COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF BIG RIVERS ELECTRIC CORPORATION OF A RETAIL ELECTRIC SERVICE AGREEMENT WITH JUSTIFIED DATAPOWER LLC, A SUBSIDIARY OF TERAWULF INC.	)))))	CASE NO. 2026-00115

O R D E R

On April 14, 2026, Big Rivers Electric Corporation (BREC) filed a proposed Retail Electric Service Agreement (RESA) between BREC, Kenergy Corp. (Kenergy), and Justified DataPower LLC, a subsidiary of TeraWulf Inc. (TeraWulf).[1] The RESA would govern retail electric service to TeraWulf's proposed data center campus located at the former Century Aluminum Hawesville facility in Hancock County, Kentucky.[2] BREC requested approval of the RESA pursuant to KRS Chapter 278.[3]

PROCEDURAL HISTORY

By Order entered May 12, 2026, the Commission established this proceeding to investigate the reasonableness of the proposed RESA, suspended the proposed RESA for five months, through October 13, 2026, and established a procedural schedule.[4] The Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate

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[1] BREC's Contract Filing (RESA) (filed Apr. 14, 2026) (entered in the record of this case May 1, 2026).

[2] RESA Cover Letter at 1.

[3] RESA Cover Letter at 3.

[4] Order (Ky. PSC May 12, 2026).

Intervention (Attorney General), was granted intervention by Order entered May 15, 2026.[5] Kenergy and TeraWulf were granted intervention by Order entered June 8, 2026.[6]

On May 27, 2026, TeraWulf filed a motion requesting expedited review and an informal conference (IC).[7] An IC was held on June 2, 2026, during which the parties and Commission Staff (Staff) discussed the proposed RESA and issues relating to the proposed service arrangement.[8] By Order entered June 3, 2026, the Commission granted TeraWulf's request for an IC and held its request for expedited review in abeyance pending further review of the proceeding.[9] BREC filed a response to TeraWulf's on June 3, 2026.[10]

BREC responded to two requests for information from Staff,[11] and one request for information from the Attorney General.[12] By Order entered June 17, 2026, the Commission amended the procedural schedule to permit supplemental discovery and establish a deadline for intervenors to indicate whether they intended to submit testimony.[13] No intervenor testimony was filed.

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[5] Order (Ky. PSC May 15, 2026).

[6] Order (Ky. PSC June 8, 2026).

[7] TeraWulf's Motion for Expedited Review and Request for Informal Conference (filed May 27, 2026).

[8] TeraWulf's Informal Conference Presentation (filed June 2, 2026).

[9] Order (Ky. PSC June 3, 2026).

[11] BREC's Response to Staff's First Request for Information (Response to Staff's First Request) (filed June 11, 2026); BREC's Substituted Public Version of its Response to Staff's First Request for Information (Substituted Response to Staff's First Request) (filed June 12, 2026); BREC's Response to Staff's Second Request for Information (Response to Staff's Second Request) (filed June 29, 2026).

[12] BREC's Response to the Attorney General's Initial Data Request (Response to Attorney General's Initial Request) (filed June 11, 2026).

[13] Order (Ky. PSC June 17, 2026).

BREC also filed motions requesting confidential treatment for portions of its discovery responses on June 11, 2026, as amended on June 12, 2026, and June 29, 2026.[14]

By Order entered July 10, 2026, the Commission further amended the procedural schedule, directed BREC and the intervenors to request a hearing or request that the matter be submitted for a decision based upon the written record no later than July 28, 2026, and scheduled a public comment meeting for July 27, 2026.[15] The Commission subsequently revised the location of the public comment meeting to Hancock County High School to accommodate anticipated public attendance; the date and time of the meeting remained unchanged.[16] On July 28, 2026, BREC, TeraWulf, and Kenergy filed a request to submit the matter on the record.[17] The matter now stands submitted for a decision by the Commission.

SUPPLEMENTAL RECORD DEVELOPMENT

On August 13, 2026, Commission Staff held a second IC to obtain limited updates concerning the allocation of the project's costs and risks; status of TeraWulf's initial energy plan; environmental studies relating to the project, state, local, and school taxes; and TeraWulf's relationship with and engagement of the local community.[18][19] At the IC,

[14] BREC's Motion for Confidential Treatment (June 11 Motion) (filed June 11, 2026); BREC's Amended Motion for Confidential Treatment (June 12 Amended Motion) (filed June 12, 2026); BREC's Motion for Confidential Treatment (June 29 Motion) (filed June 29, 2026).

[15] Order (Ky. PSC July 10, 2026).

[16] Order (Ky. PSC July 14, 2026).

[17] Joint Motion for a Decision on the Exiting Record (filed July 28, 2026).

[18] Notice of Informal Conference (Ky. PSC Aug. 11, 2026).

[19] Executive Order 2026-494 was included in the record as an attachment to Commission Staff's August 11, 2026 Notice of Informal Conference. As reflected in the parties' filings and representations at

the parties confirmed that there had been no material change to the protections against shifting the project's costs or risks to other customers.[20] TeraWulf also confirmed that the tax-related information and commitments and the information regarding community engagement contained in the existing record remained materially accurate.[21]

Following the IC, TeraWulf filed a courtesy copy of its initial energy plan submitted to the Kentucky Energy and Environment Cabinet (EEC) and all completed environmental assessments previously identified in BREC's response to Staff's Second Request for information.[22] TeraWulf confirmed during the IC that the plan contains no material differences from the project load, energy-supply arrangements, infrastructure, and cost responsibilities described in this record.[23]

BACKGROUND

BREC is a generation and transmission cooperative organized under KRS Chapter 279 that provides wholesale electric service to its three-member distribution cooperatives, including Kenergy. Kenergy previously provided retail electric service to the former Century Aluminum Hawesville facility and will provide retail electric service to the proposed facility at the site.[24] TeraWulf is a publicly traded company that owns and

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the August 13, 2026 informal conference, the proposed arrangement is consistent with the ratepayer-protection and other considerations identified in the Executive Order.

