

1 COMMONWEALTH OF KENTUCKY
2 BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY
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4

5 *In the Matter of:*
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ELECTRONIC TARIFF FILING OF BIG RIVERS	)	
ELECTRIC CORPORATION OF A RETAIL	)	
ELECTRIC SERVICE AGREEMENT WITH	)	Case No.
JUSTIFIED DATAPOWER LLC, A SUBSIDIARY	)	2026-00115
OF TERA WULF INC.	)	

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9 **MOTION OF BIG RIVERS ELECTRIC CORPORATION FOR**
10 **CONFIDENTIAL TREATMENT**
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12 1. Big Rivers Electric Corporation (“*Big Rivers*”) respectfully moves the
13 Public Service Commission of Kentucky (the “*Commission*”), pursuant to 807 KAR
14 5:001 Section 13, KRS 61.878, and KRS 278.160(3), for an order granting
15 confidential treatment to certain information contained in Big Rivers’ responses
16 to Item Nos. 11 and 12, (“PSC 1-11” and “PSC 1-12”) and the attachments to the
17 responses to Item Nos. 3 and 4 (“PSC 1-3” and “PSC 1-4”) of the Commission
18 Staff’s First Request for Information, dated May 27, 2026, and also, the
19 attachment to Big Rivers’ Response to Item No. 5 of the Initial Data Request of
20 the Attorney General (“AG 1-5”), dated May 28, 2026, in this proceeding.

21 2. The information for which Big Rivers seeks confidential treatment
22 (the “*Confidential Information*”) consists of:

- 23 (a) provisions of the proposed special contract, among Big Rivers,
24 Kenergy Corp. (“*Kenergy*”), and Justified DataPower, LLC, a subsidiary of
25 TeraWulf, Inc. (“*TeraWulf*”) (the “*Proposed Agreement*”);

1 (b) projections of energy and capacity costs, detailed modeling of
2 TeraWulf's projected billing obligations including application of the
3 confidential monthly Wholesale and Distribution adders and calculations
4 underlying Section 3.04(b)'s credit support obligations; and

5 (c) internal operational procedures and protocols contained in the
6 attachments to PSC 1-4, including system operations, communications, and
7 emergency response procedures.

8 3. While the credit support structure itself, Section 3.04 of the proposed
9 Agreement, is publicly disclosed in the redacted copy filed in this proceeding, the
10 Confidential Information, consisting of data, projections, and modeling used to
11 calculate and support that requirement, including customer-specific billing
12 projections and market exposure analyses, is confidential and proprietary.

13 4. The confidential attachments to Big Rivers' responses to PSC 1-3
14 and AG 1-5 are provided in Excel spreadsheet format and contain integrated
15 financial models, including formulas, assumptions, projections, and customer-
16 specific data. The Confidential Information contained in these spreadsheets is
17 embedded throughout the files and cannot be reasonably segregated from non-
18 confidential information without rendering the documents incomplete,
19 misleading, or devoid of substantive value. Accordingly, Big Rivers respectfully
20 requests confidential treatment of these Excel files in their entirety.

21 5. The attachments to PSC 1-4 consist of internal written procedures
22 and operational protocols used by Big Rivers in managing system operations,

1 including communications protocols, emergency response procedures, and
2 coordination practices related to system reliability and load curtailment. These
3 materials reflect internal processes, decision-making frameworks, and system
4 operation methodologies that are not publicly available and are maintained as
5 confidential within Big Rivers. Accordingly, Big Rivers respectfully requests
6 confidential treatment of these attachments in their entirety.

7 6. Pursuant to the Commission’s Emergency Orders in *In the Matter of:*
8 *Electronic Emergency Docket Related to the Novel Coronavirus Covid-19*, Case No.
9 2020-00085, one (1) copy of the Confidential Information highlighted in yellow or
10 otherwise marked “CONFIDENTIAL,” is being filed with this motion via
11 electronic mail sent to PSCED@ky.gov. One (1) copy of the documents with the
12 Confidential Information redacted is also being electronically filed with this
13 request. 807 KAR 5:001 Section 13(2)(a)(3).

