

**MEMORANDUM OF UNDERSTANDING**

**PATH 15 PROJECT**

**OCTOBER 16, 2001**

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**Memorandum of Understanding**

**Path 15 Project**

**October 16, 2001**

**Recitals**

**Whereas**, the National Energy Policy Report, announced on May 17, 2001, recommended that the President direct the Secretary of Energy to authorize the Western Area Power Administration (Western) to explore relieving the "Path 15" bottleneck through transmission expansion, and

**Whereas**, the Secretary of Energy directed the Administrator of Western to complete its planning to relieve Path 15 constraints, and determine whether outside parties are interested in helping finance and co-own the necessary system additions, including transmission lines, and

**Whereas**, the Path 15 Project (Project) is expected to consist of: constructing a new 84-mile, 500-kilovolt (kV) transmission line between the Pacific Gas & Electric Company's (PG&E) Los Banos and Gates substations in Central California; terminal work at both substations; and certain 230-kV system upgrades, and

**Whereas**, the estimated cost of the Project is \$300 million, with an estimated in-service date of summer 2004, and

**Whereas**, Western, as tasked by the Secretary of Energy, is performing National Environmental Policy Act work related to the project and will serve as the overall Project Manager through energization to ensure the project is constructed, and

1 **Whereas**, at the direction of the Secretary of Energy, Western issued a *Federal*  
2 *Register* notice on June 13, 2001, seeking statements of interest from outside parties to  
3 help finance and co-own a transmission upgrade of Path 15, and  
4

5 **Whereas**, fourteen entities expressed interest in participating in the Project, and  
6

7 **Whereas**, the following eight entities are invited to participate in the Project based on  
8 Western's evaluation of responses and their continued expression of interest:  
9

10 Kinder Morgan Power Company

11 Mirant Americas Development, Inc.

12 Pacific Gas & Electric Company

13 PG&E National Energy Group

14 Transmission Agency of Northern California

15 Trans-Elect

16 Western Area Power Administration, Sierra Nevada Region Marketing Function

17 Williams Energy Marketing and Trading Company  
18

19 **Whereas**, the above organizations met on September 25, 2001, and agreed that to  
20 expedite the project and facilitate the participants' decision-making process, additional  
21 definition of the Project and associated participant responsibilities and benefits must be  
22 developed, such as ownership rights, remedial action schemes, operational matters,  
23 cost-sharing mechanisms, work plans, governance structure, budgets, and other major  
24 parameters of the Project, therefore  
25

26 **It is hereby agreed** that the above-named entities (Participants) enter into this  
27 Memorandum of Understanding (MOU), thereby representing their intent to participate  
28 in the Project and their commitment to jointly develop additional contractual documents  
29 that will address responsibilities, financial contributions, ownership rights, and  
30 operational details of the Project.  
31

1 **Statements of Understanding**

2

3 1. **General Terms:**

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5 a. Western is proceeding with Project work contingent upon the Secretary of

6 Energy's approval. Accordingly, once completed, this MOU shall be

7 submitted to the Secretary for final approval. Unless agreed to in writing,

8 each Participant shall bear its own costs of participation in the effort to

9 develop additional agreements necessary to move the project forward.

10 Western's participation and obligations are contingent upon contributed

11 funding by Participants, appropriations, and other applicable Federal laws

12 and policies.

13

14 b. The final ownership percentages will be set forth in future contractual

15 documents. Initially, public power entities will be offered 45% (forty-five

16 percent) of the Project, private entities will be offered 45% (forty-five

17 percent) of the Project, and Western will retain 10% (ten percent) in

18 recognition of the Federal involvement in the Project. Any alteration of

19 these percentages is subject to Western's approval as the Project

20 Manager.

21

22 2. **Joint Project Plan:**

23

24 Agency Review: The Participants will develop a Project ownership model that

25 defines the rights of the Project Participants and their expectations of policy

26 considerations required by the Federal Energy Regulatory Commission (FERC),

27 the California Independent System Operator (CAISO), other Participants, or other

28 agencies or entities as required in order for their participation in the Project to be

29 viable. The Participants will submit the joint ownership agreement to the FERC,

30 the CAISO, and others as determined by the Participants for their review and

31 comment.