[20] Second Informal Conference Memorandum and Attendance List (Second IC Memo) (Ky. PSC Aug. 13, 2026) at 2.

[21] Second IC Memo at 2.

[22] Energy Plan of Justified DataPower LLC (filed Aug. 14, 2026); Environmental Studies of Justified DataPower LLC (filed Aug. 18, 2026).

[23] Second IC Memo at 2.

[24] RESA at 1.

operates digital infrastructure for high-performance computing.[25] TeraWulf, through its subsidiary Justified DataPower LLC, plans to redevelop the former Century Aluminum site as a large-scale data center campus.[26] The planned facility has a Maximum Contract Demand of 482 megawatts (MW).[27]

The proposed RESA governs the terms under which BREC will supply wholesale electric service to Kenergy for retail delivery to TeraWulf.[28] Under the agreement, BREC will procure the energy and capacity necessary to serve the proposed load through the Midcontinent Independent System Operator, Inc. (MISO) markets, and Kenergy will provide retail electric service to TeraWulf.[29] The agreement employs a market-based pass-through pricing structure under which TeraWulf is responsible for the costs associated with obtaining, transmitting, and delivering electric service to the facility, including energy, capacity, transmission, congestion, uplift, regulatory charges, credit support, and other applicable market-related costs.[30]

The RESA has an initial term of fifteen years following the Construction Completion Date and provides for automatic five-year renewal terms unless terminated in accordance with the agreement.[31] The agreement also contains a minimum 482 MW take-or-pay

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[25] TeraWulf's Informal Conference Presentation at 2.

[26] RESA Cover Letter at 1.

[27] RESA at Section 2.03(b).

[28] RESA Cover Letter at 1.

[29] RESA Cover Letter at 1–2; RESA at Section 1.01.

[30] RESA Cover Letter at 2; RESA, Exhibit A, paragraph A.10.

[31] RESA at Section 12.01.

obligation during the first six years of the contract.[32] In addition to the market-based charges, the RESA includes negotiated wholesale and distribution demand adders, a monthly customer charge, and transmission charges based upon reserved transmission capacity.[33] The negotiated demand adders increase annually and include additional adjustments if TeraWulf reduces its Maximum Contract Demand after the initial take-or-pay period.[34]

The agreement contains several provisions intended to allocate to TeraWulf the financial and operational risks associated with serving its proposed large load.[35] Among other things, TeraWulf is required to maintain credit support equal to two times its estimated highest monthly bill and separately prepay or fully collateralize its annual capacity obligation.[36] The RESA provides for regular monthly billing and authorizes Emergency Billing through daily invoices payable the next business day when outstanding balances exceed the established credit support.[37] It also permits discontinuance of service for nonpayment.[38]

The RESA further contains operational provisions addressing system reliability.[39] These provisions authorize BREC and Kenergy to curtail service under specified

[32] RESA Cover Letter at 3; RESA, Exhibit A, paragraphs A.4–A.5.

[33] RESA at Section 2.11; RESA, Exhibit A, paragraphs A.3 and A.6–A.7.

[34] RESA Cover Letter at 3; RESA, Exhibit A, paragraphs A.3 and A.5.

[35] Response to Staff's First Request, Items 1, 4 and 16.

[36] Response to Staff's First Request, Item 16; Response to Staff's Second Request, Item 8.

[37] Response to Staff's First Request, Item 16; Response to Staff's Second Request, Item 8.

[38] Response to Staff's First Request, Item 16.

[39] RESA at Sections 2.04–2.05 and 2.12–2.14.

circumstances, including to preserve system integrity, respond to local voltage concerns, comply with applicable MISO directives, or during a MISO Energy Emergency Alert (EEA) Level 3 event.[40] The agreement also addresses TeraWulf's potential participation in MISO demand response programs and allocates responsibility for facilities necessary to provide electric service to the proposed project.

LEGAL STANDARD

The Commission has exclusive jurisdiction over the regulation of rates and service of utilities in the Commonwealth of Kentucky pursuant to KRS 278.040(2). Kentucky law provides that every utility may demand, collect, and receive only fair, just and reasonable rates for the services rendered or to be rendered, and that every utility shall furnish adequate, efficient, and reasonable service. KRS 278.030(1) and (2).

Pursuant to KRS 278.160, a utility proposing to establish or modify a rate, charge, or contractual arrangement affecting jurisdictional service must file the proposed tariff or contract with the Commission. KRS 278.170(1) prohibits a utility from giving an unreasonable preference or advantage to any person or subjecting any person to an unreasonable prejudice or disadvantage. KRS 278.190 authorizes the Commission to investigate a proposed tariff or contractual arrangement to determine whether the proposed rates and terms are fair, just and reasonable before permitting them to become effective.

