

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS)	
ELECTRIC CORPORATION FOR AN)	CASE NO. 2012-00535
ADJUSTMENT OF RATES)	

ORDER REGARDING REQUEST FOR CONFIDENTIAL TREATMENT

On January 15, 2013, Big Rivers Electric Corporation (“Movant”) moved pursuant to 807 KAR 5:001, Section 13,¹ that certain materials filed with the Commission be afforded confidential treatment and not be placed in the public record subject to public inspection.

In support of its motion, Movant states that the information it is requesting to be held confidential is contained in its application. The information is more particularly described as follows:

- The attachments to Tab 25 (capital construction budget), Tab 29 (major construction projects), and Tab 30 (construction projects).
- Portions of the attachments to Tabs 20 (forecasted adjustments); Tab 27 (annual and monthly budgets); Tab 31 (financial forecast); Tab 38 (monthly budget variance reports); Tab 49 (jurisdictional operating income summary for forecasted period); Tab 55 (comparative income statements, revenue statistics, and sales statistics); and Tab 57 (comparative financial data and earnings measures).

¹ Movant made its motion pursuant to 807 KAR 5:001, Section 7. Since the filing of this motion, the Commission promulgated revisions to 807 KAR 5:001. The section of the Commission’s Rules of Procedure pertaining to confidential treatment of records is now found at Section 13.

- Portions of the Direct Testimony of Robert W. Berry and portions of Exhibits Berry-1, Berry-2, Berry-3, and Berry-4.
- Portions of the Direct Testimony of Ted J. Kelly.
- Exhibits Siewert-2 and Siewert-3 to the Direct Testimony of Travis A. Siewert.
- Portions of Exhibits Wolfram-3 and Wolfram-4 to the Direct Testimony of John Wolfram.

Having carefully considered the motion and the materials at issue, the Commission finds that:

1. The materials for which Movant seeks confidential treatment meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c) and 807 KAR 5:001, Section 13, except for the information relating to recent off-system sales prices and heat rates because historical information such as these does not qualify for confidential treatment.

2. With the exception of information relating to recent off-system sales prices and heat rates, the materials for which Movant seeks confidential treatment should not be placed in the public record or made available for public inspection.

IT IS THEREFORE ORDERED that:

1. Movant's motion for confidential protection is granted in part and denied in part.

2. Movant's request for confidential treatment of information relating to recent off-system sales prices as contained in the Direct Testimony of Robert W. Berry and

Exhibits Berry-1 through Berry-4 as well as generation unit heat rate information as contained in the Direct Testimony of Ted J. Kelly is denied.

3. The materials relating to recent off-system sales prices and generation unit heat rate information shall be afforded confidential treatment for 33 days from the date of this Order to afford Big Rivers the opportunity to seek review of this Order pursuant to KRS 278.400 or KRS 278.410.

4. Thirty-three days after the date of this Order, the recent off-system sales prices and the generation unit heat rate information shall be made available for public inspection.

5. The remainder of the materials for which Movant seeks confidential treatment is granted such treatment and shall not be placed in the public record nor made available for public inspection.

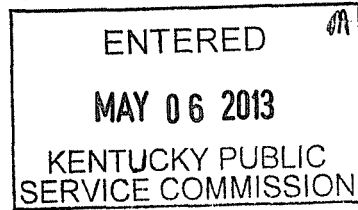
6. Use of the materials in question in this proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

7. Movant shall inform the Commission if the materials in question become publicly available or no longer qualify for confidential treatment.

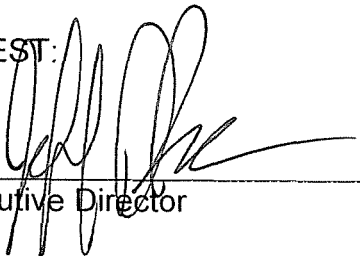
8. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order, the Commission shall notify the Movant in writing and direct Movant to demonstrate within 20 days of receipt of the notice that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If Movant is unable to make such demonstration, the requested materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

9. The Commission shall not make the requested materials available for inspection for 20 days following an Order finding that the material no longer qualifies for confidential treatment to allow Movant to seek a remedy afforded by law.

By the Commission



ATTEST:



Executive Director

Case No. 2012-00535

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