1  
2 Western's Role as Project Manager: Western, as tasked by the Secretary of  
3 Energy, will serve as the overall Project Manager. Western will ensure the  
4 necessary Project agreements are entered into, Participants actively participate  
5 in the process, and cooperate to move the Project forward. Western will also  
6 perform lead Federal Agency efforts for the National Environmental Policy Act  
7 process, will acquire necessary land rights estimated to cost 10% (ten percent) of  
8 the Project, and will retain a 10% (ten percent) interest in the Project rights.  
9

10 3. **Project Definition and Scope:**

11  
12 Operations: The Project operation will be coordinated with transmission owners  
13 existing transmission system and operated in accordance with prudent utility  
14 practice as a transmission facility within the CAISO's control area, its successor,  
15 or the control area certified by FERC. Scheduling shall be performed in  
16 accordance with the appropriate control area scheduling procedures and  
17 standards consistent with the North American Electric Reliability Organization,  
18 and/or business practices and procedures adopted in standard market designs of  
19 FERC-certified Regional Transmission Organizations.  
20

21 Project Capabilities: The Project is expected to have an incremental rating of  
22 1,500 megawatts (MW) in the South-to-North direction, creating a Path 15  
23 combined system rating of 5400 MW. The Participants have yet to determine the  
24 incremental increase in the North-to-South Path 15 transfer capability made  
25 possible by the Project. The existing system North-to-South Path 15 transfer  
26 capability shall be evaluated in order to determine the incremental North-to-South  
27 Path 15 transfer capability. The final scope and design of the Project will be  
28 determined through negotiations among the Participants.  
29

30 Additional System Rights: Rights in transmission systems beyond Los Banos  
31 and Gates must be obtained by interested Participants through negotiations with

1 the relevant transmission owner and subject to required approvals, if any. This  
2 MOU does not obligate or commit any Participant to negotiate for any  
3 transmission rights that extend beyond Los Banos and Gates.  
4

5 Project Transmission Rights and Rates: The incremental transmission capability  
6 made available by this Project shall be utilized in a manner consistent with FERC  
7 regulations. All unused Project transmission capacity shall be made available in  
8 a timely manner on a non-discriminatory basis, consistent with FERC regulations.  
9 Transmission rates charged will be just and reasonable, consistent with the  
10 public interest, or established under existing law.  
11

12 4. **Subsequent Agreements:**  
13

14 Following the assessment of the Project viability, those Participants that wish to  
15 proceed shall enter into one or more agreements that provide for at least the  
16 initial funding of the Project development. Such subsequent agreements shall  
17 incorporate the intent of this MOU, except as may be agreed by the parties to  
18 such subsequent agreements or as needed to incorporate the input of agency  
19 review. Such subsequent agreements shall provide for the governance structure,  
20 ownership percentages, coordinated operations including curtailment sharing  
21 with the existing PG&E transmission system, Project work products and more  
22 detailed definition of the Project scope, and the nature of the ownership rights  
23 and responsibilities, including payments for Project costs, and the mitigation of  
24 adverse impacts due to subsequent system modifications. In order to ensure  
25 subsequent agreements are in keeping with the Secretary of Energy's directive  
26 and the Project intent, subsequent agreements are subject to approval by  
27 Western as Project Manager.  
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1 5. **Project Work in Progress:**

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3 PG&E will construct the substation modifications at its existing Los Banos and  
4 Gates 500-kV substations and the 230-kV re-conductoring of any of its existing  
5 PG&E transmission lines, and will retain ownership of such facilities. PG&E and  
6 Western will coordinate their Project construction efforts. Upon review and  
7 approval by the Participants, PG&E will receive an interest in the Project  
8 commensurate with its costs incurred. PG&E, the Transmission Agency of  
9 Northern California, and Western are performing or have performed work for the  
10 benefit of the Project. Subsequent agreements shall provide that the costs of  
11 these work products will be reviewed by the Participants and to the extent agreed  
12 as beneficially incurred on behalf of the Project will be credited to the respective  
13 entity that provided them. Western's costs incurred, as the Project Manager, will  
14 be credited towards Western's share in the project.

15  
16 6. **Monetary Contributions:**

17  
18 To ensure the Project is completed in an expeditious manner, funds must be  
19 raised in order to begin the initial phase of the Project, which includes land  
20 acquisition, design and other necessary Project work. These initial costs are  
21 estimated to be \$30,000,000 (thirty million dollars). No funds will be collected  
22 under this MOU. All joint Project funding shall be collected under subsequent  
23 agreements.