In reviewing a proposed special contract, the Commission evaluates whether the rates, terms, and conditions of service are consistent with KRS Chapter 278, adequately protect existing customers from unreasonable costs or risks, and provide for adequate,

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[40] RESA at Section 2.12.

efficient, and reasonable utility service. The Commission also considers whether the proposed agreement results in unreasonable discrimination or an undue preference among similarly situated customers.

DISCUSSION AND FINDINGS

After consideration of the entire record, the Commission finds that the proposed RESA contains adequate protections for existing customers, appropriately allocates financial and operational risks, establishes rates that are fair, just and reasonable, and provides for adequate and reliable service. The Commission's review in this tariff proceeding under KRS 278.030, KRS 278.170(1), and KRS 278.190 is directed to the reasonableness of the RESA's rates, terms, and conditions, including whether the RESA protects existing customers and avoids unreasonable discrimination. Consistent with that standard, the Commission further finds that completion of the Noise Assessment and Air Modeling studies is not necessary to determine whether the RESA's rates, terms, and conditions are fair, just and reasonable and is not a prerequisite to approval of the RESA. TeraWulf nevertheless cooperated with Commission Staff's request by filing the completed environmental studies and committing to file the two remaining studies in the post case file upon completion. Those filings supplement the record and promote transparency regarding the proposed facility but do not alter the standard governing approval of the RESA. Accordingly, the Commission finds that the RESA should be approved.

Risk Allocation. The proposed load would utilize approximately 482 MW of existing transmission capacity at the former smelting site that became available when the smelting operations ceased. Although this capacity already exists, the costs of serving TeraWulf may vary significantly based on MISO energy and capacity prices. Accordingly, a central issue in reviewing the RESA is whether the costs and risks attributable to serving TeraWulf will be borne by TeraWulf or could be shifted to BREC or Kenergy, and thus their existing customers.

The RESA assigns the market costs associated with serving the proposed facility directly to TeraWulf.[41] TeraWulf is responsible for the Day-Ahead cost of all energy supplied under the RESA, as well as the costs or benefits resulting from differences between its Day-Ahead load estimate and its actual Real-Time load. TeraWulf is also responsible for MISO market charges, while receiving the benefit of any MISO market credits attributable to its load.[42] Capacity costs are similarly calculated based on the cost BREC incurs to obtain the capacity necessary to serve TeraWulf.[43] TeraWulf must also pay the transmission and ancillary-service costs incurred to deliver energy and capacity to the facility.[44] The timing of TeraWulf's payment obligations and the related credit-support protections are discussed in more detail in the Credit Support section below.

The RESA further provides that TeraWulf is solely responsible for all charges, fees, penalties, expenses, taxes, assessments, and other out-of-pocket costs incurred by BREC or Kenergy that are attributable to service under the agreement. These costs expressly include MISO transmission-project costs, uplift and congestion charges, capacity-deficiency charges, third-party credit-support costs, and costs imposed by

[41] RESA, Exhibit A, paragraph A.10.

[42] RESA, Exhibit A, paragraph A.2.

[43] RESA, Exhibit A, paragraph A.1.

[44] RESA at Section 2.11; RESA, Exhibit A, paragraph A.6.

regulatory or reliability entities. The RESA states that the parties intend for TeraWulf to bear all MISO energy and capacity risks, for service from the MISO markets to be provided on a pass-through basis, and for TeraWulf not to be subsidized directly or indirectly by BREC or Kenergy.[45]

The allocation of risk does not change if TeraWulf requests an alternative supply arrangement.[46] The RESA requires BREC to use commercially reasonable efforts to obtain an alternative arrangement only upon TeraWulf's request and subject to TeraWulf's consent.[47] TeraWulf remains responsible for all costs associated with such an arrangement, including transmission, congestion, third-party service, and credit-support costs, and receives any corresponding revenues or credits.[48] Thus, BREC is not required to hedge TeraWulf's energy costs or assume the financial risks associated with an alternative supply arrangement.[49]

The RESA also contains protections against the risk that TeraWulf will use substantially less capacity than anticipated after BREC and Kenergy have committed resources to serving the facility. During the first six years of the agreement, TeraWulf's Maximum Contract Demand is 482 MW, and its monthly Billing Demand is the greater of its Maximum Contract Demand or its actual monthly peak demand. TeraWulf, therefore, remains responsible for demand-based charges associated with the full 482 MW during that period regardless of whether its actual demand is lower. After the sixth year,

[45] RESA, Exhibit A, paragraph A.10.

[46] RESA, Exhibit A, paragraph B.

[47] RESA, Exhibit A, paragraph B.

[48] RESA, Exhibit A, paragraph B.

[49] RESA, Exhibit A, paragraph B.

TeraWulf may reduce its Maximum Contract Demand upon at least 18 months' notice. If it does so, the applicable Wholesale Demand Adder increases as the Maximum Contract Demand decreases, and BREC may resell, reuse, or redirect the resulting unused transmission capacity.[50]

Finally, TeraWulf bears the costs of facilities required specifically to serve its load. TeraWulf must provide the necessary sites, easements, and customer-owned facilities without cost to BREC or Kenergy.[51] If service requires the upgrade of existing facilities or the construction of new facilities, TeraWulf must deposit with BREC the estimated costs of such upgrades or new facilities.[52] The deposit is then reconciled to BREC's actual costs, even if the agreement terminates before construction is completed.[53]

Based on these provisions, the Commission finds that the RESA reasonably allocates to TeraWulf the market-price risk, load-reduction risk, and facility-cost risk attributable to serving the proposed data center. The pass-through pricing structure, minimum demand obligation, adjusted Wholesale Demand Adder, right to reuse unused transmission capacity, and advance payment of customer-specific facility costs provide multiple layers of protection against shifting TeraWulf's costs to BREC, Kenergy, or their existing customers.

