

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BIG RIVERS ELECTRIC CORPORATION	)	
FILING OF WHOLESALE CONTRACTS	)	CASE NO.
PURSUANT TO KRS 278.180 AND KAR	)	2014-00134
5:011 §13	)	

ORDER

On July 16, 2014, Big Rivers Electric Corporation (“Movant” or “Big Rivers”) filed a petition, pursuant to 807 KAR 5:001 § 13, KRS 61.878(1)(c), and KRS 278.160(3), requesting that the Commission grant confidential protection of portions of Movant’s Responses to Commission Staff’s (“Staff”), Kentucky Office of the Attorney General’s (“AG”), and Kentucky Industrial Utility Customers, Inc.’s (“KIUC”) respective Initial Requests for Information (“Initial Requests”). On October 9, 2014, the Commission issued an Order which granted in part and denied in part Big Rivers’ petition. However, that Order did not address Big Rivers’ request for confidentiality of the ACES study submitted as an attachment to the response to Item 3 of Staff’s Initial Request (“ACES study”). This Order will address that particular attachment.

The ACES study consists of an analysis of three Market Based Rate Partial and Full Requirements Agreements (collectively “PPAs”) entered into between Big Rivers and, respectively, Northeast Nebraska Public Power District; the city of Wayne, Nebraska; and the city of Wakefield, Nebraska. Movant requests that the entirety of the ACES study remain confidential for an indefinite period of time. The information at

issue in the ACES study includes financial, energy and capacity forecasts, and contract terms of the PPAs.

In support of its petition for confidential treatment, Movant argues that public disclosure of the ACES study would permit an unfair commercial advantage to Movant's competitors, and thus is generally recognized as confidential and is exempt from public disclosure pursuant to KRS 61.878(1)(c) and KRS 278.160(3). Movant further argues that public disclosure of the ACES study would impair its ability to compete in the wholesale power market and its ability to successfully negotiate future PPAs.

Having carefully considered the petition for confidential treatment and the materials at issue, and the motion for deviation, the Commission finds that:

1. The materials contained in the ACES study, with the exception of the materials designated in the Appendix to this Order, do not meet the criteria for confidential treatment under 807 KAR 5:001 § 13, KRS 61.878(1)(c), and KRS 278.160(3). The Commission finds that disclosure of the materials contained in the ACES study, with the exception of the Appendix to this Order, would not impose upon Movant any unfair competitive disadvantage in future negotiations involving wholesale power purchase agreements. This is particularly so given the Commission's need to be able to fully and specifically address the cost impact in its final determination of this matter, and given that Movant's members and retail customers have a right to know the evidence upon which the Commission relied in determining whether the costs of the PPAs are fair, just, and reasonable. Big Rivers' request for confidential treatment should be denied for the materials contained in the ACES Study, with the exception of materials designated in the Appendix to this Order.

2. The materials for which Movant seeks confidential treatment that are designated in the Appendix to this Order are records that are generally recognized as confidential or proprietary, and which if openly disclosed, would permit an unfair commercial advantage to competitors, and therefore meet the criteria for confidential treatment and are exempted from public disclosure pursuant to 807 KAR 5:001 § 13, KRS 61.878(1)(c), and KRS 278.160(3).

IT IS THEREFORE ORDERED that:

1. Movant's motion for confidential protection is hereby granted in part and denied in part.

2. Movant's request for confidential treatment of the information contained in the ACES study submitted as an attachment to Movant's response to Item 3 of Staff's Initial Request, with the exception of information set forth in the Appendix attached to this Order, is denied.

3. Movant's request for confidential treatment of information set forth in the Appendix to this Order is granted. The information set forth in the Appendix shall remain confidential for an indefinite period of time.

4. The materials for which Movant's request for confidential treatment has been granted for an indefinite time shall not be placed in the public record or made available for public inspection for an indefinite period of time.

5. The materials for which Movant's request for confidential treatment has been denied shall not be placed in the public record or made available for inspection for 20 days from the date of this Order in order to allow Movant to seek a remedy afforded by law.

6. Within seven days of the date of this Order, Big Rivers shall file a revised attachment to its response to Item 3 of Staff's Initial Request reflecting the redaction of the information determined herein to be confidential and reflecting as unredacted the information which has been denied confidential treatment.

7. Use of the materials that were granted confidential treatment in any Commission proceeding shall be in compliance with 807 KAR 5:001 § 13(9).

8. Movant shall inform the Commission if the materials granted confidential protection become publicly available or no longer qualify for confidential treatment.


9. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order and the period during which the materials have been granted confidential treatment has not run, Movant shall have 20 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If Movant is unable to make such demonstration, the requested materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

10. The Commission shall not make the materials available for inspection for 20 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow Movant to seek a remedy afforded by law.