14 7. A copy of this motion with the Confidential Information redacted has
15 been served on all parties to this proceeding through the use of electronic filing.
16 807 KAR 5:001 Section 13(2)(b).

17 8. If and to the extent the Confidential Information becomes generally
18 available to the public, whether through filings required by other agencies or
19 otherwise, Big Rivers will notify the Commission and have its confidential status
20 removed. 807 KAR 5:001 Section 13(10)(b).

21 9. As discussed below, the Confidential Information is entitled to
22 confidential treatment and is being submitted confidentially under the purview of

1 KRS 278.160(3), KRS 61.878(1)(a) and KRS 61.878(1)(c)(1). 807 KAR 5:001
2 Section 13(2)(a)(1).

3 **I. The Confidential Information is entitled to confidential**
4 **treatment based upon KRS 278.160(3)**

5 10. Certain Confidential Information contained in Big Rivers’ responses
6 to PSC 1-11 and PSC 1-12, and the attachments to the responses to PSC 1-3 and
7 AG 1-5 is entitled to confidential protection based upon KRS 278.160(3), which
8 shields from disclosure “a provision of a special contract that contains rates and
9 conditions of service not filed in a utility’s general schedule if such provision
10 would otherwise be entitled to be excluded from the application of KRS 61.870 to
11 61.884 under the provisions of KRS 61.878(1)(c)(1).”

12 11. The Commission has consistently granted confidential treatment to
13 provisions of special contracts, including detailed pricing mechanisms, credit
14 support structures, and customer-specific terms similar to the Confidential
15 Information.¹

16 12. Accordingly, the Commission should again grant confidential
17 treatment to the Confidential Information in this proceeding.

¹ *In the Matter of: Joint Application of Big Rivers Electric Corporation and Meade County Rural Electric Cooperative Corporation for Approval of Contracts for Electric Service with Nucor Corporation*, P.S.C. Case No. 2019-00365, Order (Jan. 22, 2020) (granting confidential treatment to the confidential terms of the Nucor contract for an indefinite time period); *In the Matter of: Electronic Tariff Filing of Big Rivers Electric Corporation and Jackson Purchase Energy Corporation for Approval and Confidential Treatment of a Special Contract and Cost Analysis Information and a Request for Deviation*, Case No. 2021-00282, Order (Oct. 14, 2021) (granting confidential treatment to negotiated rates, cost analysis, and customer specific financial terms in a special contract).

1 **II. The Confidential Information is also entitled to**
2 **confidential treatment based upon KRS 61.878(1)(a)**

3 13. Certain Confidential Information consists of detailed, customer
4 specific projected billing data and financial information contained in the
5 attachments to Big Rivers’ responses to PSC 1-3 and AG 1-5 (the “*Attachments*”).

6 14. KRS 61.878(1)(a) explicitly protects “[p]ublic records containing
7 information of a personal nature where the public disclosure thereof would
8 constitute a clearly unwarranted invasion of personal privacy.”

9 15. The Attachments include detailed modeling of expected invoices,
10 credit support calculations, and billing exposure under various market conditions,
11 including extreme pricing scenarios.

12 16. Public disclosure of this information would reveal sensitive financial
13 information specific to the Customer and its operations, as well as confidential
14 contractual terms.

15 17. The Commission has previously granted confidential treatment to
16 similar customer-specific billing and financial data under KRS 61.878(1)(a).²

17 18. According, this information is entitled to confidential treatment.

² See, e.g., *In the Matter of: Sanctuary Church v. Louisville Gas and Electric Company*, Order, P.S.C. Case No. 2018-00181 (Jan. 8, 2019) (granting confidential treatment pursuant to KRS 61.878(1)(a) for an indefinite period to a retail customer’s account and usage information); *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Order, P.S.C. Case No. 2012-00221 (July 25, 2013) (holding customer names, account numbers and usage information exempt from disclosure under KRS 61.878(1)(a)); see also *Electronic Applications of Big Rivers Electric Corporation in its MRSM proceedings, including P.S.C. Case No. 2023-00038, Order (Sept. 19, 2023); P.S.C. Case No. 2020-00064, Order (June 30, 2020); P.S.C. Case No. 2021-00061, Order (Apr. 8, 2021); P.S.C. Case No. 2022-00028, Order (Apr. 7, 2022); P.S.C. Case Nos. 2024-00031 and 2025-00021, (motions for confidential treatment pending).*

1 **III. The Confidential Information is also entitled to**
2 **confidential treatment based upon KRS 61.878(1)(c)(1)**

3 19. The Confidential Information is proprietary and commercially
4 sensitive information that, if disclosed, would provide an unfair competitive
5 advantage to Big Rivers' competitors.