Credit Support. In response to Staff's discovery, BREC provided billing examples using market conditions experienced during Winter Storm Fern and actual MISO prices

[50] RESA, Exhibit A, paragraphs A.3-A.5.

[51] RESA at Section 2.07.

[52] RESA at Section 2.08.

[53] RESA at Sections 2.07-2.08.

from January 2026.[54] Those examples demonstrate that both short-duration market events and ordinary monthly operations may produce significant charges when applied to a 482 MW load.[55] Given the size of TeraWulf's proposed load and the potential volatility of MISO market prices, the RESA could result in substantial billing exposure over a relatively short period. The Commission therefore considered whether the RESA provides BREC and Kenergy with sufficient financial protection before unpaid amounts could be shifted to existing customers.

The RESA establishes separate credit-support requirements for capacity costs and other monthly billing obligations. Once BREC determines the cost of the capacity necessary to serve TeraWulf for a MISO Planning Year, TeraWulf must, within 45 days, either prepay the entire annual capacity cost or provide and maintain collateral equal to that cost.[56] Acceptable collateral may include an irrevocable standby letter of credit, a surety bond, or another form of security acceptable to TeraWulf and BREC.[57] If collateral is provided instead of prepayment, it may be reduced during the Planning Year only to the extent that the remaining collateral continues to equal BREC's remaining capacity obligation for that Planning Year.[58] Thus, the capacity obligation is separately prepaid or fully collateralized and is not included in the credit support for TeraWulf's other monthly charges.[59]

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[54] [redacted]

[55] [redacted]

[56] RESA at Section 3.04(a).

[57] RESA at Section 3.04(a).

[58] RESA at Section 3.04(a).

[59] RESA at Section 3.04(a).

For its remaining monthly billing obligations, TeraWulf must provide and maintain collateral equal to two times BREC's estimate of the highest monthly bill for the applicable Planning Year.[60] BREC must recalculate the required amount at the beginning of each Planning Year and six months thereafter and may perform an additional recalculation at the beginning of any calendar quarter.[61] If the recalculated amount differs by more than 10 percent from the collateral then being maintained, the required collateral must be adjusted upward or downward, as applicable.[62] TeraWulf must provide any increased collateral amount within 45 days after the recalculation.[63] These provisions permit the required credit support to be adjusted as market conditions and anticipated billing exposure change.

The RESA also provides additional protection if outstanding bills exceed the Monthly Billing Credit Support Obligation, which is equal to two times BREC's estimate of the highest monthly bill for the applicable Planning Year. Under the emergency-billing provision, BREC must issue daily invoices for amounts incurred above that collateralized threshold.[64] TeraWulf must pay each emergency invoice by the following business day, regardless of whether the amount is disputed.[65] If payment is not received by that deadline, Kenergy may discontinue service without further action or notice.[66] Emergency

[60] RESA at Section 3.04(b).

[61] RESA at Section 3.04(b).

[62] RESA at Section 3.04(b).

[63] RESA at Section 3.04(b).

[64] RESA at Section 3.03(b).

[65] RESA at Section 3.03(b).

[66] RESA at Section 3.03(b).

billing does not replenish or reset the required collateral; rather, it prevents exposure above the collateralized amount from continuing to accumulate without next-day payment.

BREC and Kenergy have additional remedies for nonpayment or failure to maintain the required collateral. If TeraWulf fails to pay a regular monthly invoice, BREC or Kenergy may draw upon the collateral after providing at least five days' written notice.[67] Kenergy may also discontinue service upon ten days' written notice if TeraWulf fails to pay an invoice when due or fails to maintain the required collateral.[68] Failure to make a required payment or maintain collateral constitutes an event of default, which permits a non-defaulting party to terminate the RESA upon ten days' written notice or seek enforcement before the Commission.[69] Discontinuance or termination does not relieve TeraWulf of its accrued payment obligations.[70]

The Commission finds that the RESA's credit-support provisions provide reasonable protection against nonpayment and extreme market conditions. The separate prepayment or full collateralization of annual capacity costs, collateral equal to two times the estimated highest monthly bill for other charges, periodic recalculation of the required collateral, emergency daily invoicing, and the rights to draw upon collateral and discontinue or terminate service operate together to limit the financial exposure of BREC and Kenergy. The Commission further finds that these provisions are sufficient to protect existing customers from the risk that unpaid costs attributable to TeraWulf will be borne

[67] RESA at Section 3.04(b).

[68] RESA at Section 3.03(a).

[69] RESA at Sections 3.03(a), 6.01, and 6.02.

[70] RESA at Sections 3.03(a)-(b) and 6.04.

by BREC, Kenergy, or their other customers. The Commission, therefore, finds that additional credit support is not necessary at this time.

