

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC EXAMINATION OF THE)	
APPLICATION OF THE FUEL ADJUSTMENT)	CASE NO.
CLAUSE OF BIG RIVERS ELECTRIC)	2021-00297
CORPORATION FROM NOVEMBER 1, 2020)	
THROUGH APRIL 30, 2021)	

ORDER

On September 1, 2021, Big Rivers Electric Corporation (BREC) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for indefinite period for: (1) information regarding confidential fuel supply bids to BREC and BREC’s analysis of those bids;¹ (2) terms of special contracts and other non-member sales and purchases;² and (3) third party proprietary information, specifically usage data of individual retail customers and sales to non-members.³

In support of its motion, BREC argued that the fuel supply bids, and analysis of those bids should be granted confidential treatment pursuant to KRS 61.878(1)(c)(1).⁴ BREC stated that the information is generally considered confidential, that release of the information would grant BREC’s competitors an unfair commercial advantage by giving

¹ Redacted information located in BREC’s Response to Commission Staff’s First Request for Information (Staff’s First Request) (filed Sept. 1, 2021), Item 4.

² Redacted information located in BREC’s Response to Staff’s First Request, Item 12.

³ Redacted information located in BREC’s Response to Staff’s First Request, Item 13.

⁴ BREC’s Motion for Confidential Treatment (filed on Sept. 1, 2021) at 4.

insight into how BREC reviews and selects winning bids.⁵ The Commission has granted similar requests previously.⁶

Additionally, in support of its motion, BREC argued that the terms of special contracts and other non-member sales of purchases should be granted confidential treatment pursuant to KRS 61.878(1)(a) in that release of parts of this information would constitute an unwarranted invasion of the customers privacy.⁷ BREC also argued that the information should be granted confidential treatment pursuant to KRS 61.878(1)(c)(1) because disclosure of such information would allow BREC's commercial competitors an unfair advantage by providing insight into process and other terms at which BREC is willing to sell and by power.⁸ BREC also stated that the other parties to these agreements rely on such terms remaining confidential and if publicly disclosed it could reduce the pool of parties willing to negotiate with BREC.⁹ The Commission has granted similar requests previously.¹⁰

In support of its motion, BREC argued that the third-party proprietary information, specifically usage data of individual retail customers and sales to non-members should be granted confidential treatment pursuant to KRS 61.878(1)(a), stating that release of

⁵ BREC's Motion for Confidential Treatment at 7.

⁶ Case No. 2019-00231, *An Electronic Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from November 1, 2018 Through April 30, 2019* (Ky. PSC April 2, 2020), Order.

⁷ BREC's Motion for Confidential Treatment at 3.

⁸ BREC's Motion for Confidential Treatment at 9 and 10.

⁹ BREC's Motion for Confidential Treatment at 9.

¹⁰ Case No. 2016-00306, *Filing of Agreement for the Purchase and Sale of Firm Capacity and Energy Between Big Rivers Electric Cooperation and the Kentucky Municipal Energy Agency* (Ky. PSC Jan. 2, 2019), Order. See Also: Case No. 2012-00221, *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates* (Ky. PSC July 25, 2013).

the information would be an unwarranted invasion of privacy for the other parties involved.¹¹ BREC also noted that the Commission has granted similar requests previously.¹²

Having considered the motion and the material at issue, the Commission finds that a portion of the requested material is generally recognized as confidential or proprietary; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13 and KRS 61.878(1)(c)(1). In addition, disclosure of the specific material related to customer usage and specific customer information would constitute an unwarranted invasion of privacy and as such should be considered confidential pursuant to KRS 61.787(1)(a). In addition, this material should be granted confidential protection for an indefinite period.

IT IS THEREFORE ORDERED that:

1. BREC's September 1, 2021 motion for confidential treatment is granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for indefinite period or until further order of this Commission.
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).
4. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, BREC shall

¹¹ BREC's Motion for Confidential Treatment at 4.

¹² Case No. 2018-00181, *Sanctuary Church v Louisville Gas and Electric Company* (Ky. PSC Jan. 8, 2019), Order.

inform the Commission and file with the Commission an unredacted copy of the designated material.

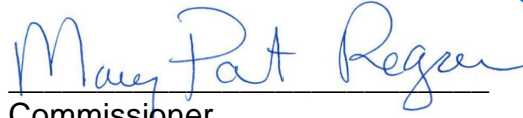
5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, BREC shall have 30 days from receipt of written notice of the request to demonstrate that 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.

6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow BREC to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

ENTERED
OCT 09 2024 dfg
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

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