

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION OF THE APPLICATION OF)
THE FUEL ADJUSTMENT CLAUSE OF BIG) CASE NO. 2011-00487
RIVERS ELECTRIC CORPORATION FROM)
MAY 1, 2011 THROUGH OCTOBER 31, 2011)

O R D E R

On March 6, 2012, Big Rivers Electric Corporation ("Big Rivers") filed a motion requesting authority to withdraw an exhibit it had filed on February 16, 2012 in response to Item No. 5 of the data request appended to the Commission's January 26, 2012 Order. Big Rivers designated the exhibit to be withdrawn as "Confidential Exhibit," and also requested authority to substitute in its place a tendered exhibit designated as "Public Exhibit." Item No. 5 of the Commission's data request related to Big Rivers' firm power commitments from May 1, 2011 through October 31, 2011, for (a) purchases and (b) sales, and required Big Rivers to identify the electric utility, the amount of commitment in MW, and the purpose of the commitment (e.g., peaking, emergency).

At the time Big Rivers filed the Confidential Exhibit, it also filed a petition pursuant to KRS 61.870 and KAR 5:001, Section 7, to protect as confidential the information contained therein and the information in another exhibit. By letter dated February 29, 2012, the Commission denied confidential treatment of the information contained in the Confidential Exhibit. In response to that denial, Big Rivers tendered the Public Exhibit which it alleges contains information that is fully responsive to Item 5, but

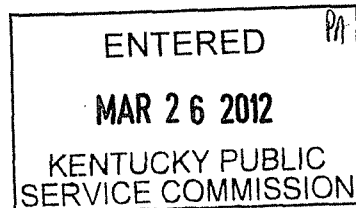
deletes supplemental information that Big Rivers considers confidential and proprietary for purposes of its business.

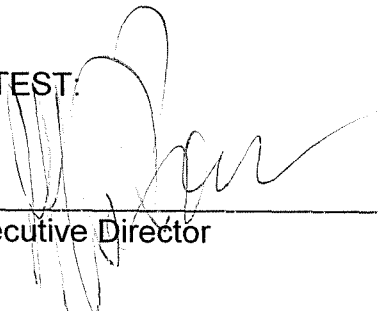
After considering Big Rivers' motion to withdraw the Confidential Petition, the Commission determined that it would be appropriate to examine the underlying rationale and basis for Big Rivers' claim of confidential treatment through the testimony of Big Rivers' witnesses. This issue was then raised on March 9, 2012 at a hearing which had been scheduled in this case as part of the Commission's examination of Big Rivers' fuel adjustment clause. At the hearing, testimony was presented by Mr. Michael Maddox, Director of Resources and Forecasting for Big Rivers. At Big Rivers' request, the testimony and cross-examination was conducted in a closed session. Mr. Maddox testified about how public disclosure of the information that was contained in the Confidential Exhibit, but not in the Public Exhibit, would compromise Big Rivers' competitive position in the wholesale power industry, which would result in an unfair commercial advantage to Big Rivers' competitors. Mr. Maddox testified that the firm purchases and sales listed in the Confidential Exhibit represented arbitrage contracts. The confidential information consisted of the starting and ending dates of the sales and purchases and references to the time of day and duration of the sales and purchases. Big Rivers' stated that competitors, through an examination of the information set forth in its Confidential Exhibit, but not in its Public Exhibit, would be able to determine Big Rivers' strategy for buying and selling in the wholesale power market. This, in turn, would allow Big Rivers' competitors to secure arbitrage contracts that otherwise would be awarded to Big Rivers, resulting in a loss of revenue that would ultimately harm its member customers.

Having reviewed the record and the testimony of Mr. Maddox, and being otherwise sufficiently advised, the Commission finds good cause to grant confidential protection to the information that is contained in Big Rivers' Confidential Exhibit, but not in its Public Exhibit. Public release of the confidential information would result in competitive injury to Big Rivers in the wholesale power market, to the detriment of its member customers. Therefore, we will treat Big Rivers' motion to withdraw the Confidential Exhibit as a petition for rehearing of our February 29, 2012 letter denying confidential protection to the Confidential Exhibit filed on February 16, 2012 in response to the Commission's information request, Item No. 5.

IT IS THEREFORE ORDERED that Big Rivers' Confidential Exhibit filed on February 16, 2012 in response to Item No. 5 of the Commission's January 26, 2012 Order is granted confidential protection.

By the Commission



ATTEST:


Executive Director

Albert Yockey
VP of Governmental Relations
Big Rivers Electric Corporation
201 Third Street
Henderson, KY 42419-0024