Rates. The Commission next considered whether the individual charges established under the RESA adequately compensate BREC and Kenergy for providing service and whether the special-contract rate structure creates an unreasonable preference or otherwise exposes other customers to costs attributable to TeraWulf. The RESA establishes a rate structure specifically designed for TeraWulf's proposed 482 MW load.[71] BREC stated that all purchased power and capacity costs associated with the separate MISO node serving TeraWulf will be recovered directly from TeraWulf under the RESA and excluded from the costs recovered through BREC's Fuel Adjustment Clause.[72] BREC further stated that revenues associated with the RESA will be excluded from Form 3.00 of the Environmental Surcharge.[73] The rate structure includes pass-through charges for energy, capacity, transmission, ancillary services, MISO market charges, and regulatory assessments, together with negotiated Wholesale and Distribution Demand Adders and a fixed monthly Distribution Customer Charge.[74]

TeraWulf's energy charges are based on the MISO Day-Ahead cost of the energy procured to serve its load, with TeraWulf also responsible for the costs, or entitled to the benefits, associated with differences between its Day-Ahead load estimate and actual Real-Time usage.[75] TeraWulf is similarly responsible for the capacity costs incurred by

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[71] RESA at Sections 2.03(b) and 3.01; RESA, Exhibit A, paragraphs A.1-A.7.

[72] Response to Staff's First Request, Item 21.

[73] Response to Staff's First Request, Item 21.

[74] RESA, Exhibit A, paragraphs A.1-A.3 and A.6-A.7.

[75] RESA, Exhibit A, paragraph A.2.

BREC to meet the capacity obligation associated with its load.[76] Transmission service is charged under BREC's Open Access Transmission Tariff at the applicable Network Integration Transmission Service rate, together with applicable MISO transmission charges.[77] This structure ties TeraWulf's market and delivery charges to the costs BREC and Kenergy incur to provide its service.

In addition to those direct costs, the RESA requires TeraWulf to pay negotiated demand adders to BREC and Kenergy and a fixed monthly customer charge to Kenergy.[78] The Wholesale and Distribution Demand Adders escalate during the term of the agreement.[79] The Wholesale Demand Adder also increases if TeraWulf reduces its Maximum Contract Demand after the initial six-year period.[80] These charges provide a contribution toward the fixed costs and financial requirements of BREC and Kenergy beyond reimbursement of the market and delivery costs directly attributable to TeraWulf.[81]

Having reviewed both the public and confidential terms of the RESA, the Commission finds that the proposed rates and charges are fair, just and reasonable. The direct pass-through of market and delivery costs ensures that TeraWulf is responsible for the costs attributable to its service, while the negotiated demand adders and customer charge provide an additional contribution to BREC and Kenergy. The Commission further finds that the customer-specific negotiated terms are reasonably supported by TeraWulf's

[76] RESA, Exhibit A, paragraph A.1.

[77] RESA, Exhibit A, paragraphs A.1-A.2 and A.6.

[78] RESA, Exhibit A, paragraph A.3.

[79] RESA Cover Letter at 3; RESA, Exhibit A, paragraph A.3.

[80] RESA, Exhibit A, paragraphs A.3–A.5.

[81] RESA Cover Letter at 3; TeraWulf's Informal Conference Presentation at 6-7.

size, load characteristics, service arrangement, and contractual obligations and do not provide TeraWulf an unreasonable preference or advantage or subject other customers to an unreasonable prejudice or disadvantage.

Reliability. Separate from the financial protections discussed above, the Commission considered whether the available transmission facilities and the operational provisions of the RESA are sufficient to serve the proposed facility while protecting BREC's system, Kenergy's system, the interconnected electric network, and existing customers. The proposed facility will use transmission infrastructure that previously served the Century Aluminum Hawesville facility.[82] The delivery point is connected to five 161-kV circuits on BREC's system, and BREC stated that approximately 482 MW of transmission capability remains available at the site.[83] Moreover, the RESA will not become effective until the parties receive the necessary approvals from MISO and complete the arrangements required for the facility to operate at its Maximum Contract Demand.[84] The RESA also requires Century Aluminum to transfer, or BREC otherwise to obtain, transmission rights or service sufficient to serve the facility at the Maximum Contract Demand.[85] These conditions provide assurance that service will not begin unless the necessary transmission capability and operational arrangements are in place.

The RESA preserves BREC's and Kenergy's authority to curtail TeraWulf's load when necessary to address local voltage issues, preserve the integrity of BREC's system

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[82] RESA Cover Letter at 1; TeraWulf's Informal Conference Presentation at 3.

[83] RESA at Section 2.01; TeraWulf's Informal Conference Presentation at 3-4.

[84] RESA at Sections 13.01(a)-(b).

[85] RESA at Sections 13.01(b)-(d).

or the interconnected electric network, or comply with MISO rules or directives.[86] BREC's members taking service under interruptible rates must be curtailed before TeraWulf to the extent that curtailing those customers would address the condition.[87] However, during a MISO EEA Level 3 event, TeraWulf may be curtailed before any other non-interruptible load on BREC's or Kenergy's system.[88] The Commission finds that these provisions preserve the operational flexibility necessary to respond to both local system conditions and broader regional emergencies.

The RESA also addresses disturbances caused by the operation of the proposed facility. BREC, in its role as the Local Balancing Area operator and meter reader, has primary responsibility for determining the existence and source of a system disturbance. If TeraWulf is determined to be the source, TeraWulf is responsible for the reasonable costs incurred by BREC or Kenergy to cure, correct, or suppress the disturbance.[89] TeraWulf must also maintain an acceptable power factor or install corrective equipment at its own expense.[90] These requirements protect BREC's facilities, Kenergy's system, the interconnected network, and other customers from adverse operational effects attributable to TeraWulf's load.

