

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC EXAMINATION OF THE)	
APPLICATION OF THE FUEL ADJUSTMENT)	CASE NO.
CLAUSE OF BIG RIVERS ELECTRIC)	2019-00007
CORPORATION FROM NOVEMBER 1, 2016)	
THROUGH OCTOBER 31, 2018)	

ORDER

On February 25, 2019, Big Rivers Electric Corporation (BREC) filed a petition, pursuant to KRS 61.878 and 807 KAR 5:001, Section 13(2), requesting that the Commission grant confidential protection for five years to the identified portions of its responses to: Item 4 (Response 4); Item 12 (Response 12); Item 22 (Response 22); Item 30 (Response 30); Item 31 (Response 31); and Item 32 (Response 32) to the information requested in an Appendix to the Commission’s Order dated February 11, 2019. On March 25, 2019, BREC filed a petition, pursuant to KRS 61.878 and 807 KAR 5:001, Section 13(2), requesting that the Commission grant confidential protection for five years to the identified portions of its response to Item 3 of Commission Staff’s Second Request for Information (Second Response 3).

The information for which BREC seeks confidential treatment is described as: fuel supply bids and BREC’s analysis of the bids (Response 4); the terms of future off-system sales (Response 12); projected fuel costs, including fuel adjustment factors and projected sales volumes (Response 22); projected fuel requirements in dollars and amounts

(Response 30); projected off-system sales amounts and dollars (Response 31); and planned outage schedules (Response 32 and Second Response 3).

As the basis for its request, BREC states that it competes in the wholesale power market. BREC asserts that its ability to compete in the wholesale market depends upon its ability to obtain the maximum price for the power that it sells and keep its production costs as low as possible. BREC also states that it competes in the credit market for reasonably priced credit. Therefore, BREC asserts that it has competitors in both the wholesale power and capital markets.

BREC argues that public disclosure of fuel supply bids and BREC's analysis of the bids (Response 4), projected fuel costs, including fuel adjustment factors and projected sales volumes (Response 22), and projected off-system sales amounts and dollars (Response 31) would indicate to BREC's suppliers, buyers, and competitors the price at which BREC is willing to buy or sell such items. BREC argues that public disclosure of the terms of future off-system sales (Response 12), projected off-system sales amounts and dollars (Response 31), and planned outage schedules (Response 32 and Second Response 3) would give BREC's suppliers, buyers, and competitors information as to when BREC would have power available to sell, when BREC would need to purchase power, and the amount of power BREC would have to buy or sell.

BREC asserts public disclosure of the information for which confidential protection is sought would give an unfair competitive advantage to direct competitors that could result in higher power production prices, which would increase prices to BREC's customers, and harm BREC's ability to successfully compete in the electric wholesale

market. BREC states that public disclosure of the data, if it were to lead to higher power production prices, would also negatively affect BREC's creditworthiness.

Having considered the petition and the material at issue, the Commission finds that the designated material contained in Response 4, Response 12, Response 22, Response 30, Response 31, Response 32, and Second Response 3, is generally recognized as confidential or proprietary, 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. BREC's petitions for confidential protection for Response 4, Response 12, Response 22, Response 30, Response 31, Response 32, and Second Response 3 are granted.
2. The identified information shall not be placed in the public record or made available for public inspection for five years or until further Order 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. BREC 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 the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, then 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.

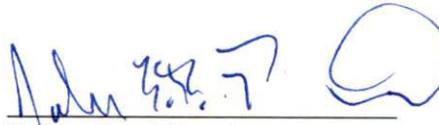
6. The Commission shall not make the material available for inspection for 30 days following an Order that the material no longer qualifies for confidential treatment in order to allow BREC to seek a remedy afforded by law.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

By the Commission

ENTERED
JAN 09 2020
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director
for Steven R. Pinson

Case No. 2019-00007

*Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420

*Big Rivers Electric Corporation
Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420

*Tyson Kamuf
Corporate Attorney
Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420