

Ronald M. Sullivan
Jesse T. Mountjoy
Frank Stainback
James M. Miller
Michael A. Fiorella
Allen W. Holbrook
R. Michael Sullivan
Bryan R. Reynolds
Tyson A. Kamuf
Mark W. Starnes
C. Ellsworth Mountjoy
Susan Montalvo-Gesser
Mary L. Moorhouse

March 18, 2011

Mr. Jeff DeRouen
Executive Director
Public Service Commission
211 Sower Boulevard, P.O. Box 615
Frankfort, Kentucky 40602-0615

RECEIVED

MAR 18 2011

PUBLIC SERVICE
COMMISSION

**Re: In the Matter of: An Examination of the Application of the Fuel
Adjustment Clause of Big Rivers Electric Corporation from July 17, 2009,
through October 31, 2010, Case No. 2010-00495**

Dear Mr. DeRouen:

Enclosed for filing on behalf of Big Rivers Electric Corporation is an updated exhibit to its Response to Item 9 of the information requested in the Commission's January 26, 2011, Order in this matter. The updated exhibit is being filed pursuant to a petition for confidential treatment. An original and ten copies of the petition are enclosed. Since Big Rivers is seeking confidential protection for the entire exhibit, one sealed copy of the exhibit printed on yellow paper is also enclosed, and a sheet noting that the entire exhibit has been redacted is attached to the original and each of the ten copies of the petition. As no other parties have intervened in this matter, the petition is not being served on any other party.

Sincerely,



Tyson Kamuf

TAK/h
Enclosures

cc: Albert Yockey

1 **BIG RIVERS ELECTRIC CORPORATION**
2 **AN EXAMINATION OF THE APPLICATION OF THE FUEL ADJUSTMENT**
3 **CLAUSE OF BIG RIVERS ELECTRIC CORPORATION**
4 **FROM JULY 17, 2009 THROUGH OCTOBER 31, 2010**
5 **CASE NO. 2010-00495**

6 **Updated Response to the Commission Staff's Data Request dated January 26, 2011**

7 **March 18, 2011**

8
9 **Item 9) *Provide the planned maintenance schedule for each of Big Rivers'***
10 ***generating units for the years 2011 and 2012.***

11
12 **Response)** Since the initial outage schedule was submitted in February this year Big
13 Rivers has moved the 2011 Wilson Unit outage from September to March and reduced
14 the scope and duration by one week. That week was added to Wilson's 2012 outage
15 which caused a schedule shift to the other spring outages. Also the Coleman Unit 1
16 outage in 2012 was moved from June to September and the Coleman Unit 3 outage in
17 2012 was reduced in scope and shortened by seventeen days. Please see the attached
18 revised schedule for the information requested on the planned maintenance schedule for
19 Big Rivers' generating units for the years 2011 and 2012.

20
21
22 **Witness)** Lawrence V. Baronowsky
23
24
25
26
27
28
29
30
31
32

BIG RIVERS ELECTRIC CORPORATION

**AN EXAMINATION OF THE APPLICATION OF THE FUEL ADJUSTMENT
CLAUSE OF BIG RIVERS ELECTRIC CORPORATION
FROM JULY 17, 2009 THROUGH OCTOBER 31, 2010
CASE NO. 2010-00495**

Updated Response to the Commission Staff's Data Request dated January 26, 2011

March 18, 2011

Item 9 – Attachment

The entire attachment has been redacted and filed under a Petition for Confidential Treatment

RECEIVED

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

MAR 18 2011

PUBLIC SERVICE
COMMISSION

In the Matter of:

AN EXAMINATION OF THE APPLICATION)
OF THE FUEL ADJUSTMENT CLAUSE OF)
BIG RIVERS ELECTRIC CORPORATION)
FROM JULY 17, 2009 THROUGH)
OCTOBER 31, 2010)

CASE NO. 2010-00495

**PETITION OF BIG RIVERS ELECTRIC CORPORATION FOR CONFIDENTIAL
PROTECTION**

1. Big Rivers Electric Corporation ("Big Rivers") hereby petitions the Kentucky Public Service Commission ("Commission"), pursuant to 807 KAR 5:001 Section 7 and KRS 61.878(1)(c), to grant confidential protection to the updated exhibit to Big Rivers' response to Item 9 of the information requested in Appendix B to the Commission's January 26, 2011, Order in this matter. The information Big Rivers seeks to protect as confidential is a revised version of an exhibit containing Big Rivers' planned maintenance schedule for the years 2011 and 2012 (the "Planned Maintenance Schedule").