The Commission also considered the potential participation of the facility in demand-response programs. BREC has the right of first refusal to administer TeraWulf's

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[86] RESA at Section 2.12.

[87] RESA at Section 2.12.

[88] RESA at Section 2.12.

[89] RESA at Section 2.04(b).

[90] RESA at Sections 2.04-2.05.

participation in MISO demand-response programs and wholesale markets.[91] BREC and Kenergy stated that they retain discretion to decline to administer participation that would create unacceptable operational, reliability, compliance, financial, credit, settlement, or cybersecurity risks.[92] If TeraWulf participates through another provider, it remains subject to the RESA's curtailment provisions and the applicable requirements governing the safe and reliable operation of the facility.[93]

TeraWulf currently anticipates using approximately 10 MW of temporary emergency generation to support network rooms and essential building functions during an emergency.[94] The proposed generation is not intended to serve the facility's normal operating load.[95] In addition, the RESA prohibits TeraWulf from installing behind-the-meter generation without BREC's consent and requires the parties to negotiate an amendment addressing the different service characteristics associated with any such generation.[96] The Commission therefore finds that the presently anticipated emergency generation does not present a material reliability concern.

Based on the existing transmission infrastructure, the conditions that must be satisfied before service begins, and BREC's and Kenergy's retained operational authority, the Commission finds that the RESA contains adequate provisions to protect system reliability. The curtailment, system-disturbance, power-factor, demand-response, and

[91] RESA at Section 2.13.

[92] Response to Staff's Second Request, Item 3.

[93] RESA at Section 2.13; BREC's Response to Staff's Second Request, Item 3.

[94] Response to Staff's Second Request, Item 2.

[95] Response to Staff's Second Request, Item 2.

[96] RESA at Section 2.14; BREC's Response to Staff's Second Request, Item 2.

behind-the-meter-generation provisions provide BREC and Kenergy with sufficient authority to address conditions affecting local or regional system operations. The Commission therefore finds that BREC and Kenergy can provide service under the RESA in an adequate, efficient, and reasonable manner without unreasonably impairing service to existing customers.

Economic Benefits. The Commission also considered the financial and community benefits expected to result from the proposed service arrangement. BREC projects that the Wholesale Demand Adder will provide more than $15 million in annual revenue and that transmission service will provide more than $10 million in additional revenue during the first year of full operation.[97] BREC therefore projects total additional first-year revenue of more than $25 million.[98] Kenergy projects that the Distribution Demand Adder will provide more than $1 million in annual revenue.[99] The actual amounts will depend upon TeraWulf's load, the timing of its development, and applicable transmission and market conditions.

The additional revenues may also benefit BREC's existing member cooperatives and their customers through BREC's Member Rate Stability Mechanism. After BREC reaches the applicable Times Interest Earned Ratio threshold, a portion of additional margins is used to reduce the remaining regulatory asset associated with the former aluminum-smelter contracts, while the remaining portion is returned through ratepayer

[97] TeraWulf's Informal Conference Presentation at 6.

[98] TeraWulf's Informal Conference Presentation at 6.

[99] TeraWulf's Informal Conference Presentation at 6; Response to Staff's Second Request, Item 14.

credits.[100] Accordingly, the financial benefits of the RESA are not limited to recovery of the costs directly attributable to serving TeraWulf.

The proposed development is also expected to produce broader economic benefits in Hancock County and the surrounding region. The project will redevelop the former Century Aluminum Hawesville site, where approximately 600 jobs were lost following the smelter's closure.[101] TeraWulf estimates that its investment in site development and the initial data halls will total approximately $3.5 billion to $4 billion, exclusive of additional investment by tenants in computing equipment and related infrastructure.[102] TeraWulf also reported that it held a local hiring event attended by 60 candidates, participated in a Hancock County job fair, and is partnering with Owensboro Community and Technical College to develop specialized training programs for data-center operations through KCTCS-TRAINS.[103] TeraWulf also estimates that the completed facility will employ approximately 90 to 100 or more direct employees, with the potential for a similar number of additional tenant employees depending upon the facility's ultimate occupants.[104]

TeraWulf further projects that construction and operation of the facility will generate additional property, school, sales, and occupational-tax revenues.[105] However, the benefits of these additional tax revenue projections, which depend upon the timing and extent of construction, actual investment, employment, facility usage, and applicable

[100] TeraWulf's Informal Conference Presentation at 7.

[101] TeraWulf's Informal Conference Presentation at 3.

[102] TeraWulf's Informal Conference Presentation at 3 and 8.

[103] TeraWulf's Informal Conference Presentation at 8.

[104] TeraWulf's Informal Conference Presentation at 8; Response to Staff's Second Request, Item 4.

[105] TeraWulf's Informal Conference Presentation at 9.

market conditions, are not guaranteed.[106] Nevertheless, the proposed reuse of an existing industrial site, anticipated capital investment, employment, and additional tax base provide further support for the public-interest benefits asserted in the record.

The Commission recognizes that projected employment, investment, and tax benefits do not replace the statutory requirement that the rates and terms of the RESA be fair, just and reasonable and that the proposed service be adequate, efficient, and reasonable. The Commission's approval rests primarily upon the RESA's allocation of costs and risks to TeraWulf, its credit protections, its rate structure, and its reliability provisions. The projected financial and community benefits provide additional support for the Commission's conclusion that approval of the RESA is consistent with the public interest.

