

**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
(Filed July 15, 2010)

**RESPONSE OF THE INDEPENDENT ENERGY PRODUCERS
ASSOCIATION**

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ASSOCIATION**

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Date: August 18, 2010

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

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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**RESPONSE OF THE INDEPENDENT ENERGY PRODUCERS
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Pursuant to Rule 2.6 of the Commission's Rules of Practice and Procedure, the Independent Energy Producers Association (IEP) submits its response to the application of San Diego Gas & Electric Company (SDG&E) for approval of an amendment to its power purchase agreement with NaturEner Rim Rock Wind Energy, LLC, filed on July 15, 2010. In addition to approval of the amendment, SDG&E seeks authority to make a tax equity investment in the Rim Rock Wind project, and this latter request is the subject of IEP's response.

IEP appreciates SDG&E's creative effort to use its ratepayer-supported financial status to assist in the development of renewable energy projects ostensibly owned and operated by independent power producers (IPPs). Under the right set of conditions, a utility tax equity investment in what otherwise would be an IPP project may have some advantages. IEP offers two observations on this specific proposal.

First, if the Commission approves this portion of SDG&E's application and authorizes SDG&E to make a tax equity investment in the Rim Rock Wind project, it should make clear that its approval of SDG&E's proposal does not establish a precedent for similar

investments in renewable generation in the future. Capital markets and the tax code are in flux, and there is no guarantee that what may be a beneficial financing structure today will continue to be beneficial in the future. Nor is there any guarantee that in the future a utility role in supporting the development of an IPP project will provide any marginal benefit when compared with financing that may be obtained in the capital markets. Each proposal for a utility to make a tax equity investment in an IPP project must be evaluated on its own merits, in consideration of the conditions at the time. The Commission should consider this proposal as a way to remove barriers to development of a needed renewable project, while protecting against any unintended consequences (such as creating incentives for the utility to select renewable projects that *require* this type of support).

Second, under the tax equity structure proposed here, it should be clear that the Rim Rock Wind project should be classified as utility-owned generation, not as an IPP project. Although an IPP will take the lead in developing and operating the project, SDG&E will have a 79.99% equity interest in the project. Even in its role as a passive partner in the project holding company LLC, SDG&E will have the right to approve certain major decisions.¹ SDG&E acknowledges that the proposed project structure results in an entity that qualifies as a utility affiliate that falls under the Commission's Affiliate Transaction Rules. Thus, although SDG&E's involvement will be less than for a project that is constructed, owed, and operated by the utility, its large equity stake in this project compels the conclusion that this project is properly classified as utility-owned generation, rather than as an IPP project.

IEP respectfully urges the Commission to consider these points as it deliberates on SDG&E's application.

¹ Application, p. 8.

Respectfully submitted this 18th day of August, 2010 at San Francisco,
California.

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By /s/ Brian T. Cragg
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CERTIFICATE OF SERVICE

I, Melinda LaJaunie, certify that I have on this 18th day of August 2010 caused a copy of the foregoing

**RESPONSE OF THE INDEPENDENT ENERGY PRODUCERS
ASSOCIATION**

to be served on all known parties to A.10-07-017 listed on the most recently updated service list available on the California Public Utilities Commission website, via email to those listed with email and via U.S. mail to those without email service. I also caused courtesy copies to be hand-delivered as follows:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 18th day of August 2010 at San Francisco, California.

/s/ Melinda LaJaunie
Melinda LaJaunie

**SERVICE LIST – A.10-07-017
(Updated August 10, 2010)**

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