what factor (15% to 18%) is used to levelize costs.

5. Position of the Parties

PG&E presents no independent position concerning the economic benefits or cost-effectiveness of the Path 15 upgrades in this proceeding, stating that "...the ISO has undertaken to demonstrate that a Path 15 transmission capacity upgrade is needed to promote economic efficiency. PG&E, therefore, defers to the ISO's assessment of such economic benefit."¹⁸

In the ISO's view, the record strongly supports proceeding with the Path 15 upgrade.¹⁹ By reducing the ability of suppliers to exercise market power, the ISO argues that the upgrade would "easily pay for itself within one drought hydro year and three normal years, and would in fact pay for itself within four

¹⁷ Exh. 214, Section 6, p. 11.

¹⁸ PG&E Opening Brief, pp. 1-2.

¹⁹ Our understanding from the record in this proceeding is that the ISO staff has taken a position, but not yet the ISO Governing Board, regarding the economic need of the project. (See RT at 533.) Therefore, our reference to the position of the ISO refers only to the staff position, as reflected in their testimony and during evidentiary hearings.

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normal years, even applying a 25% plus or minus factor.”²⁰ Moreover, the ISO contends that the upgrade provides a cost-effective hedge against significant consumer harm in less likely, but still plausible worst-case scenarios.

More generally, the ISO views the Path 15 upgrades as part of a larger vision of transmission “backbone” of 500 kV transmission lines crossing the state:

“In particular, the CA ISO has begun developing a vision of an adequate 500 kV backbone transmission system for the state. Several key projects have been identified and Path 15 has been determined to be one of the highest priority projects. There are also plans to increase the transmission capability between Southern California Edison Company and PG&E transmission systems on Path 26, and to increase transmission capability between the San Diego area and the rest of the state.”²¹

According to the ISO, it is the lack of this type of backbone transmission that gives rise to the exercise of market power and the need for broad market-wide mitigation measures. Correcting this deficiency through transmission upgrades would, according to the ISO, be more prudent than relying on ongoing regulatory intervention.²²

ORA, on the other hand, contends that the only way in which the Path 15 upgrade can be justified is to make extremely pessimistic forecasts for the future. In particular, ORA argues that “the Commission would have to perceive a high risk that the wholesale electric market in 2005 *and subsequent years* will be as

²⁰ ISO Opening Brief, p. 34.

²¹ Exh. 200, p. 9.

²² Exh. 202, p.5.

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unbridled as California experienced in the winter and spring of 1999/2000.”²³ Moreover, ORA argues that the ISO’s market power modeling is seriously flawed. As an insurance policy, ORA contends that the investment in Path 15 upgrades requires a high premium (\$50 million per year) for very limited coverage.²⁴ Finally, ORA argues that the MOU arrangements may or may not provide a better deal for ratepayers depending in large part on how Trans-Elect would operate its majority share of the project. In ORA’s view, any final conclusions concerning project cost-effectiveness cannot be made without this further information.

In its comments on the Proposed Decision of the Administrative Law Judge and Commissioner Lynch on March 27, 2003, PG&E renewed its argument that it should be allowed to withdraw its application for a CPCN.

The ORA stated in its reply comments that if it is the desire of the Commission to have the Path 15 project proceed, then it should adopt PG&E’s approach with modifications. Specifically, the ORA argues that PG&E should not have:

- a unilateral right to withdraw A.01-04-012,
- what amounts to a pre-approval of work under General Order 131-D, and
- generic findings about the applicability of federal law regarding the Path 15 project.

²³ ORA Opening Brief, pp. 39-40.

²⁴ *Ibid.*, p. 43.

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On April 18, 2003, PG&E filed a request for an expedited decision by the full Commission reversing Assigned Commissioner Lynch's ruling that denied PG&E's withdrawal of A.01-04-012.

6. Discussion

There are three issues that we need to determine in this decision. First, should PG&E be allowed to withdraw A.01-04-012 unilaterally? Second, does PG&E require a CPCN or a PTC to contract with WAPA to interconnect WAPA's new 500 kV transmission line? Third, assuming there is approval in a more limited manner of PG&E's request, should the Commission certify CEQA work performed in this proceeding?

