

D.03-05-083

I.00-11-001, A.01-04-012 (PATH 15)

Commissioner Kennedy, concurring:

Today, after two years of delay and inaction, a majority of the PUC finally voted to fix the critical transmission constraint at Path 15. This notorious bottleneck between northern and southern California compromised electric reliability during the electricity crisis by preventing the state from dispatching the lowest cost power where it was needed, and allowing market manipulators to gouge ratepayers by taking advantage of regional shortages.

In 2000 and 2001, Californians experienced eight days of rolling blackouts, thirty-eight days of mandatory power interruptions and more than 100 days of emergency conservation when reserves dropped dangerously low. A number of those blackouts and power shortages occurred in northern California while available power sat idle in southern California because of our inability to transport power through the Path 15 corridor. The Independent System Operator estimated that congestion on the corridor cost state electricity consumers as much as \$222 million between September 1999 and December 2000 alone. The cost to consumers and economic damage to California's economy from hundreds of hours of power outages is in the hundreds of millions, if not billions, of dollars.

Let's be clear: Path 15 has been recognized as a critical weakness in the backbone of California's electric transmission system by every relevant federal and state energy agency, including the Independent System Operator, California Energy Commission, Federal Energy Regulatory Commission, U.S. Secretary of Energy, and the California Public Utilities Commission:

"...constraints on Path 15 contributed most to major reliability problems in the past year and [are] likely to continue to cause problems in 2002."

CPUC Energy Division, "Relieving Transmission Constraints" Report
March 2001

"It is necessary for the Commission to pursue relieving the constraints on Path 15 now to ensure electric reliability and lowest cost dispatch"

PUC Commissioner Loretta Lynch, March 29, 2001
Assigned Commissioner's Ruling D.01-03-077

“The expansion of Path 15 is a critical component in solving the long-term power crisis in this state”

Secretary of Energy Spencer Abraham July 24, 2001

“The record strongly supports proceeding with the Path 15 upgrade. By reducing the ability of suppliers to exercise market power, the upgrade would pay for itself within four years in the most likely scenarios. Moreover, the upgrade provides a cost-effective hedge against significant consumer harm”

Independent System Operator April 10, 2002 briefs

“It is generally recognized that serious transmission congestion plagues California’s energy markets, particularly along Path 15...”

Federal Energy Regulatory Commission, June 12, 2002

“Path 15 has been determined to be one of the highest priority projects.”

Independent System Operator, Oral Arguments May 2003

This Commission ordered PG&E to upgrade the Path 15 transmission line in 2001, but the financially strapped company sought to withdraw its application more than 18 months ago – the utility has been in bankruptcy for two years. The Federal government asserted jurisdiction in 2001 to move the project forward. Federal and state environmental reviews were completed more than a year ago. PUC hearings on the matter were completed more than a year ago.

This Commission denied PG&E’s application to withdraw and then sat on the proceeding for 18 months.

In June of 2002 FERC offered financial incentives in transmission rates to TransElect to ensure project financing and finally move the Path 15 upgrade forward.

This Commission opposed FERC’s action saying the incentives were “premature” because the California PUC had not developed a sufficient record to determine if the project was needed.

CPUC intervention in FERC Docket ER 02-1672-000, May 2002

On May 5th at an oral argument on PG&E’s motion to withdraw, one Commissioner continued to question whether the Path 15 upgrade was needed and whether enough research and analysis was done.

At the May 7th Commission meeting, additional arguments were made for more delay, more deliberation, more documentation, more negotiation.

The two years of inaction and litigation over turf on Path 15 is emblematic of this Commission's inability to step up to the plate and make critical decisions. This pattern of political paralysis and regulatory uncertainty has cost California ratepayers hundreds of millions of dollars in unnecessarily high rates.

The train has left the station on Path 15. While California continues to wring its hands and throw up roadblocks at every turn, the federal government moved this critical project forward.

Analysis by the ISO indicates that the upgrade to Path 15 will save ratepayers money:

“The \$300 million cost of upgrading Path 15 could easily be recovered within four years, whereas in less likely but still plausible scenarios, the benefits of the upgrade [could] exceed the costs in one year. Put another way, the cost to consumers of not upgrading Path 15 could be very substantial...”

Independent System Operator Opening Brief

“...the cost per consumer in California is about twenty cents per month. In my book, that amounts to pretty cheap insurance against market power.”

Mike Florio, ISO Governor, June 25, 2002 Press Release

There is a famous adage: Lead, Follow or Get out of the way.

After two years of obstruction and delay, this Commission finally voted to get out of the way and allow this critical upgrade to Path 15 move forward.

/s/ SUSAN P. KENNEDY
 SUSAN P. KENNEDY
 Commissioner

San Francisco, California
May 22, 2003