6 20. Under the Kentucky Open Records Act, the Commission is entitled
7 to withhold from public disclosure "records confidentially disclosed to an agency
8 or required by an agency to be disclosed to it, generally recognized as confidential
9 or proprietary, which if openly disclosed would permit an unfair commercial
10 advantage to competitors of the entity that disclosed the records." *See* KRS
11 61.878(1)(c)(1). Public disclosure of the Confidential Information would permit
12 such a result as discussed fully below.

13 21. Therefore, the Confidential Information is entitled to confidential
14 protection based upon KRS 61.878(1)(c)(1). In support for this ground of granting
15 confidential protection, Subsection A *infra* describes how Big Rivers operates in
16 competitive environments; Subsection B *infra* explains that the Confidential
17 Information is generally recognized as confidential or proprietary; and Subsection
18 C *infra* demonstrates that public disclosure of the Confidential Information would
19 permit an unfair commercial advantage to Big Rivers' competitors.

20 **A. *Big Rivers Faces Actual Competition***

21 22. Big Rivers must successfully compete in the wholesale power market
22 in order to sell excess energy to meet its members' needs, including competition

1 in: term bilateral energy markets, day-ahead and real-time energy and ancillary
2 services markets, the annual capacity market, and forward bilateral long-term
3 wholesale agreements with utilities and industrial customers. Big Rivers' ability
4 to successfully compete in these wholesale power markets is dependent upon an
5 effective combination of a) obtaining the maximum price for the power it sells and
6 the best contract terms, and b) keeping its cost of production as low as possible.
7 Fundamentally, if Big Rivers' cost of producing a kilowatt hour or its business
8 risk increases, its ability to sell that kilowatt hour in competition with other
9 utilities is adversely affected.

10 23. Big Rivers also competes for reasonably-priced credit in the credit
11 markets, and its ability to compete is directly impacted by its financial results.
12 Lower revenues and any events that adversely affect Big Rivers' margins will
13 adversely affect its financial results and potentially impact the price it pays for
14 credit. A competitor armed with Big Rivers' proprietary and confidential
15 information will be able to increase Big Rivers' costs or decrease Big Rivers'
16 revenues, which could in turn affect Big Rivers' apparent creditworthiness. A
17 utility the size of Big Rivers that operates generation and transmission facilities
18 will always have periodic cash and borrowing requirements for both anticipated
19 and unanticipated needs. Big Rivers expects to be in the credit markets on a
20 regular basis in the future, and it is imperative that Big Rivers improve and
21 maintain its credit profile.

1 24. Accordingly, Big Rivers faces competition in the wholesale power and
2 capital markets, and the Confidential Information should be afforded confidential
3 treatment to prevent the imposition of an unfair competitive advantage to those
4 competitors.

5 ***B. The Confidential Information is Generally Recognized as***
6 ***Confidential or Proprietary***

7 25. The Confidential Information for which Big Rivers seeks confidential
8 treatment includes:

- 9 (a) detailed projections of energy and capacity costs;
- 10 (b) customer-specific billing and collateral requirements;
- 11 (c) modeling of market exposure and pricing scenarios;
- 12 (d) inputs and assumptions used to calculate credit support
- 13 obligations;
- 14 (e) operational and financial terms unique to the Proposed Agreement;
- 15 and
- 16 (f) internal system operations procedures, communications protocols,
- 17 and emergency response practices.

18 26. Such information is not publicly available and is not disseminated
19 within Big Rivers except to those employees and professionals with a legitimate
20 business need to know and act upon the information, and is not disseminated to
21 others without a legitimate need to know and act upon the information.

