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10 IN THE UNITED STATES DISTRICT COURT  
 11 FOR THE EASTERN DISTRICT OF CALIFORNIA  
 12 SACRAMENTO DIVISION

14 **CALIFORNIA DEPARTMENT OF**  
 15 **WATER RESOURCES,**  
 16 Plaintiff,  
 17 v.  
 18 **POWEREX CORP., a Canadian**  
 19 **Corporation, dba POWEREX ENERGY**  
 20 **CORP.,**  
 21 Defendants.

2:05-CV-00518-GEB EFB  
**AGREED ORDER MODIFYING  
 THE PROTECTIVE ORDER**  
 Date: December 2, 2009  
 Courtroom: 25  
 Time: 10:00 a.m.  
 Magistrate Judge Edmund F. Brennan  
 Trial Date May 18, 2010

22 Having considered CDWR's Motion to Modify the Protective Order, the response, the  
 23 pleadings and having been advised by counsel that an agreement had been reached on the terms  
 24 of the Modification:

25 **IT IS, THEREFORE, ORDERED** that the Stipulation and Protective Order [Docket No.  
 26 111] be modified as follows:

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**1. Add an additional sentence to paragraph 11 as follows:**

*“(j) parties, interveners or FERC personnel in FERC Docket Nos. EL09-56, EL00-95, EL01-10, EL01-68, and EL02-71.”*

**2. Revise Paragraph 14 to read:**

All information designated as Confidential Information shall be used only for the purpose of this litigation *and the following FERC Docket Nos.: EL09-56, EL00-95, EL01-10, EL01-68, and EL02-71, subject to FERC orders and standards of confidentiality*; and shall not be made public by the receiving party, or any agents thereof, or divulged to anyone other than the persons permitted access as set forth in paragraph 11 above. Any person in possession of Confidential Information shall maintain it in a reasonably secure manner to avoid disclosure of its contents.

**3. Revise Paragraph 27 to read:**

All Confidential Information disclosed in this litigation shall be used solely for this litigation *or FERC proceedings specified in Paragraph 14*, and not for any business, competitive, or other purposes whatsoever.

**4. Add Paragraph 32 to read:**

Notwithstanding any other provision of this Protective Order, any Confidential Information disclosed pursuant to paragraph 11(j) shall be governed expressly by this Protective Order, and additionally by any existing or future protective orders entered in FERC Docket Nos. EL09-56, EL00-95, EL01-10, EL01-68, and EL02-71, and by FERC standards of confidentiality including, without limitation, 18 C.F.R. § 388.112 (2009).

**5. Add Paragraph 33 to read:**

Notwithstanding any other provision of this Protective Order, deposition transcripts created in FERC Docket Nos. EL02-60 and EL02-62 and produced by CDWR in this proceeding may not be disclosed pursuant to paragraph 11(j).

**IT IS FURTHER ORDERED** that, in light of the parties’ agreement, the December 2, 2009 hearing on plaintiff’s motion to modify the parties’ protective order is vacated, and defendant’s motion to seal an unredacted version of its partial opposition to plaintiff’s motion and related exhibits, Dckt. No. 215, is deemed withdrawn. The Clerk is directed to return the unredacted partial opposition and proposed sealed documents that defendant submitted to the court (Exhibits A, B, C, D, E, and F to the Declaration of J.

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Clifford Gunter) to defendant at the following address:

J. Clifford Gunter, III  
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South Tower Pennzoil Place  
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**IT IS SO ORDERED.**

Dated: December 1, 2009.



EDMUND F. BRENNAN  
United States Magistrate Judge