

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC	)	
CORPORATION FOR APPROVAL TO MODIFY	)	
ITS MRSM TARIFF, CEASE DEFERRING	)	CASE NO.
DEPRECIATION EXPENSES, ESTABLISH	)	2020-00064
REGULATORY ASSETS, AMORTIZE	)	
REGULATORY ASSETS, AND OTHER	)	
APPROPRIATE RELIEF	)	

ORDER

On February 28, 2020, Big Rivers Electric Corporation (BREC) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1), requesting that the Commission grant confidential protection for certain information contained in the application and the Direct Testimonies of Robert W. Berry and Paul G. Smith. BREC requests confidential treatment for an indefinite period for designated materials related to the terms of a special contract to provide electric service to Nucor Corporation's new facility in Meade County, Kentucky. BREC also requests confidential treatment for five years for projected financial information, BREC states that the designated materials are subject to a pending petition for confidential treatment in Case No. 2019-00365.<sup>1</sup>

In support of its motion, BREC argues that the designated materials are generally recognized as confidential or proprietary, and that public disclosure of the information could provide insight into the impact of the special contract on BREC's future load

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<sup>1</sup> Case No. 2019-00365, *Electronic Joint Application of Big Rivers Electric Corporation and Meade County Rural Electric Cooperative Corporation for (1) Approval of Contracts for Electric Service with Nucor Corporation; and (2) Approval of Tariff* (filed Oct. 18, 2019).

characteristics and to projected revenue, times interest earned ratio (TIER), margins, and cash balance amounts. BREC maintains that disclosure of this information would place it at a competitive disadvantage in attracting economic development projects and negotiating electric pricing structures with companies interested in expanding in Kentucky.

BREC states that it is actively engaged in buying and selling power in the wholesale power markets. BREC asserts that public disclosure of the designated materials would provide insight into the prices and terms under which BREC is willing to buy and sell energy and capacity to potential purchasers of energy or capacity from BREC, potential sellers of energy or capacity to BREC, and other providers competing against BREC for purchases or sales of energy or capacity. BREC contends that these market participants could use this information as a benchmark, leading to higher costs, lower revenues, or less favorable terms to BREC, hurting BREC ability to compete in the wholesale power and credit markets.

Having considered the motion and the materials at issue, the Commission finds that designated materials are generally recognized as confidential or proprietary, and therefore meet the criteria for confidential treatment and are exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. BREC's February 28, 2020 motion for confidential protection is granted.
2. The designated materials related to the special contract with Nucor Corporation shall not be placed in the public record or made available for public inspection for an indefinite period or until further Order of this Commission.

3. The designated materials related to the financial information shall not be placed in the public record or made available for public inspection for five years or until further Order of this Commission.

4. Use of the materials 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 materials in question become publicly available or no longer qualify for confidential treatment.

6. 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 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.

7. The Commission shall not make the requested materials available for inspection for 30 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  
MAR 17 2020  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:



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