

**Backbone Mtn. Windpower LLC v NextEra Energy
Operating Servs., LLC**

2026 NY Slip Op 31312(U)

March 30, 2026

Supreme Court, New York County

Docket Number: Index No. 655176/2025

Judge: Joel M. Cohen

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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BACKBONE MOUNTAIN WINDPOWER LLC,DIABLO WINDS, LLC,MEYERSDALE WINDPOWER, LLC,MILL RUN WINDPOWER LLC,SOMERSET WINDPOWER LLC,WAYMART WIND FARM LLC,SEQUITUR RENEWABLES, LLC

INDEX NO. 655176/2025

MOTION DATE 11/17/2025

MOTION SEQ. NO. 003

Plaintiffs,

- v -

DECISION + ORDER ON MOTION

NEXTERA ENERGY OPERATING SERVICES, LLC, NEXTERA ENERGY RESOURCES, LLC, NEXTERA ENERGY MARKETING, LLC,

Defendants.

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 003) 22, 23, 24, 25, 26, 27, 28, 29, 30, 34

were read on this motion to SEAL.

Defendants move for an order permanently sealing their Memorandum of Law in Support and Exhibits A and B to the Affirmation of Nathan Denning (NYSCEF 25, 27, and 29) filed in connection with Defendants’ motion to dismiss and permission to file a redacted version of the Memorandum. The motion is unopposed. For the following reasons, Defendants’ motion is **granted in part.**

Pursuant to 216.1 (a) of the Uniform Rules for Trial Courts, this Court may seal a filing “upon a written finding of good cause, which shall specify the grounds thereof. In determining whether good cause has been shown, the court shall consider the interests of the public as well as of the parties” (22 NYCRR 216.1 [a]).

The Appellate Division has emphasized that “there is a broad presumption that the public is entitled to access to judicial proceedings and court records” (*Mosallem v Berenson*, 76 AD3d 345, 348 [1st Dept 2010]). “Since the right [of public access to court proceedings] is of constitutional dimension, any order denying access must be *narrowly tailored to serve compelling objectives*, such as a need for secrecy that outweighs the public’s right to access” (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000] [emphasis added]; *see also, e.g. Gryphon Dom. VI, LLC v APP Intern. Fin. Co., B.V.*, 28 AD3d 322, 324 [1st Dept 2006]). “Furthermore, because confidentiality is the exception and not the rule, ‘the party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access’” (*Maxim, Inc. v Feifer*, 145 AD3d 516, 517 [1st Dept 2016] [citations omitted]).

The Court has reviewed the two documents Defendants seek to seal in their entirety and finds that Defendants have not demonstrated why specific confidential information cannot be protected through targeted redaction rather than by sealing the entirety of the Operation and Maintenance Agreement and the Energy Management Services Agreement). The mere fact that the parties entered into an agreement containing a confidentiality provision is not, by itself, a reason to grant the motion (*see Aktiv Assets LLC v Centerbridge Partners, L.P.*, 2020 WL 2520019 [Sup Ct, NY County 2020]). In view of the admonition that sealing of court records must be “narrowly tailored to serve compelling objectives,” (*Danco*, 274 AD2d at 6), Defendants will need to propose and justify targeted redactions of these documents that satisfy the requirements of 22 NYCRR § 216 (a) and applicable case law. The documents will remain provisionally under seal to permit the prompt filing of a follow-up motion proposing and explaining the need for specific redactions.

As for the Memorandum of Law, Defendants have proposed and justified targeted redactions that comport with the applicable standards.

Accordingly, it is

ORDERED that Defendants' Motion is **GRANTED IN PART as to the** Memorandum of Law; the motion is otherwise **DENIED without prejudice** as to exhibits and Defendants may file a new motion within 21 days to redact confidential portions consistent with this Order and applicable case law; it is further

ORDERED that the County Clerk shall maintain NYSCEF 30 in its current, redacted form; it is further

ORDERED that the County Clerk shall maintain NYSCEF 29 under seal so that the document may only be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that the documents filed as NYSCEF 25 and 27 shall remain provisionally sealed for 21 days from the date of the Court's entry of this Order on NYSCEF. If Defendants file a new motion to seal or redact confidential portions of the documents consistent with this Order within that 21-day period, the documents shall remain provisionally sealed pending resolution of that motion. If no such motion is filed within 21 days from the entry of this Order, the parties shall within three business days thereafter notify the County Clerk, and shall file unredacted/unsealed copies of the documents on NYSCEF; it is further

ORDERED that the County Clerk shall unseal NYSCEF 15, 17, and 18; it is further

ORDERED that Defendants shall serve a copy of this order upon the Clerk's Office within five (5) days of the date of this Order, and such service shall be made in accordance with

the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website); it is further

ORDERED as it related to future submissions, made by any party, that contain subject matter that the Court has authorized to be sealed by this Order, parties may file a joint stipulation, to be So Ordered, which will authorize the filing of such future submissions to be filed in redacted form on NYSCEF, provided that an unredacted copy of any redacted document is contemporaneously filed under seal; and it is further

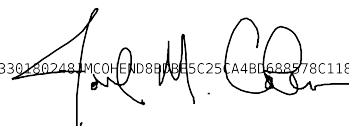
ORDERED that nothing in this Order shall be construed as authorizing the sealing or redactions of any documents or evidence to be offered at trial.

This constitutes the Decision and Order of the Court.

3/30/2026

DATE

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JOEL M. COHEN, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE