

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF KENERGY CORP. AND	)	
BIG RIVERS ELECTRIC CORPORATION FOR	)	CASE NO.
APPROVAL OF CONTRACTS AND FOR A	)	2013-00221
DECLARATORY ORDER	)	

ORDER

This matter arises on a petition filed on July 11, 2013, by Big Rivers Electric Corporation (BREC), pursuant to 807 KAR 5:001, Section 13, requesting that designated materials filed with the Commission be afforded confidential protection for five years, except for the electric grid reliability study that they request be afforded confidential protection for an indefinite period.

In support of its petition filed on July 11, 2013, BREC states that public disclosure of the designated materials contained in its responses to the Attorney General's First Request for Information, Item 1 and Kentucky Industrial Utility Customers, Inc.'s (KIUC), First Request for Information, Item 11 would cause competitive injury because the responses contain information on fuel quality, costs, and hedging activities; budget projections and financial plan data for 2013-2016. BREC further states that the electric grid reliability study contains critical infrastructure information that if publicly disclosed would have a reasonable likelihood of threatening public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act.

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

1. The five years for which BREC requested confidential treatment for the designated materials contained in BREC's responses to the Attorney General's and KIUC's respective Requests for Information has run, and therefore BREC's request for confidential treatment for those designated materials is denied as moot.

2. The designated materials contained in the electric grid reliability study for which BREC requested confidential treatment for an indefinite period meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and KRS 61.878(1)(m)(1).

IT IS THEREFORE ORDERED that:

1. BREC's July 11, 2013 petition for confidential treatment is granted in part and denied in part.

2. BREC's request for confidential treatment for the designated materials in BREC's responses to the Attorney General's and KIUC's respective Requests for Information is denied as moot.

3. BREC's request for confidential protection for the electric grid reliability study is granted.

4. Within 30 days of the date of this Order, BREC shall file revised pages reflecting as unredacted the designated materials in BREC's response to the Attorney General's and KIUC's respective Requests for Information that have been denied confidential treatment.

5. The designated materials in the July 11, 2013 petition for which confidential protection was denied shall not be placed in the public record for 30 days following the date of this Order to allow BREC to seek any remedy afforded by law.

6. The designated materials pertaining to the electric grid reliability study shall not be placed in the public record or made available for public inspection for an indefinite period, or until further Orders of this Commission.

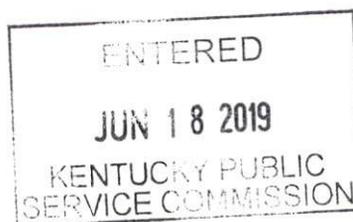
7. Use of the designated materials pertaining to the electric grid reliability study in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

8. BREC shall inform the Commission if the designated materials pertaining to the electric grid reliability study becomes publicly available or no longer qualify for confidential treatment.

9. If a non-party to this proceeding requests to inspect the designated materials pertaining to the electric grid reliability study 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.

10. The Commission shall not make the designated materials pertaining to the electric grid reliability study 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



ATTEST:

  
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