Public Comment Meeting. The Commission received written comments before and after the public comment meeting.[107] The written comments reflected a mix of concerns and support. Concerns included potential ratepayer impacts, the adequacy and durability of protections against cost shifting, resource use, electric-system reliability, environmental and community effects, and whether the projected employment and economic benefits would be lasting. Commenters requested that the Commission fully consider these matters and make sufficient information available to the public before reaching a final decision. Other written comments expressed support for the project's

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[106] TeraWulf's Informal Conference Presentation at 8–9; Response to Staff's Second Request, Item 4.

[107] The Public Comments for this case are available at https://psc.ky.gov/Case/ViewCaseFilings/2026-00115/Public.

potential job creation, redevelopment of the former smelter site, and environmental remediation.

A public comment meeting was held on July 27, 2026, at Hancock County High School, 80 State Route 271 South, Lewisport, Kentucky 42351.[108] Representatives of the Commission, BREC and TeraWulf attended the meeting. Members of the public who spoke expressed concerns that the costs and financial risks associated with the proposed data center could be shifted to existing customers. They also raised concerns regarding water use, noise, pollution and other environmental effects, public health, wildlife, nearby schools, and potential future increases in the facility's electric demand or use of behind-the-meter generation.[109] The Commission reviewed the written and oral public comments together with the evidentiary record in reaching its decision in this matter.

The fact that the RESA contains terms negotiated specifically for TeraWulf within BREC's existing tariff framework does not, standing alone, constitute an unreasonable preference. The customer-specific terms are supported by TeraWulf's proposed 482 MW load, market-based supply arrangement, contractual demand obligation, credit requirements, and responsibility for customer-specific costs. Moreover, TeraWulf will bear the direct market and delivery costs associated with its service, fund any new facilities required to serve its load, and pay negotiated adders that provide additional revenues to BREC and Kenergy. The record does not indicate that TeraWulf will receive a rate or service benefit funded by other customers.

[108] Order (Ky. PSC July 14, 2026).

[109] Video Recording of the July 27, 2026 Public Comment Meeting, Case No. 2026-00115, available at https://www.youtube.com/watch?v=eZzW-McU0PM..

Request for Expedited Review. TeraWulf's May 27, 2026 motion[110] requested that the Commission issue a final Order by July 27, 2026. The requested date has passed, and the Commission is issuing this final Order resolving the proceeding. Accordingly, the Commission finds that the pending request for expedited review is moot and should be denied.

CONFIDENTIAL TREATMENT

Under 807 KAR 5:001, Section 13(1)(c), the party requesting confidential treatment bears the burden of establishing that the material falls within an exemption from disclosure under KRS 61.878 and demonstrating the period for which confidential treatment is warranted. KRS 61.878(1)(c)(1) exempts records confidentially disclosed to an agency that are generally recognized as confidential or proprietary and that, if publicly disclosed, would permit an unfair commercial advantage to competitors of the entity that disclosed the records. KRS 278.160(3) further provides that a special-contract provision containing rates and conditions of service need not be disclosed if it otherwise qualifies for exclusion under KRS 61.878(1)(c)(1). Pursuant to KRS 61.878(4), any nonexempt material must be separated and made publicly available unless the protected and nonprotected information cannot reasonably be segregated.

June 11, 2026 Motion. On June 11, 2026, BREC requested confidential treatment for certain responses and attachments submitted in response to Staff's First Request for Information and the Attorney General's First Request for Information.[111] On June 12, 2026, BREC filed an amended motion that expressly encompassed the material identified

[110] TeraWulf's Motion for Expedited Review and Request for Informal Conference at 1.

[111] June 11 Motion at 1-2, paragraphs 1–2.

in the June 11, 2026 motion and requested confidential treatment for additional material that had been filed without redaction.[112] Because the June 12, 2026 amended motion encompasses the entirety of the original request, the Commission finds that the June 11, 2026 motion is superseded and that no separate ruling on that motion is necessary.

June 12, 2026 Motion. BREC's amended motion requested confidential treatment for negotiated special-contract terms, customer-specific financial models, internal operational procedures, and financial projections contained in its responses to Staff's First Request for Information and the Attorney General's First Request for Information.[113] The redacted portions of BREC's responses to Staff's First Request for Information, Items 11 and 12, and the confidential workbooks submitted in response to Staff's First Request for Information, Item 3, and the Attorney General's First Request for Information, Item 5, contain negotiated rate components, customer-specific billing inputs and projections, integrated formulas and assumptions, projected invoices, market-exposure analyses, and credit-support calculations.[114] Public disclosure of this information could allow counterparties or competitors to reconstruct BREC's pricing and credit methodologies and use that information in future negotiations. The formulas, assumptions, inputs, and results contained in the workbooks are integrated throughout the files and cannot reasonably be segregated without rendering the workbooks incomplete or misleading. The Commission therefore finds that this material qualifies for confidential treatment for

[112] June 12 Amended Motion at 1, paragraphs 1-2.

[113] June 12 Amended Motion at 2-3, paragraphs 3-7.

[114] June 12 Amended Motion at 2-3, paragraphs 3-6.

an indefinite period under KRS 278.160(3) and KRS 61.878(1)(c)(1), including the confidential workbooks in their entirety.

