

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC CORPORATION FOR TERMINATION OF CONTRACTS AND A DECLARATORY ORDER AND FOR AUTHORITY TO ESTABLISH A REGULATORY ASSET	) ) ) ) ) )	CASE NO. 2018-00146
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ORDER

On July 26, 2018, Big Rivers Electric Corporation (BREC) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1), requesting that the Commission grant confidential protection for the information contained in BREC's responses to Commission Staff's Supplemental Request for Information (Staff's Supplemental Request), Item 5 and to Kentucky Industrial Utility Customers, Inc.'s Supplemental Request for Information (KIUC's Supplemental Request), Item 16. BREC also seeks confidential treatment for the information contained in the attachments to its responses to KIUC Supplemental Request, Items 7 and 10.

BREC states that the attachment in its response to KIUC's Supplemental Request, Item 7 consists of financial forecast model runs and an analysis of the financial implications of BREC exiting the Station Two contracts (HMPL Exit Analysis). BREC maintains that the model runs and analysis are sensitive internal, strategic planning documents and contain projections of power market prices, purchases, and sales; coal and other fuel prices and purchases; other fixed and variable operation and maintenance costs; capital project costs; and other financial information such as totals, margins, TIER,

capital, cash, debt, and equity that can be used in combination with other financial data to calculate the information that BREC seeks to keep confidential.

BREC states that the information contained in its response to Staff's Supplemental Request, Item 5 and KIUC's Supplemental Request, Item 10 consists of projected TIER and margins, which can be used in combination with other information to gain insight into BREC's cost of producing power. Lastly, BREC states that the information contained in its response to KIUC's Supplemental Request, Item 16 consists of projected loan terms.

BREC states that the information sought to be kept confidential relate to the company's economic status and business strategies. BREC also states that these documents also provide insight into BREC's cost of producing power; the prices at which REC is willing to buy or sell power, fuel, and other items; the loan terms BREC is willing to accept; and the market conditions BREC expects to encounter and its ability to compete with competitors. BREC contends that disclosure of the subject information would permit an unfair commercial advantage to its competitors as BREC faces actual competition in the wholesale power market and in the credit market.

BREC requests that the HMPL Exit Analysis be kept confidential for a period of five years from July 6, 2018,<sup>1</sup> and that the remaining information at issue be kept confidential for five years from the date of the instant petition.

Having considered the petition and the material at issue, the Commission finds that the information contained in BREC's responses to Staff's Supplemental Request, Item 5 and KIUC's Supplemental Request, Item 16, as well as the attachments to BREC's

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<sup>1</sup> According to BREC, the HMPL Exit Analysis is an electronic version of the paper attachment to BREC's response to KIUC's Initial Request for Information, Item 4. The paper attachment was filed with the Commission on July 6, 2018, under a petition for confidential treatment.

responses to KIUC's Supplemental Request, Items 7 and 10, are generally recognized as confidential or proprietary; this information, therefore, meets the criteria for confidential treatment and are exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. BREC's petition for confidential protection for certain information contained in its responses to Staff's Supplemental Request, Item 5, KIUC's Supplemental Request, Item 16, and the attachments to BREC's responses to KIUC's Supplemental Request, Items 7 and 10, as described herein, are granted.

2. The designated information contained in BREC's responses to Staff's Supplemental Request, Item 5 and KIUC's Supplemental Request, Item 16 as well as the attachment to BREC's response to KIUC's Supplemental Request, Item 10, shall not be placed in the public record or made available for public inspection for five years from July 26, 2018, or until further Order of this Commission.

3. The designated information contained in the attachment to BREC's response to KIUC's Supplemental Request, Item 7 (referred to in the Order as the HMPL Exit Analysis), shall not be placed in the public record or made available for public inspection for five years from July 6, 2018, or until further Order of this Commission.

4. Use of the material in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

5. BREC shall inform the Commission if the materials in question become publicly available or no longer qualifies for confidential treatment.

6. If a non-party to this proceeding requests to inspect the materials granted confidential treatment by this Order and the period during which the materials have been granted confidential treatment has not expired, BREC 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 BREC is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

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

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By the Commission



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