6.1 Withdrawal of A.01-04-012

By ruling dated November 30, 2001, the Assigned Commissioner denied PG&E's motion to withdraw its a.01-04-012. In light of actions taken by the United States Secretary of Energy, the Path 15 project will proceed under federal authority.²⁵ PG&E's participation is limited to substation work on the Path 15 project. The principal project partners are WAPA and Trans-Elect.

We do not take interlocutory appeals of Commissioner ruling lightly. In this instance, it is appropriate. It is about eighteen months since PG&E filed its motion to withdraw. We are just now making a decision in this proceeding. Even if we were to approve this case on its merits, there would still be extensive amount of time required of us to decide CEQA issues. In the meantime, project owners are proceeding apace under the MOU. We need not

²⁵ See the Secretary of Energy's announcement of a Memorandum of Understanding on October 18, 2001 (served on the Commission on November 7, 2001)

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be obstructionists. PG&E's motion to withdraw should be granted, but not before we address the issue of certifying the Final Supplemental Environmental Impact Report. (See Section 6.3 below.)

PG&E in its motion, briefs, and comments argues that it has the right to unilaterally withdraw its application. ORA argues in opposition to PG&E's right to mandatory withdrawal. We agree with ORA, and consider PG&E's motion under our discretionary powers. As detailed herein, requiring PG&E to file its Application in spring of 2001 was reasonable. However, under current circumstances it serves no discernable public purpose. Therefore, we grant PG&E's motion to withdraw its Application 01-04-012.

6.2 Interconnection Requirements for Path 15

PG&E, under the MOU, needs to upgrade facilities at the Gates and the Midway substations and possibly undertake some reconductoring of a 230 kV transmission line. It argues that it does not need a CPCN or a PTC for this work. We agree that the substation work as currently described by PG&E falls within the General Order 131-D definition of substation modifications and is therefore exempt from a CPCN or PTC requirement pursuant to General Order 131-D Section III.B. and III.C. Similarly, the possible reconductoring work as currently described appears to fall within the General Order 131-D exemption under Section III.B.1.(e). If PG&E however, performs work beyond the scope of the construction agreement under the MOU, then PG&E should file an advice letter to advise the Commission of the change in scope and then possibly file either an application for a permit to construct or an application for a CPCN if warranted.

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6.3 Environmental Impact Report Certification

We believe that the FSEIR meets these tests. It is a comprehensive, detailed, and complete document that clearly discusses the advantages and disadvantages of the environmentally superior routes, PG&E's proposed route, and various alternatives. We find that the FSEIR is the competent and comprehensive informational tool that CEQA requires it to be. The quality of the information therein is such that we are confident of its accuracy.

Notwithstanding the granting of PG&E's emergency motion, it is appropriate for the Commission to certify the FSEIR.

7. Comments on Proposed Alternate Decision

The proposed decision of ALJ Gottstein in this matter was mailed to the parties in accordance with Public Utilities Code Section 311(d) and Rule 77.1 of the Rules of Practice and Procedure. Comments were filed on March 27, 2003 by PG&E, ORA and ISO, and reply comments were filed on April 1, 2003 by PG&E and ORA.

The proposed alternate decision of Commissioner Peevey in this matter was mailed to the parties in accordance with the Rules of Practice and Procedure. ORA filed comments on May 13, 2003. ORA raised neither legal nor technical issues.

8. Assignment of Proceeding

Loretta Lynch is the Assigned Commissioner and Meg Gottstein is the assigned ALJ in this proceeding.

Findings of Fact

1. The Letter Agreement between PG&E, WAPA, and Trans-Elect delineates the parties' rights and obligations with respect to the Path 15 Upgrade Project.

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2. Under the Letter Agreement, PG&E will perform work necessary to interconnect a new 500 kV line owned and constructed by WAPA to PG&E's existing Los Banos and Gates substations.
3. The Commission is the lead agency under CEQA with respect to the environmental review of the project and preparation of the FSEIR.
4. The Commission has conducted an environmental review of the project pursuant to CEQA.
5. The FSEIR consists of the DSEIR, revised to incorporate comments received by the Commission from the proponent, agencies, and the public, and the responses to comments.
6. The FSEIR has been completed in accordance with CEQA Guidelines, Sections 15120 through 15132.

