

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC)	
CORPORATION FOR APPROVAL TO ISSUE)	CASE NO.
EVIDENCES OF INDEBTEDNESS)	2012-00492

ORDER

This matter arises on a petition filed on January 3, 2013, by Big Rivers Electric Corporation (BREC), pursuant to 807 KAR 5:001, Section 7, and KRS 61.878, requesting that designated materials filed with the Commission be afforded confidential protection for an indefinite period.

In support of its petition filed on January 3, 2013, BREC states that public disclosure of the designated materials contained in its responses to Kentucky Industrial Utility Customers', Inc. (KIUC), First Request for Information, Item 8 and Item 9 (Item 8 and Item 9) contains information regarding BREC's business strategies with regard to renegotiating its existing revolving credit agreements and portions of financial reports provided to BREC Board of Directors and to credit rating agencies which contain information regarding the cost of power production and excess power available for BREC to sell.

BREC further states that the designated materials contained in Item 8 would give creditors with which BREC is negotiating an advantage and would impair BREC's ability to secure the best possible outcome and could make future transactions more costly. The information in Item 9 contains sensitive and proprietary information that gives insight into

BREC's cost of producing power or the availability of power BREC has to sell into the market. BREC contends this could give suppliers and competitors an unfair advantage.

Having considered the petitions and the materials at issue, the Commission finds as follows:

1. The designated materials in Item 8 regarding renegotiation existing revolving credit agreements could give existing creditors an advantage in renegotiations. This advantage could result in higher costs to BREC and impair its ability to compete in the credit markets. Therefore, this information for which BREC requested confidential treatment meets the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and KRS 61.878(1)(c)(2)(a).

2. The designated materials in Item 9 contain information about the cost of producing power such as recent and projected fuel costs as well as possible excess power which is available for BREC to sell into the market. This information could give suppliers, buyers, and competitors an advantage in negotiations with BREC. Therefore, this information for which BREC requested confidential treatment meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. BREC's January 3, 2013, petition is granted.
2. The designated materials in Item 8 and Item 9 shall remain confidential for 20 years.
3. Use of the designated in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

4. BREC shall inform the Commission if the designated materials become publicly available or no longer qualify for confidential treatment.

5. If a non-party to this proceeding requests to inspect the designated materials that were granted confidential treatment by this Order and the period during which the materials have been granted confidential treatment has not expired, BREC shall have 30 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 materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the designated materials available for inspection for 30 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow BREC to seek a remedy afforded by law.

By the Commission

ENTERED
JUL 10 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2012-00492

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