By the Commission

ENTERED  
NOV 21 2014  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
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Executive Director

## APPENDIX

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2014-00134 DATED **NOV 21 2014**

MATERIALS FROM BIG RIVERS' RESPONSES TO STAFF'S INITIAL  
REQUESTS FOR INFORMATION, ATTACHMENT TO ITEM 3  
GRANTED CONFIDENTIAL TREATMENT

1. Page 3
  - a. Paragraph 1, Line 6: load percentage.
  - b. Paragraph 1, Line 11: indexed rate percentage.
  - c. Paragraph 3, Line 2: forecasted price.
  - d. Paragraph 3, Line 3: forecasted costs.
  - e. Paragraph 3, Line 4: forecasted capacity amount and payment.
  - f. Paragraph 3, Line 5: forecasted costs.
  - g. Paragraph 4, Line 5: forecasted margin.
  - h. FN2: forecasted costs.
2. Page 4, Figure 1: projected impacts and financial models.
3. Page 5
  - a. Paragraph 1, Line 1: indexed rate percentage.
  - b. Paragraph 4, Line 11: basis payment terms.
  - c. Paragraph 4, Line 14: projected transmission costs.
4. Page 6, Figure 2: forecasted revenue and prices.
5. Page 7, Figure 4: forecasted peak and energy.

6. Page 8
  - a. Paragraph 1, Lines 4 and 5: power supply amounts.
  - b. Figure 5: forecasted load requirements.
  - c. Figure 6: forecasted peak load and energy requirements.
  - d. Paragraph 3, Line 2: indexed rate factor.
  - e. Paragraph 4, Line 2: projected rate change.
7. Page 9
  - a. Figure 8: forecasted energy and demand rates.
  - b. Paragraph 1, Line 3: capacity payment and capacity load.
  - c. Paragraph 1, Lines 8 and 9: LMP differential per MWh.
  - d. Paragraph 1, Line 11: transmission costs per MWh.
  - e. Figure 9: forecasted generation fleet production.
  - f. Figure 10: forecasted transmission rates.
  - g. Paragraph 2, Line 1: load capacity.
  - h. Paragraph 2, Line 2: load costs.
  - i. Paragraph 2, Line 3: load capacity.
  - j. Paragraph 2, Lines 6 - 7: forecasted margin.
8. Page 10
  - a. Figure 11: forecasted transmission capacity and costs.
  - b. Paragraph 1, Line 2: LMP differential per MWh.
  - c. Paragraph 2, Line 1: administrative costs per MWh.
  - d. Paragraph 2, Line 2: administrative costs.

9. Page 11, Figure 13: forecasted revenues and costs.
10. Page 12
  - a. Paragraph 1, Line 1: indexed rate.
  - b. Paragraph 3, Line 2: forecasted margins.
  - c. Figure 14: forecasted energy and demand rates.
  - d. Paragraph 5, Line 1: indexed rate factor.
11. Page 13
  - a. Figure 15: forecasted coal costs.
  - b. Paragraph 3, Line 2: forecasted costs per MWh.
12. Page 14
  - a. Figure 16: forecasted coal costs.
  - b. Paragraph 1, Line 15: forecasted cost factor.
  - c. Paragraph 1, Line 16: forecasted margins.
  - d. Paragraph 1, Line 17: forecasted revenue.
  - e. Paragraph 1, Line 18: forecasted capacity value.
  - f. Figure 17: forecasted revenue.
  - g. Paragraph 2, Line 1: forecasted load factor.
13. Page 15
  - a. Paragraph 1, Line 7: forecasted demand and energy factor.
  - b. Paragraph 1, Line 8: forecasted margins.
  - c. Figure 18: forecasted revenue.
  - d. Paragraph 2, Line 4: basis terms.
  - e. Paragraph 2, Line 5: basis terms.



- f. Paragraph 2, Line 6: LMP differential per MWh.
  - g. Paragraph 2, Line 10: forecasted costs and margins.
  - h. Paragraph 2, Line 11: forecasted revenue.
  - i. Figure 19: forecasted revenue.
14. Page 16
- a. Paragraph 1, Line 4: forecasted price differential.
  - b. Paragraph 1, Line 6: forecasted price differential.
  - c. Paragraph 2, Line 6: projected debt financing percentage, cost rate,  
and amortization period.
  - d. Paragraph 2, Line 8: forecasted margins.
  - e. Figure 20: forecasted revenue.
15. Page 17
- a. Paragraph 1, Line 4: forecasted price and annual change.
  - b. Paragraph 1, Line 5: forecasted margins.
  - c. Figure 21: forecasted revenue.
16. Appendix: Term Sheet
- a. Terms and Pricing, Price, First Paragraph, Line 1: indexed rate.
  - b. Resources, Renewable Energy, Line 3: purchase quantity.
  - c. Resources, Capacity purchase of local generation, Line 2: rate for  
purchase of capacity credits.
  - d. Transmission and Ancillary Services, Transmission, First  
Paragraph, Line 6: percentage price differential for conditional cost allocation.

Lawrence W Cook  
Assistant Attorney General  
Office of the Attorney General Utility & Rate  
1024 Capital Center Drive  
Suite 200  
Frankfort, KENTUCKY 40601-8204

Honorable Michael L Kurtz  
Attorney at Law  
Boehm, Kurtz & Lowry  
36 East Seventh Street  
Suite 1510  
Cincinnati, OHIO 45202

Honorable James M Miller  
Attorney at Law  
Sullivan, Mountjoy, Stainback & Miller, PSC  
100 St. Ann Street  
P.O. Box 727  
Owensboro, KENTUCKY 42302-0727