The attachments submitted in response to Staff's First Request for Information, Item 4, contain nonpublic procedures concerning system operations, communications, emergency response, reliability coordination, and load curtailment.[115] Disclosure could compromise operational integrity and provide market participants or other counterparties with nonpublic information regarding BREC's system limitations and response practices. The Commission, therefore, finds that this material qualifies for confidential treatment for an indefinite period under KRS 61.878(1)(c)(1).

BREC also sought confidential treatment for information contained in its responses to Staff's First Request for Information, Items 6 and 15, including projected revenues associated with application of the Wholesale Demand Adder.[116] This information is commercially sensitive during the relevant planning and negotiating period but will lose competitive value as market conditions, costs, and contract performance change. The Commission, therefore, finds that this material qualifies for confidential treatment under KRS 61.878(1)(c)(1) for ten years, through June 12, 2036.

Because KRS 278.160(3) and KRS 61.878(1)(c)(1) provide sufficient grounds for confidential treatment, the Commission need not address BREC's alternative argument under KRS 61.878(1)(a).

June 29, 2026 Motion. BREC's June 29, 2026 motion requests confidential treatment for negotiated contract terms, customer-specific modeling, credit-support

[115] June 12 Amended Motion at 3, paragraph 7.

[116] June 12 Amended Motion at 2-3, paragraphs 3-5.

calculations, and transmission-revenue projections contained in its responses to Staff's Second Request for Information.[117] BREC's response to Staff's Second Request for Information, Item 13, and the confidential workbook submitted in response to Item 9 contain negotiated non-pass-through pricing components and the application of those components to customer-specific billing projections and credit-support calculations.[118] Disclosure could reveal BREC's pricing strategy and credit terms and allow third parties to benchmark or undercut BREC in future transactions. The workbook's formulas, assumptions, confidential terms, and results are integrated throughout the file and cannot reasonably be segregated. The Commission, therefore, finds that this material qualifies for confidential treatment for an indefinite period under KRS 278.160(3) and KRS 61.878(1)(c)(1), including the Item 9 workbook in its entirety.

BREC's response to Staff's Second Request for Information, Item 14, contains projected annual transmission revenues attributable to the RESA.[119] Disclosure could reveal the anticipated economic value of the RESA and provide competitors and counterparties with information concerning BREC's pricing strategy and expected margins. However, the projections will become stale as market conditions and contract performance change. The Commission, therefore, finds that this material qualifies for confidential treatment under KRS 61.878(1)(c)(1) for ten years, through June 29, 2036.

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[117] June 29 Motion at 1-2, paragraphs 1-3.

[118] June 29 Motion at 1-2, paragraphs 1-3.

[119] June 29 Motion at 2, paragraph 2(c).

Because KRS 278.160(3) and KRS 61.878(1)(c)(1) provide sufficient grounds for confidential treatment, the Commission need not address BREC's alternative argument under KRS 61.878(1)(a).

IT IS THEREFORE ORDERED that:

1. The Retail Electric Service Agreement (RESA) among BREC, Kenergy, and TeraWulf, filed on April 14, 2026, is approved for service rendered on and after the date of service of this Order.

2. BREC and Kenergy are authorized to implement the RESA in accordance with its terms.

3. Within 20 days of the date of service of this Order, BREC shall file the approved RESA through the Commission's electronic Tariff Filing System. The filing shall reference this case number and the date of this Order.

4. BREC and Kenergy shall file any proposed amendment to the RESA with the Commission and obtain Commission approval before implementing the amendment.

5. Within 30 days after their completion, TeraWulf shall file in the post-case correspondence file the noise assessment and air-modeling analysis referenced in its responses to Staff's Second Request for Information, Item 6.

6. TeraWulf's request for expedited review contained in its May 27, 2026 motion is denied as moot.

7. BREC's June 11, 2026 motion for confidential treatment is deemed superseded by its June 12, 2026 amended motion.

8. BREC's June 12, 2026 amended motion for confidential treatment is granted. The redacted portions of BREC's responses to Staff's First Request for

Information, Items 11 and 12; the confidential workbooks submitted in response to Staff's First Request for Information, Item 3, and the Attorney General's First Request for Information, Item 5; and the attachments submitted in response to Staff's First Request for Information, Item 4, shall remain confidential for an indefinite period. The information afforded confidential treatment in BREC's responses to Staff's First Request for Information, Items 6 and 15, shall remain confidential through June 12, 2036.

9. BREC's June 29, 2026 motion for confidential treatment is granted. BREC's response to Staff's Second Request for Information, Item 13, and the confidential workbook submitted in response to Item 9 shall remain confidential for an indefinite period. The information afforded confidential treatment in BREC's response to Staff's Second Request for Information, Item 14, shall remain confidential through June 29, 2036.

10. The materials granted confidential treatment shall not be placed in the public record or made available for public inspection for the periods specified in this Order or until further Order of the Commission.

11. BREC shall notify the Commission if any material granted confidential treatment for an indefinite period becomes publicly available or otherwise no longer qualifies for confidential treatment. Before expiration of either ten-year period, BREC may request continued confidential treatment by demonstrating that the material continues to qualify for exclusion from public disclosure.

12. This case is closed and removed from the Commission's docket.

Entered on this 21st day of August, 2026.

PUBLIC SERVICE COMMISSION

Angie Hatton
Chair

Mary Pat Regan
Vice Chair

Andrew W. Wood
Commissioner

Barry L. Mayfield
Commissioner

ATTEST:

Justin McNeil RP

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Executive Director

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