

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

ORDER

On July 6, 2018, Big Rivers Electric Corporation (BREC) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c), requesting that the Commission grant confidential protection for a five-year period for the information contained in BREC's responses to: (1) Commission Staff's Initial Request for Information (Staff's Initial Request), Items 3, 9, and 17; (2) the Attorney General's Initial Request for Information (Attorney General's Initial Request), Item 1; and (3) Kentucky Industrial Utility Customers, Inc.'s Initial Request for Information (KIUC Initial Request), Items 4, 5, 6, and 9.

BREC states that the subject responses contain confidential information consisting of BREC's long-term financial forecast and financial model; projections of power market prices, coal and other fuel prices, other fixed and variable operation and maintenance costs, capital project costs, decommissioning costs, and rates; information relating to projected energy and capacity sales; information such as totals, margins, TIER, projections of capital, debt, and equity, and equity requirement projections based on projected margins; and internal, strategic planning documents.

Specifically, BREC further states that the responses to Staff's Initial Request, Item 17 and KIUC's Initial Request, Item 6 contain BREC's key internal strategic planning documents. BREC contends that these documents relate to the company's economic status and business strategies and are therefore entitled to confidential treatment. BREC also states that its responses to Staff's Initial Request, Items 3 and 9; the Attorney General's Initial Request, Item 1; and KIUC's Initial Request, Items 4, 5, and 9 as well as the attachments to the responses to Staff's Initial Request, Item 9 and KIUC's Initial Request, Item 9 provide insight into BREC's cost of producing power; the prices at which BREC is willing to buy and sell power, fuel, and other items; and the amounts BREC is willing to pay for capital projects. BREC contends that the information is also indicative of the market conditions that it expects to encounter and its ability to compete with competitors.

Having considered the petition and the material at issue, the Commission finds that the information contained in BREC's responses to Staff's Initial Request, Items 3, 9, and 17; Attorney General's Initial Request, Item 1; and KIUC's Initial Request for Information, Items 4, 5, 6, and 9 are generally recognized as confidential or proprietary; the information, therefore, meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c).

IT IS THEREFORE ORDERED that:

1. BREC's petition for confidential protection for certain information contained in its responses to Staff's Initial Request, Items 3, 9, and 17; Attorney General's Initial Request, Item 1; and KIUC's Initial Request, Items 4, 5, 6, and 9, and as described herein, are granted.

2. The designated information contained in BREC's responses to Staff's Initial Request, Items 3, 9, and 17; Attorney General's Initial Request, Item 1; and KIUC's Initial Request, Items 4, 5, 6, and 9 shall not be placed in the public record or made available for public inspection for five years or until further Order of this Commission.

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

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

5. 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.

6. 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.

By the Commission

ENTERED
JAN 11 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

*Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Rebecca W Goodman
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Honorable James M Miller
Attorney at Law
Sullivan, Mountjoy, Stainback & Miller, PSC
100 St. Ann Street
P.O. Box 727
Owensboro, KENTUCKY 42302-0727

*Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420

*Justin M. McNeil
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Thomas J Costakis
Krieg DeVault LLP
One Indiana Square
Suite 2800
Indianapolis, INDIANA 46204

*Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Norman T Funk
Krieg DeVault LLP
One Indiana Square
Suite 2800
Indianapolis, INDIANA 46204

*Kent Chandler
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Tyson Kamuf
Corporate Attorney
Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420

*Lawrence W Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202