

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BIG RIVERS)	
ELECTRIC CORPORATION FOR APPROVAL OF)	CASE NO.
AMENDMENT TO POWER PURCHASE)	2022-00296
AGREEMENT)	

ORDER

On August 31, 2023,¹ 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 an indefinite period for information regarding negotiations and drafts of the purchase power agreement (PPA) and amendment provided in response to the Attorney General’s First Request.

In support of its motion, BREC argued that drafts of the PPA, emails related to the drafts should be granted confidential treatment, and certain terms of the final contract should be redacted. In support of its argument, BREC stated that, should the discussions be disclosed, other companies may utilize the information to the disadvantage of BREC. BREC also stated that the redacted terms of the final contract were redacted pursuant to prior orders in this case and in this string of related applications before the Commission.²

¹ The original motion was filed on Feb. 10, 2023. On August 3, 2023, the Commission denied the request as it related to the documents provided in response to the Attorney General’s First Request for Information (Attorney General’s First Request), Item 1.

² The following cases contain confidentiality orders related to the information. In Case No. 2020-00183 *Electronic Application of Big Rivers Electric Corporation for Approval of Solar Power Contracts*, similar material terms of the contract and projections of the effects of contract on BREC ratepayers were given confidential treatment. The solar contracts approved by the Commission in Case No. 2020-00183 relate directly to 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*

Having considered the motion and the material at issue, the Commission finds that the material and the specific redactions in the final contract are 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). The negotiations in email and redlined contracts, if disclosed, could put BREC at a commercial disadvantage as it reveals internal dialogue regarding contractual priorities. The final contract, as redacted, reflects prior decisions related to this case and the remainder of the filing should be filed publicly.³

IT IS THEREFORE ORDERED that:

1. BREC's 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 an 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. BREC shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.
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

Nucor Corporation; and (2) Approval of Tariff as does the request for the approval of the amendment to the solar contract. In Case. No. 2019-00365, certain contract terms were also granted confidential treatment. Case No. 2022-00296, Mar. 31, 2023 Order..

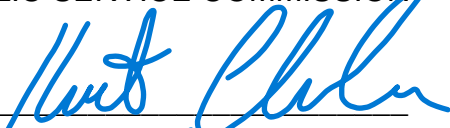
³ BREC complied with this and filed the redacted contract publicly on Aug. 31, 2023 when it filed for a revised motion.

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.

7. This case is closed and shall be removed from the Commission's docket

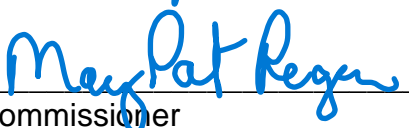
PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman



Commissioner

ENTERED
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KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



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