

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC)	
CORPORATION FOR AN ORDER DECLARING)	
THE CONSTRUCTION OF SEVEN SOLAR POWER)	CASE NO.
FACILITIES TO BE ORDINARY EXTENSIONS OF)	2016-00409
EXISTING SYSTEMS IN THE USUAL COURSE OF)	
BUSINESS)	

ORDER

On January 31, 2017, Big Rivers Electric Corporation (“Big Rivers”) filed a petition, pursuant to KRS 61.878 and 807 KAR 5:001, Section 13, requesting that the Commission grant confidential protection for an indefinite period of time to portions of an attachment to its response to Commission Staff’s Initial Request for Information (“Staff’s First Request”), Item 10.b. The designated material for which confidential protection is requested is more specifically described as an evaluation of bids submitted by third parties in response to a request for proposal (“RFP”) issued by Big Rivers to construct the solar facilities that are the subject of this proceeding.

In support of its petition requesting confidential treatment, Big Rivers asserts that the designated material in its response to Staff’s First Request, Item 10.b., contains commercially sensitive information that if publicly disclosed would place Big Rivers at a competitive disadvantage, and thus is exempt from public disclosure pursuant to KRS 61.878(1)(c)(1). Big Rivers states that the designated material contains the identities of third parties and information about their bids to construct the solar facilities at issue, and that information related to competitive bidding is generally recognized as confidential

and proprietary. Big Rivers further states that it faces actual competition in the wholesale power market and credit market, and that it is likely that Big Rivers would suffer competitive injury and increased costs if the designated material were to be publicly disclosed. Big Rivers contends that potential bidders are reluctant to have their bid information publicly disclosed, and that public disclosure of the designated material would likely suppress the competitive bidding process and reduce the pool of bidders willing to bid on future RFPs issued by Big Rivers. A reduced pool of bidders would increase Big Rivers' costs, which could impair Big Rivers' ability to compete in the wholesale power market and drive up the cost of credit to Big Rivers.

Having considered the petition and the material at issue, the Commission finds that the designated material contained in Big Rivers' response to Staff's First Request, Item 10.b., is generally recognized as confidential or proprietary, and which, if openly disclosed, could result in commercial harm to Big Rivers, and therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

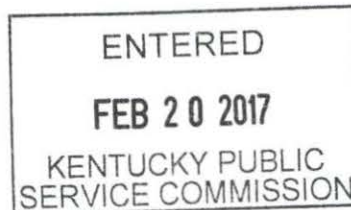
1. Big Rivers' petition for confidential protection for designated material contained in its response to Staff's First Request, Item 10.b., is granted.
2. The designated material set forth in Big Rivers' response to Staff's First Request, Item 10.b., shall not be placed in the public record or made available for public inspection for an indefinite period, or until further Orders of this Commission.
3. Use of the material in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

4. Big Rivers shall inform the Commission if the material in question becomes publicly available or no longer qualifies for confidential treatment.

5. If a non-party to this proceeding requests to inspect material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, then Big Rivers shall have 20 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 Big Rivers 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 20 days following an Order finding that the material no longer qualifies for confidential treatment in order to allow Big Rivers to seek a remedy afforded by law.

By the Commission



ATTEST:


Executive Director

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