



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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Application of San Diego Gas & Electric Company (U
902 E) to Amend Renewable Energy Power Purchase
Agreement with NaturEner Rim Rock Wind Energy,
LLC and for Authority to Make a Tax Equity
Investment in the Project.

Application 10-07-017

**MOTION OF NATURENER RIM ROCK WIND ENERGY, LLC TO MOVE EXHIBITS
INTO EVIDENCE AND TO SEAL PORTIONS OF THE EVIDENTIARY RECORD**

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Date: January 7, 2011

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LLC

**BEFORE THE PUBLIC UTILITIES COMMISSION
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Application of San Diego Gas & Electric Company (U 902 E) to Amend Renewable Energy Power Purchase Agreement with NaturEner Rim Rock Wind Energy, LLC and for Authority to Make a Tax Equity Investment in the Project.

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NaturEner Rim Rock Wind Energy, LLC (“NaturEner”), through its undersigned counsel and pursuant to Rule 11.1 and 11.5 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), hereby requests that sensitive contract information between NaturEner and San Diego Gas & Electric Company (SDG&E) as well as information regarding current negotiations and contracts between NaturEner and other vendors and counterparties that appears in Mr. Bill Alexander’s testimony on behalf of NaturEner be entered into evidence under seal and accorded confidential treatment.¹ In addition, NaturEner also requests that similar confidential information which NaturEner provided in its responses to data requests that have been entered into the record by various parties also be sealed and accorded confidential treatment. NaturEner has only provided this highly confidential information to other parties in this proceeding under a Non-Disclosure Agreement.

I. EXHIBITS TO BE MOVED INTO EVIDENCE

Exh. No.	Date Identified	Sponsor/Witness	Description
51	12/16	RimRock/Alexander	Rebuttal Prepared Testimony
51-CRR	12/16	RimRock/Alexander	Rebuttal Prepared Testimony

¹ There are several versions of Mr. Alexander’s testimony. The version designated “2nd Revised CONFIDENTIAL VERSION Served 12/15/10” has been admitted as Ex. 51 –C-RR.

Based on the exhibit index provided by Administrative Law Judge Vieth at the conclusion of hearings, the two exhibits referenced above were not entered into the record. In addition, NaturEner moves that upon receipt of the above-referenced exhibits, the exhibit designated as CRR be sealed.

II. CONFIDENTIAL INFORMATION SUBMITTED INTO THE RECORD SHOULD BE SEALED UNDER COMMISSION ORDERS AND APPLICABLE LAW

Specifically, the confidential information that appears on page 4, lines 11-16 and 23-25 of Mr. Alexander's testimony (Exhibit 51-CRR) refers to ongoing negotiations with third-party vendors. The release of that information would harm NaturEner's ability to negotiate with those vendors.

The confidential information that appears on page 5, line 29; page 9, lines 2-3,6,15, and 18; and page 11, lines 6, 9, 21, 17, and fn. 12 of Mr. Alexander's testimony (Exhibit 51-CRR) all involve confidential contract information with SDG&E specifically regarding pricing terms. This confidential information also constitutes a type of data listed under the confidentiality matrix for IOUs found in D.06-06-066, specifically matrix category VII.G for which the period of confidentiality is for three years following delivery starts or until one year following expiration, whichever comes first.

The confidential information that appears on page 12, line 13; page 13, lines 1-3, 6; page 14, lines 14, 16, 18, 20-21, 25-26, and 28; and page 15, line 7, of Mr. Alexander's testimony (Exhibit 51-CRR) involves confidential market price and hedge price information, whose release to the public could harm NaturEner's ability to negotiate with counterparties.

Finally, the confidential information that appears on page 12, lines 16, 27; page 18, line 25; page 19, line 13; page 23, line 26; page 24, lines 22, 26; page 27, line 19; page 28, line 2;

page 31, lines 11 and 16; and page 32, lines 11-13, of Mr. Alexander's testimony (Exhibit 51-CRR) all involve highly proprietary information about NaturEner and its assets regarding the amount of NaturEner's prospective investment in the Rim Rock project, potential curtailment rates of the Rim Rock project, other specific energy loss adjustments assumed for the Rim Rock project, and the measured wind capacity factor at the Glacier Wind project, the release of which would leave NaturEner at a significant business disadvantage with other wind producers and constitutes trade secret information protected under Government Code §6254(k) and triggering the protection of General Order 66-C.

