



Big Rivers Electric Corporation
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June 19, 2023

VIA ELECTRONIC FILING

Ms. Linda C. Bridwell
Executive Director
Public Service Commission
211 Sower Boulevard, P.O. Box 615
Frankfort, Kentucky 40602-0615

Re: Case No. 2021-00297, An Electronic Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from November 1, 2020 Through April 30, 2021: Requests to inspect confidential fuel bid sheets granted confidential treatment.

Dear Mr. Bridwell:

In response to your letter dated May 31, 2023, regarding Foresight Coal Sales' discovery request for the fuel bid sheets that Big Rivers Electric Corporation ("Big Rivers") filed with the Public Service Commission ("Commission") on September 1, 2021, pursuant to a motion for confidential treatment, Big Rivers respectfully requests that the Commission protect the fuel bid sheets as confidential and exempt from discovery and inspection under KRS 61.878(1)(c)(1) .

The requested fuel bid sheets were used for bid tabulations and analysis of fuel contract bids, and include the ranking of bids, the identity of potential fuel suppliers and the terms of their bids, and Big Rivers' bid selection methodology (the "Confidential Information"). The Confidential Information is not publicly available, is not disseminated within Big Rivers except to those employees and professionals with a legitimate business need to know and act upon the information, and is not disseminated to others without a legitimate need to know and act upon the information.

Big Rivers faces actual competition in the wholesale power market and in the credit market, and disclosure of the Confidential Information would permit an unfair commercial advantage to Big Rivers' competitors. If the Confidential Information is publicly disclosed, then potential fuel suppliers would know that the confidential terms of their bids could be publicly disclosed, which could reveal information to their competitors about their competitiveness. Because many companies would be reluctant to have such information disclosed, public disclosure of the Confidential Information would likely reduce the pool of counterparties willing to negotiate with Big Rivers, driving up Big Rivers' fuel costs (which could

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then drive up the cost of credit to Big Rivers) and impairing its ability to compete in the wholesale power market. The Commission recognized the competitive harm that can result from public disclosure of bid information in *In the Matter of Application of the Union Light, Heat and Power Company for Confidential Treatment*. See *In the Matter of Application of the Union Light, Heat and Power Company for Confidential Treatment*, P.S.C. Case No. 2003-00054, Order (Aug. 4, 2003); see also *Hoy v. Kentucky Indus. Revitalization Authority*, 907 S.W.2d 766, 769 (Ky. 1995) (where the Kentucky Supreme Court found that without protection for confidential information provided to a public agency, “companies would be reluctant to apply for investment tax credits for fear the confidentiality of financial information would be compromised”). The Commission has also often found that Big Rivers’ fuel bid sheets were confidential and proprietary in other cases. See, e.g., *In the Matter of: Electronic Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from November 1, 2021 through April 30, 2022*, P.S.C. Case No. 2022-00268, Order (March 1, 2023); *In the Matter of: Electronic Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from November 1, 2018 through April 30, 2019*, P.S.C. Case No. 2019-00231, Order (April 2, 2020).

Accordingly, the Confidential Information falls within the exclusions from disclosure requirements established in KRS 67.878, and Big Rivers requests that the Commission continue to classify and protect the Confidential Information as confidential and exempt from discovery and inspection.

Sincerely yours,

/s/ Senthia Santana

Senthia Santana

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