

**AMENDMENT #1
TO
MASTER POWER PURCHASE AND SALE AGREEMENT
BETWEEN
EL PASO MERCHANT ENERGY, L.P.
AND
CALIFORNIA DEPARTMENT OF WATER RESOURCES**

THIS AMENDMENT #1 to the Master Power Purchase and Sale Agreement (this "Amendment"), dated as of June 11, 2004, and made effective as of the Effective Date, is by and between El Paso Merchant Energy, L.P., a Delaware limited partnership ("EPME"), and the California Department of Water Resources, an agency of the State of California, liable solely through its Electric Power Fund, separate and apart from its powers and responsibilities with respect to the State Water Resources Development System ("CDWR"), and constitutes an amendment to that certain Master Power Purchase and Sale Agreement dated February 9, 2001 (the "Original Contract") (collectively, the Original Contract and this Amendment shall be referred to as the "Agreement").

RECITALS

WHEREAS, the Original Contract provides for the sale by EPME and purchase by CDWR of two 50mW blocks of CAISO-FIRM Energy on a daily basis, except for Sunday and NERC Holidays, from the hours of 7:00 to 22:00 until December 31, 2005, with one block to be delivered within NP-15 at a price of \$127/mWh, and the other block to be delivered within SP-15 at a price of \$115/mWh; and

WHEREAS, on June 24, 2003, EPME and CDWR joined with certain other parties in the execution of a Master Settlement Agreement to resolve a variety of disputes among them (the "MSA"); and

WHEREAS, pursuant to the terms of Paragraph 4.1(g) of the MSA, EPME agreed to reduce the price of the Original Contract by \$125,000,000 *pro rata* effective as of June 24, 2003, to the end of the term of the Original Contract; and

WHEREAS, to implement the terms of Paragraph 4.1(g) of the MSA, all savings realized as a result of the Renegotiated Contract Price between June 24, 2003 and the date hereof have been deposited in the Escrow Account (the "CDWR Escrowed Contract Savings"); and

WHEREAS, the balance, as of the date hereof, of the CDWR Escrowed Contract Savings, exclusive of interest earned thereon, is \$49,680,625.83; and

WHEREAS, EPME and CDWR currently anticipate that the Effective Date will occur on or before the date on which CDWR would otherwise (i) pay EPME for May 2004 deliveries under the Original Contract, and (ii) deposit additional CDWR Escrowed Contract Savings in the Escrow Account as required by the terms of Paragraph 4.1(g) of the MSA; and

WHEREAS, on the Effective Date, the Escrow Agent will be required, pursuant to the terms of Paragraph 4.1(g) of the MSA, to release the CDWR Escrowed Contract Savings (plus all interest earned thereon) to CDWR, thereby leaving \$75,319,374.17 of the Renegotiated Contract Price to be realized by CDWR; and

WHEREAS, in accordance with the terms of Paragraph 4.1(g) of the MSA, EPME and CDWR desire to amend the terms of the Original Contract to reduce the price paid for Electric Power purchased thereunder in order to provide for the realization of the remaining portion of the Renegotiated Contract Price, being \$75,319,374.17, thereby resulting in CDWR receiving, together with the CDWR Escrowed Contract Savings, all \$125,000,000 of the Renegotiated Contract Price.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein, and for other good and valuable consideration set forth in the MSA, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows.

1. *Definitions.* To the extent used herein, capitalized terms shall have the meanings set forth in the Original Contract and the MSA as the context so indicates.

2. *Recitals.* The recitals set forth above are true and accurate in all respects.

3. *Price.* Effective May 1, 2004, the price of the two 50mW blocks of CAISO-FIRM Energy deliverable under the Confirmation Letter dated February 13, 2001 by and between EPME and CDWR, which is a part of the Original Contract, is hereby amended as follows:

(a) for CAISO-FIRM Energy delivered within NP-15, the Original Contract price of \$127/mWh is deleted and replaced with a price of \$30.49827/mWh, and

(b) for CAISO-FIRM Energy delivered within SP-15, the Original Contract price of \$115/mWh is deleted and replaced with a price of \$27.61654/mWh.

4. *Payment for May Deliveries.* All payments owed by CDWR for Energy delivered during May 2004 shall be paid to EPME in accordance with the payment terms set forth in the Agreement utilizing the respective rates set forth in Sections 3(a) and (b) of this Amendment.

5. *Modification of Additional Terms and Conditions.* In accordance with Paragraph 8.5 of the MSA, the following terms and conditions set forth in the Cover Sheet to the Original Contract are modified as follows:

(a) Section 8.2(b) shall be changed from "Applicable" to "Not Applicable";

(b) Section 8.2(c) shall be changed from "Applicable" to "Not Applicable";

(c) Section 8.2(d) shall be changed from "Applicable" to "Not Applicable"; and

(d) The following provision shall be added as Section 8.4 to the Agreement:

“Each Party agrees that CDWR shall not have the right to demand collateral, security or margining from EPME, whether under applicable law, this Master Agreement or otherwise, including but not limited to any demands for adequate assurances of future performance or creditworthiness, such as but not limited to demands under Article 2-609 of the Uniform Commercial Code (as codified in the State of California as of the Effective Date).”

6. *Authorization and Enforceability.* Each party hereto represents and warrants to the other that it is duly authorized to enter into this Amendment and that this Amendment, once executed by each of the parties hereto, creates a legal, valid and binding obligation enforceable against it in accordance with the terms contained herein.

7. *Governing Law.* THIS AMENDMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AMENDMENT.

8. *Counterparts.* This Amendment may be executed in several counterparts by EPME and CDWR. If this Amendment is executed in counterparts, then each counterpart shall be deemed to be an Amendment, but all counterparts together shall constitute one and the same Amendment. Facsimile signatures shall be effective as an original.

9. *Effect of Amendment.* Except as expressly amended herein, the terms of the Original Contract remain in full force and effect in accordance with their terms.

10. *Conflicts.* If there is any conflict between the terms of this Amendment and the terms of the Original Contract, then the terms of this Amendment shall control.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed as of the date first above written.

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SIGNATURE PAGES FOLLOW]

[SIGNATURE PAGE OF EL PASO MERCHANT ENERGY, L.P.
FOR AMENDMENT #1 TO MASTER POWER PURCHASE AND SALE AGREEMENT
BETWEEN EL PASO MERCHANT ENERGY, L.P. AND
CALIFORNIA DEPARTMENT OF WATER RESOURCES]



Witness

EL PASO MERCHANT ENERGY, L.P.

By:  _____

Name: D. Mark Leland

Title: Executive Vice President and Chief
Financial Officer

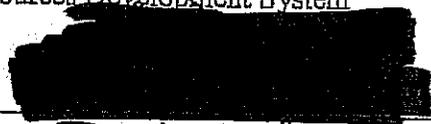
Date: June 11, 2004

[SIGNATURE PAGE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES
FOR AMENDMENT #1 TO MASTER POWER PURCHASE AND SALE AGREEMENT
BETWEEN EL PASO MERCHANT ENERGY, L.P. AND
CALIFORNIA DEPARTMENT OF WATER RESOURCES]

CALIFORNIA DEPARTMENT OF WATER
RESOURCES, liable solely through its Electric
Power Fund, separate and apart from its powers and
responsibilities with respect to the State Water
Resources Development System



Witness

By: 

Name: Peter S. GARRIS
Title: Deputy Director
Date: June 10, 2004