

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 December 1, 2014, Big Rivers Electric Corporation ("Big Rivers") filed a request for rehearing of the Commission's November 21, 2014 order ("Order") granting in part and denying in part Big Rivers' request for confidential treatment of an ACES study, which Big Rivers filed as an attachment to its response to Item 3 of the Commission Staff's Initial Request for Information to Big Rivers ("Staff's Initial Request"). As a basis for this request, Big Rivers states that the Commission denied confidential treatment to certain information in the ACES Study for which confidential treatment was granted in different sections of the ACES Study. Big Rivers further requests clarification to resolve Big Rivers' uncertainty regarding the extent of certain material that was granted confidential treatment.

Big Rivers requests that the Commission grant confidential treatment for the following material:

1. Forecasted margin amount on page 3, paragraph 4. As a basis for its request, Big Rivers states that the Commission granted confidential treatment to the same forecasted margin amount on page 3, paragraph 3 of the ACES study.

2. LMP differential amount on page 5, paragraph 4. As a basis for its request, Big Rivers states that the Commission granted confidential treatment to the same LMP differential amount on page 9, paragraph 1 of the ACES study.

3. Percentage increase amount on page 7, paragraph 1; and page 7, the sentence between Figures 3 and 4. As a basis for its request, Big Rivers states that the Commission granted confidential treatment to the values in Figure 4, but not to the percent increase used to determine those values. Big Rivers further states that if the percentage increase is not afforded confidential treatment, the information can be used to readily calculate the values in Figure 4 that were granted confidential treatment.

4. Percentage increase amounts contained in Figure 8 on page 9. As a basis for its request, Big Rivers states that the Commission granted confidential treatment to the "forecasted energy and demand rates" contained in Figure 8, but that it is unclear whether the Commission intended to grant confidential treatment to related percent increases in Figure 8. Big Rivers further states that confidential energy and demand rates can readily be calculated if confidential treatment is not afforded to the percent increases contained in Figure 8.

5. The information regarding transmission costs contained in the parenthetical on page 9, paragraph 1. As a basis for its request, Big Rivers states that the Commission granted confidential treatment to transmission costs on page 9, paragraph 1, but that Big Rivers is unclear whether the Commission intended to grant confidential treatment to the language regarding transmission costs contained in the parenthetical on that same line. Big Rivers further states that if the language regarding

transmission costs contained in the parenthetical are not granted confidential treatment, then the transmission costs that were granted confidential treatment can be determined.

6. Figure 12 on page 10, which depicts LMP differentials. As a basis for its request, Big Rivers states that the Commission granted confidential treatment to the same LMP differential amounts on page 9, paragraph 1 and on page 10, paragraph 1, but denied confidential treatment for the same information contained in Figure 12.

7. Margins and capacity values in Figure 13, page 11 and LMP differential amount in the note to Figure 13, page 11. As a basis for its request, Big Rivers states that the Commission granted confidential treatment to “forecasted revenues and costs” contained in Figure 13, but that Big Rivers is unclear whether the Commission intended to grant confidential treatment to the margins and capacity values in Figure 13 and to the LMP differential in the note to Figure 13.

8. Figure 14 on page 12. As a basis for its request, Big Rivers states that the Commission granted confidential treatment to “forecasted energy and demand rates” in Figure 14. Big Rivers further states that Figure 14 contains forecasted revenue, cost, margin, capacity value, and LMP differential, but not “forecasted energy and demand rates.”

9. The portion of the sentence after the word “effectively” on page 12, paragraph 3, lines 2-3. As a basis for its request, Big Rivers states that the forecasted margin amount contained in that sentence was granted confidential treatment, but the remaining portion of the sentence was denied confidential treatment. Big Rivers further states that, absent confidential treatment for the remaining portion of the sentence, the margin amount can readily be estimated.

10. The forecasted cost, margin, capacity value, and LMP differential amounts contained in Figures 17, 18, 19, 20, and 21 on pages 14-17. As a basis for its request, Big Rivers states that the Commission granted confidential treatment to “forecasted revenue values” contained in said Figures, but not to the remaining values in the Figures.

Having carefully considered the petition for rehearing and the materials at issue, the Commission finds that:

1. Good cause exists to grant Big Rivers' request for a rehearing.
2. The forecasted margin amount on page 3, paragraph 4, lines 4-5; the LMP differential amount on page 5, paragraph 4, lines 8-9; the percentage increase amount on page 7, paragraph 1, line 5; the percentage increase amount on page 7, the sentence between Figures 3 and 4; Figure 12 on page 10, depicting LMP differentials; and the reference to the margin amount starting with the word “effectively” and continuing through the end of the sentence on page 12, paragraph 3, lines 2-3, of the ACES Study 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, Section 13, KRS 61.878(1)(c), and KRS 278.160(3).
3. The Commission granted confidential treatment to the entirety of Figures 8, 13, 14, 17, 18, 19, 20, and 21 in its Order and relied upon descriptions of said Figures contained in the ACES Study to briefly describe their contents in the Order. To the extent the Order requires further clarity, the Commission finds that the entirety of

Figures 8, 13, 14, 17, 18, 19, 20, and 21 of the ACES Study 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, Section 13, KRS 61.878(1)(c), and KRS 278.160(3).

4. The Commission granted confidential treatment in the Order to the references to transmission costs on page 9, paragraph 1, line 11. To the extent the Order requires further clarity, the Commission finds that the entirety of page 9, paragraph 1, line 11 of the ACES Study is information that is generally recognized as confidential or proprietary, and which, if openly disclosed, would permit an unfair commercial advantage to competitors, and therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1)(c), and KRS 278.160(3).

IT IS THEREFORE ORDERED that:

1. Movant's petition for rehearing is granted.
2. Movant's request for confidential treatment of information set forth in the findings above is granted. The information shall remain confidential for an indefinite period of time.
3. The materials for which confidential treatment has been granted shall not be placed in the public record or made available for public inspection for an indefinite period of time.
4. Within seven days of the date of this Order, Movant shall file a revised attachment to its response to Item 3 of Staff's Initial Request reflecting the redaction of

the information determined to be confidential herein and in the November 21, 2014 Order.

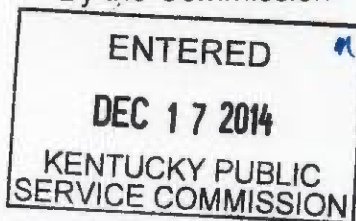
5. Use of the materials that were granted confidential treatment in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

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

7. 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.

8. 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



ATTEST:

Executive Director

A handwritten signature in blue ink, written over a horizontal line. The signature is cursive and appears to be the name of the Executive Director.

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