Conclusions of Law

1. PG&E's motion to withdraw its Application 01-04-012 is reasonable, and appropriate for consideration under our discretionary authority.
2. This proceeding on PG&E's conditional Application should be closed.
3. The notification procedures employed for this project meet the requirements of CEQA.
4. The processing of the DSEIR, and the FSEIR, in this proceeding comply with the requirements of CEQA.
5. The contents of the FSEIR comply with the requirements of CEQA and represent the Commission's independent judgment.
6. The FSEIR should be certified for the project in accordance with CEQA.
7. The issue of whether or not to construct Path 15 should be excluded from I.00-11-001.

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ORDER

IT IS ORDERED that:

1. The Final Supplemental Environmental Impact Report is certified as the Environmental Impact Report for the project which is the subject of this application and is certified for use by other agencies in considering subsequent approvals for the project, or for portions thereof.
2. Pacific Gas and Electric Company's Motion to Withdraw Application 01-04-012 is granted.
3. The issue of whether or not to construct Path 15 is excluded from any further action in I.00-11-001.

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4. Application 01-04-012 is closed.

This order is effective today.

Dated May 22, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President

GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

I will file a concurrence.

/s/ SUSAN P. KENNEDY
Commissioner

I will file a dissent.

/s/ LORETTA M. LYNCH
Commissioner

I will file a dissent.

/s/ CARL W. WOOD
Commissioner

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ATTACHMENT 1

LIST OF APPEARANCES

I.00-11-001, A.01-04-012 COM/MP1/kpc/acb

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Last updated on 08-APR-2003 by: LIL
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A0104012

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(END OF ATTACHMENT 1)

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ATTACHMENT 2
LIST OF ACRONYMS AND
ABBREVIATIONS

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**ATTACHMENT 2
LIST OF ACRONYMS AND ABBREVIATIONS**

A.	Application
ALJ	Administrative Law Judge
CEC	California Energy Commission
CDWR	California Department of Water Resources
CPCN	Certificate of Public Convenience
D.	Decision
DWR	Department of Water Resources
Exh.	Exhibit
ETCs	existing transmission contracts
FERC	Federal Energy Regulatory Commission
I.	Investigation
ISO	Independent System Operator
kV	kilovolt
LADWP	Los Angeles Department of Water and Power
MSCG	Morgan Stanley Capital Group
MW	Megawatt
MOU	Memorandum of Understanding
NP15	north of Path 15
ORA	Office of Ratepayer Advocates
PG&E	Pacific Gas and Electric Company
PHC	prehearing conference
RT	Reporter's Transcript
RSI	Residual Supply Index
SCE	Southern California Edison
SP15	South of Path 15 zone
TANC	Transmission Agency of Northern California
Trans-Elect	Trans-Elect, Inc.
WAPA	Western Area Power Administration
ZP26	Zone south of Path 15, but north of Path 26

(END OF ATTACHMENT 2)

**SUPPORTING DOCUMENTS REQUIRED
PURSUANT TO SECTION 35.13
OF THE COMMISSION'S RULES AND REGULATIONS**

**Supporting Documents Pursuant to
Sections 35.13(a)(2)(iii), 35.13(b), and 35.13(c)**

Because the COIA is essentially administrative in nature and does not provide for rates, PG&E is filing the COIA under the abbreviated filing requirements of Section 35.13(a)(2)(iii) and has provided the information requested in Section 35.13(b) of the Commission's regulations (18 CFR § 35.13(b)) in the body of the transmittal letter to this filing. PG&E's responses to Section 35.13(c) of the Commission's regulations (18 CFR § 35.13(c)) are as follows:

35.13(c)(1) Statement of Sales, Services and Revenues

The COIA does not provide rates for services and therefore no sales or revenues result from them. The purpose of the COIA is to enable the parties to the COIA to administer the terms and provisions of the COIA.

35.13(c)(2) Comparison to Other Wholesale Rates

The COIA provide no rates for services so there are no rates for comparison.

35.13(c)(3) Specifically Assignable Facilities

PG&E has not installed or modified any facilities to provide service under the COIA.