24  
25 7. **Participation:**

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27 To ensure the Project agreements are completed in an expeditious manner, the  
28 Participants agree to set an aggressive schedule to define the Project and the  
29 work to be done at each facility within ninety (90) days of the execution of this  
30 MOU. The Participants agree that the Project agreements will include at a  
31 minimum: a) definition of the Project; b) the work to be completed at each

1 facility; c) description of each Participant's obligations; d) cost estimates for  
2 construction; e) an agreement to provide initial funding; f) the resultant increase  
3 in transmission capability of Path 15; and g) a definitive list of transmission rights  
4 including a definitive description of delivery and receipt points. Each Participant  
5 will cover its own labor, travel, and other costs associated with these efforts  
6 under this MOU. If Participants do not participate in the formulation of the  
7 necessary agreements or execute the agreements in a timely manner, Western  
8 as the Project Manager may remove that entity(s) from further participation in the  
9 Project.

10  
11 **8. Confidentiality of Market Sensitive Information:**

12  
13 The Participants shall maintain the confidentiality of all the documents, data, and  
14 any other information provided to them by any other Participant containing  
15 market sensitive information, where such document, data or other information is  
16 designated as confidential by individual Participants and shown to contain market  
17 sensitive information. Such information must be clearly marked confidential.  
18 Provided, however, that the information will not be held confidential by the  
19 receiving Participant if (a) the designating Participant is required to provide such  
20 information for public disclosure or (b) the information becomes available to the  
21 public on a non-confidential basis (other than from the receiving Party).

22  
23 Disclosure of Confidential Information: Notwithstanding the above, if any Party is  
24 required by applicable laws or regulations, or in the course of administrative or  
25 judicial proceedings, to disclose information that is otherwise required to be  
26 maintained in confidence, the Participant may disclose such information;  
27 provided, that as soon as such Participant learns of the disclosure requirement  
28 and prior to making such disclosure, such Participant shall notify the affected  
29 Participant(s) of the requirement and the terms thereof. The affected  
30 Participant(s) may, at its sole discretion and own costs, direct any challenge to or  
31 defense against the disclosure requirement and the disclosing Participant shall



1 cooperate with such affected Participant to the maximum extent practicable to  
2 minimize the disclosure of the information consistent with applicable law. The  
3 disclosing Participant shall cooperate with the affected Participant to obtain  
4 proprietary or confidential treatment of confidential information by the person to  
5 whom such information is disclosed prior to any such disclosure.

6  
7 9. **Signature Clause:**

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9 The signatories to this MOU represent that they are authorized to enter into this  
10 MOU on behalf of the party for whom they sign. This MOU may be executed in  
11 counterparts. This MOU is executed this 16<sup>th</sup> day of October, 2001.

12  
13 KINDER MORGAN POWER COMPANY

14  
15 By: \_\_\_\_\_

16  
17 Name: \_\_\_\_\_

18  
19 Title: \_\_\_\_\_

20  
21 Date: \_\_\_\_\_

22  
23 MIRANT AMERICAS DEVELOPMENT, INC.

24  
25 By: \_\_\_\_\_

26  
27 Name: \_\_\_\_\_

28  
29 Title: \_\_\_\_\_

30  
31 Date: \_\_\_\_\_

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PACIFIC GAS & ELECTRIC COMPANY

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

Name: \_\_\_\_\_

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

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

PG&E NATIONAL ENERGY GROUP

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

Name: \_\_\_\_\_

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

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

SIERRA NEVADA REGION POWER  
MARKETING FUNCTION, WESTERN AREA  
POWER ADMINISTRATION

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

Name: \_\_\_\_\_

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

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

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TRANSMISSION AGENCY OF NORTHERN CALIFORNIA

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

Name: \_\_\_\_\_

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

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

TRANS-ELECT

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

Name: \_\_\_\_\_

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

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

WILLIAMS ENERGY MARKETING & TRADING COMPANY

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

Name: \_\_\_\_\_

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

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

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WESTERN AREA POWER ADMINISTRATION  
AS PROJECT MANAGER

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

Name: \_\_\_\_\_

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

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