2. Big Rivers seeks confidential treatment of the entirety of the exhibit (the "Confidential Information"). One (1) sealed copy of the Confidential Information printed on yellow paper (since the entirety of the exhibit is confidential) and an original and ten (10) copies of a page indicating that the entirety of the exhibit has been redacted are filed with this petition. 807 KAR 5:001 Sections 7(2)(a)(2), 7(2)(b).

3. There are currently no other parties to this proceeding on which copies of this petition and the redacted exhibit can be served. Big Rivers will provide a copy of these documents to any person who is granted full intervention by the Commission in this proceeding and who signs a confidentiality agreement. 807 KAR 5:001 Section 7(2)(c).

1 Rivers unwind transaction case, Big Rivers expects to be in the credit markets on a regular basis
2 in the future.¹

3 **II. The Confidential Information is Generally Recognized as Confidential or**
4 **Proprietary**

5 8. The Planned Maintenance Schedule contains the type of information that is
6 generally recognized as confidential or proprietary under Kentucky law.

7 9. The Planned Maintenance Schedule contains Big Rivers' planned maintenance
8 schedule for 2011 and 2012. Disclosure of that information will allow Big Rivers' suppliers and
9 competitors to know Big Rivers' future maintenance plans and will give them insight into Big
10 Rivers' wholesale power needs. Information about a company's detailed inner workings is
11 generally recognized as confidential or proprietary. *See, e.g., Hoy v. Kentucky Indus.*
12 *Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995) ("It does not take a degree in finance
13 to recognize that such information concerning the inner workings of a corporation is 'generally
14 recognized as confidential or proprietary'"). The Commission previously granted confidential
15 treatment to this type of information. *See, e.g.,* letter from the Commission dated July 20, 2010,
16 in Administrative Case No. 387 (granting confidential treatment to a list of future scheduled
17 outages that Big Rivers filed as part of the supplement to its annual report).

18 10. Additionally, the Commission granted confidential treatment to an earlier version
19 of the Planned Maintenance Schedule that was filed as an exhibit to the original response to Item
20 9 on February 14, 2011.

¹ See Order dated March 6, 2009, *In the Matter of: Joint Application of Big Rivers, E.ON, LG&E Energy Marketing, Inc., and Western Kentucky Energy Corporation for Approval to Unwind Lease and Power Purchase Transactions*, PSC Case No. 2007-00455, pages 27-30 and 37-39.

1 manipulate the bidding process to the detriment of Big Rivers, impairing Big Rivers' ability to
2 get the best price for its off-system sales during its scheduled outages.

3 **IV. The Confidential Information is Entitled to Confidential Protection**

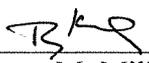
4 15. Based on the foregoing, the Confidential Information is entitled to confidential
5 protection.

6 **V. The Commission is Required to Hold an Evidentiary Hearing**

7 19. The Confidential Information should be given confidential protection. If the
8 Commission disagrees that Big Rivers is entitled to confidential protection, due process requires
9 the Commission to hold an evidentiary hearing. *Utility Regulatory Com'n v. Kentucky Water*
10 *Service Co., Inc.*, 642 S.W.2d 591 (Ky. App. 1982).

11 WHEREFORE, Big Rivers respectfully requests that the Commission classify and protect
12 as confidential the Confidential Information.

13 On this the 8th day of March, 2011.

14
15 
16 _____
17 James M. Miller
18 Tyson Kamuf
19 Sullivan, Mountjoy, Stainback
20 & Miller, P.S.C.
21 100 St. Ann Street, P.O. Box 727
22 Owensboro, Kentucky 42302-0727
23 (270) 926-4000
24
25 COUNSEL FOR BIG RIVERS
ELECTRIC CORPORATION