Under the Public Records Act, Government Code §6254(k), records subject to the privileges established in the Evidence Code are not required to be publicly disclosed. Evidence Code §1060 provides a privilege for trade secrets, which Civil Code §3426.1 defines, in pertinent part, as information that derives independent economic value from not being generally known to the public or to other persons who could obtain value from its disclosure. Public Utilities Code §583 establishes a right to confidential treatment of information otherwise protected by law.

NaturEner has also provided confidential information in its responses to data requests propounded by the Division of Ratepayer Advocates ("DRA") and The Utility Reform Network ("TURN") some of which have been included as Attachment 15 to DRA Exhibit 100-CRR, DRA Exhibit 111-CRR and TURN Exhibit 179-CRR. NaturEner's responses to Question 01-001(A) and (B) of Attachment 15 of DRA Exhibit 100-CRR contain confidential information regarding the various projects listed in the tables that are the subject of confidentiality agreements that prohibit the disclosure of this information.

NaturEner's response to Question 01-003(2) of Attachment 15 of DRA Exhibit 100-CRR contains confidential hedge price information, whose release to the public could harm

NaturEner's ability to negotiate with counterparties. NaturEner's response to Question 01-006 of Attachment 15 of DRA Exhibit 100-CRR contains highly proprietary information about NaturEner's target internal rate of return, the release of which would leave NaturEner at a significant business disadvantage with competitors and counterparties and constitutes trade secret information protected under Government Code §6254(k) and triggers the protection of General Order 66-C.

NaturEner's response to Question 01-008 of Attachment 15 of DRA Exhibit 100-CRR contains confidential information regarding the business practices and the amount of investment by investors which these investors consider to be highly proprietary and the release of which would leave them at a significant business disadvantage in obtaining financing and constitutes trade secret information protected under Government Code §6254(k) and triggering the protection of General Order 66-C.

DRA Exhibit 111-CRR includes confidential information that appears in both the question and response to Question 3-001a. This confidential information includes confidential market price information; the public release of such information would prejudice NaturEner's ability to negotiate with counterparties and with third-party vendors. The identical confidential information appears in both TURN Question 2 and NaturEner's response included in TURN Exhibit 179-CRR.

NaturEner's response to TURN Question 3a included in TURN Exhibit 179-CRR includes highly proprietary information about NaturEner and its assets regarding the amount of NaturEner's prospective investment in the Rim Rock project, the release of which would leave NaturEner at a significant business disadvantage with other wind producers and constitutes trade secret information protected under Government Code §6254(k) and triggers the protections of

General Order 66-C. In addition, the response involves confidential hedge price information, whose release could harm NaturEner's ability to negotiate with counterparties.

Finally, NaturEner's response to TURN Question 6a included in TURN Exhibit 179-CRR involves confidential market price and hedge price information, whose release could harm NaturEner's ability to negotiate with counterparties.

NaturEner has only provided this highly confidential information to other parties in this proceeding under a Non-Disclosure Agreement. NaturEner further asserts that this confidential information includes proprietary information regarding contracts and contract negotiations not generally disclosed, the release of which to the public could harm its ability to negotiate with vendors and other counterparties and thus leave it at a significant business disadvantage, is covered by non-disclosure agreements, would reveal very sensitive information regarding NaturEner and its assets, and that the significant harm that would result from disclosure outweighs any countervailing public interest in disclosure of the information at issue.

For the reasons set forth above, NaturEner respectfully moves the Commission to accept the above-referenced exhibits into evidence in this proceeding and requests to seal the confidential portions of the evidentiary record.

Respectfully submitted,

/s/

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Attorneys for NaturEner Rim Rock Wind Energy,
LLC

Date: January 7, 2011

CERTIFICATE OF SERVICE

I, Judy Pau, certify:

I am employed in the City and County of San Francisco, California, am over eighteen years of age and am not a party to the within entitled cause. My business address is 505 Montgomery Street, San Francisco, California.

On January 7, 2011, I caused the following to be served:

MOTION OF NATURENER RIM ROCK WIND ENERGY, LLC TO MOVE EXHIBITS INTO EVIDENCE AND TO SEAL PORTIONS OF THE EVIDENTIARY RECORD

via electronic mail and U.S. Mail to all parties on the service list who have provided the Commission with an electronic mail address.

Executed on January 7, 2011 in San Francisco, CA.

/ s /
Judy Pau

VIA US MAIL

President Michael R. Peevey
California Public Utilities Commission
505 Van Ness Avenue, Room 5218
San Francisco, CA 94102

Administrative Law Judge Jean Vieth
California Public Utilities Commission
505 Van Ness Avenue, Room 5024
San Francisco, California 94102

VIA ELECTRONIC MAIL:

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