

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FILING OF AGREEMENT FOR THE PURCHASE)	
AND SALE OF FIRM CAPACITY AND ENERGY)	
BETWEEN BIG RIVERS ELECTRIC)	CASE NO.
CORPORATION AND THE KENTUCKY MUNICIPAL)	2016-00306
ENERGY AGENCY)	

ORDER

This matter arises on petitions filed by Big Rivers Electric Corporation (BREC) on August 5, 2016, October 6, 2016, and October 20, 2016, requesting confidential treatment, pursuant to KRS 61.878(1)(c), KRS 278.160, and 807 KAR 5:001, Section 13, for designated materials for an indefinite period. On October 27, 2016, Kentucky Industrial Utility Customers, Inc. (KIUC), filed a redacted version of data requests to BREC that incorporated the designated materials. We will treat the letter filing the redacted data request as a petition for confidential treatment

In the August 5, 2016 petition, BREC requested confidential protection to portions of an agreement with the Kentucky Municipal Energy Agency for the purchase and sale of firm capacity and energy (Agreement), which includes pricing information and terms for power sales. BREC contends that public disclosure of the designated material could be used to BREC's competitive disadvantage in negotiations in future power sales, and thus is exempt from public disclosure under KRS 61.878(1)(c). BREC further contends that the Agreement is a special contract, and thus exempt from public disclosure under KRS 267.160, which states that a special contract that contains rates and conditions of

service is exempt from public disclosure if it would otherwise be exempt from public disclosure under KRS 61.878.

On September 27, 2018, KIUC submitted a letter filing a redacted version of KIUC's First Request for Information (KIUC's First Request), Items 3 and 5 that incorporated the designated materials for which BREC requested confidential protection in its August 5, 2016 petition. KIUC explained that it filed a redacted data request in order to protect BREC's interests in keeping the information confidential.

On October 6, 2016, Big Rivers filed a second petition requesting confidential treatment for its responses to Commission Staff's First Request for Information (Staff's First Request), Item 1, and to its responses to KIUC's First Request, Items 2, 3, and 5. The designated materials contained the same information for which BREC requested confidential protection in its August 5, 2016 petition.

On October 20, 2016, Big Rivers filed a third petition requesting confidential treatment for its responses KIUC's Second Request for Information (KIUC's Second Request), Item 1. The designated materials contained the same information for which Big Rivers requested confidential protection in its August 5, 2016 petition.

Having considered the petitions and the materials at issue, the Commission finds that the information contained in BREC's responses to Staff's First Request, Item 1; KIUC's First Request, Items 2, 3, and 5; and KIUC's Second Request, Item 1 meets the criteria for confidential treatment and is exempt from public disclosure, pursuant to KRS 61.878(1)(c)(1), KRS 278.160, and 807 KAR 5:001, Section 13. The Commission further finds that KIUC's First Request, Items 3 and 5, contain information for which the Commission granted confidential protection above, and therefore should be exempt from

public disclosure pursuant to KRS 61.878(1)(c)(1), KRS 278.160, and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

1. BREC's petitions for confidential treatment for its responses to Staff's First Request, Item 1; KIUC's First Request, Items 2, 3, and 5; and KIUC's Second Request, Item 1 are granted.
2. KIUC's request for confidential treatment of KIUC's First Request, Items 3 and 5 is granted.
3. The designated 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, or until further Orders 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 material in question becomes publicly available or no longer qualifies for confidential treatment.
6. If a non-party to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, BREC shall have 20 days from receipt of written notice of the request to demonstrate that the material still falls 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 material available for inspection for 20 days following an Order finding that the material 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

ENTERED
JAN 02 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


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