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May 10, 2010

Sullivan, Mountjoy, Stainback & Miller
Attention: James M. Miller
100 St. Ann Street
P.O. Box 727
Owensboro, Kentucky 42302-0727

Re: Big Rivers Electric Corporation
Petition for Confidential Protection received 2/17/10
PSC Reference – Case No. 2009-00510

Dear Mr. Miller:

The Public Service Commission has received the Petition for Confidential Protection you filed on February 17, 2010 on behalf of Big Rivers Electric Corporation ("Big Rivers") to protect certain information filed with the Commission as confidential pursuant to Section 7 of 807 KAR 5:001 and KRS 61.878. The information Big Rivers seeks to have treated as confidential is identified as information contained in three documents that are a part of its Responses to Data Requests contained in the Commission's Order dated January 27, 2010, Items 19b and 23. The information is more particularly described as bid tabulation summary, in its entirety, which contains bids and ranking of bids; fuel transportation contract containing prices, costs, concessions, terms and conditions; and an Affidavit from Ingram Barge Company ("Ingram") supporting the fuel transportation contract.

Your justification for having the Commission handle this material as confidential is that the public disclosure of the information would compromise Big Rivers' competitive position in the industry and result in an unfair commercial advantage to its competitors.

Based on a review of the information and pursuant to KRS 61.878 and 807 KAR 5:001, Section 7, the Commission has determined as follows:

- (1) Bid Tabulation Summary containing bids and ranking of bids, meets the criteria for confidential protection and is hereby **GRANTED** in its entirety.

- (2) Request for confidential treatment of Big Rivers' Fuel Transportation Contract does not meet the criteria for confidential protection and is hereby **DENIED**, based upon the following:

(a) The Commission finds that Big Rivers has failed to show actual competition or the likelihood of substantial competitive injury by the contracts being made a part of public record.

(b) All electric utilities in Kentucky have had their fuel and transportation contracts disclosed to the public since 1978 pursuant to the FAC regulation and evidence has not been shown that such utilities have suffered competitive injury due to the disclosure. On the contrary, the Commission has previously found that public disclosure of coal contracts is just as likely to decrease coal prices through competition of coal suppliers.

(c) Denial of Confidentiality of Fuel Transportation Contracts is based upon the mandatory language of paragraph 10 of the FAC regulation which states that such documents "shall be open and made available for public inspection" and the administrative history of the regulation.

(d) The lack of any firm evidence of anti-competitive effects resulting from public disclosure of coal price information must be weighed against the public's right to have access to information relating to a major component of their utility bills.

- (3) Affidavit from Ingram does not show evidence that disclosure would result in competitive injury to Big Rivers does not meet the criteria for confidential protection and is hereby **DENIED**.

The Commission has based its determination upon Commission Order in Case No. 9674, dated December 22, 1986, Commission Order in Case No. 97-197 dated March 18, 1998, The Kentucky Open Records Act (KRS 61.872), and 807 KAR 5:0001, Section 7.

The information listed above that has been granted confidential protection will be maintained as a nonpublic part of the Commission's file in this case. The procedure for usage of confidential materials during formal proceedings may be found at Section 7(8) of 807 KAR 5:001.

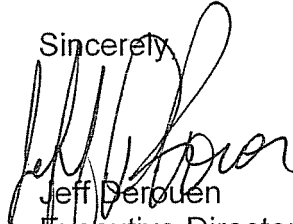
If the information becomes publicly available or no longer warrants confidential treatment, Big Rivers Electric Corporation is required by Section 8(9)(a) of 807 KAR

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5:001 to inform the Commission so that the information may be placed in the public record.

The information denied confidentiality will be withheld from public inspection for 20 days from the date of this letter. If you disagree with the Commission's decision, you may seek rehearing with the Commission within 20 days of the date of this letter under the provisions of KRS 278.400

Sincerely,



Jeff Derouen
Executive Director

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cc: Parties of Record