1 27. The Commission has previously recognized that the Confidential
2 Information, including projections, pricing, financial models, and special contract
3 terms, is competitively sensitive and entitled to protection.³

4 28. Additionally, the Commission has previously granted confidential
5 treatment to internal utility procedures where disclosure would reveal
6 proprietary operational practices. See, *In the Matter of: Electronic Application of*
7 *Kentucky Power Company for (1) a General Adjustment of Its Rates for Electric*
8 *Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to*
9 *Establish Regulatory Assets and Liabilities; (4) a Securitization Financing Order;*
10 *and (5) All Other Required Approvals and Relief*, Case No. 2023-00159 (Ky. PSC
11 Oct. 2, 2023) (granting confidential treatment to internal accounting procedures
12 on the basis that disclosure would provide insight into utility operations and
13 create a competitive disadvantage). Similarly, the internal operational procedures
14 contained in the attachments to Big Rivers’ response to PSC 1-4 reflect non-public
15 system operations practices and are entitled to protection.

16 ***C. Disclosure of the Confidential Information Would Permit***
17 ***an Unfair Commercial Advantage to Big Rivers’ Competitors***

18 29. Disclosure of the Confidential Information would permit an unfair
19 commercial advantage to Big Rivers’ competitors. As discussed above, Big Rivers
20 faces actual competition in the wholesale power market and in the credit markets,

³ *In the Matter of: 2023 Integrated Resource Plan of Big Rivers Electric Corporation, Case No. 2023-00310*, Order (Sept. 10, 2024) (granting confidential treatment to cost and modeling information as propriety and commercially sensitive).

1 and it is likely that Big Rivers would suffer competitive injury if the Confidential
2 Information were publicly disclosed.

3 30. Given the nature of the Confidential Information, its disclosure
4 would provide other market participants, suppliers, buyers, and competitors with
5 insight into the timing and structure of the contractual terms governing the
6 provision of service to TeraWulf. Disclosure of this information would allow third
7 parties to infer the evolution of pricing and service conditions under the contract
8 and use that knowledge to benchmark, anticipate, or undercut Big Rivers'
9 positions in future negotiations. In turn, such information could be used to
10 manipulate the competitive bidding and negotiation process, leading to higher
11 costs and/or lower revenues for Big Rivers, thereby impairing its ability to
12 compete in the wholesale power markets. Furthermore, any competitive pressure
13 that adversely affects Big Rivers' revenue and/or margins could make Big Rivers
14 appear less creditworthy and impair its ability to compete in the credit markets.

15 31. In Big Rivers' case, Big Rivers is currently in negotiations with
16 potential counterparties and expects to continue to engage in negotiations with
17 counterparties for power sales agreements. If confidential treatment of the
18 Confidential Information is denied, potential counterparties would know that the
19 confidential terms of their contracts, agreements, and their private usage and
20 billing information could be publicly disclosed, which could reveal information to
21 their competitors about their competitiveness. Because many companies would
22 be reluctant to have such information disclosed, public disclosure of the

1 Confidential Information would likely reduce the pool of counterparties willing to
2 negotiate with Big Rivers, reducing Big Rivers' ability to sell power and impairing
3 its ability to compete in the wholesale power and credit markets.

4 32. Accordingly, public disclosure of the information that Big Rivers
5 seeks to protect pursuant to KRS 61.878(1)(c)(1) would provide Big Rivers'
6 competitors with an unfair commercial advantage.

7 33. Additionally, public disclosure of attachments to Big Rivers' response
8 to PSC 1-4, Big Rivers' internal procedures reflecting internal processes, decision-
9 making frameworks, and system operation methodologies, could compromise
10 system security and operational integrity and provide insight into system
11 vulnerabilities or response strategies.

12 **IV. Time Period**

13 34. Big Rivers requests that the Confidential Information remain
14 confidential indefinitely for the reasons stated above. 807 KAR 5:001 Section
15 13(2)(a)(2).

16 **V. Conclusion**

17 35. Based on the foregoing, the Confidential Information is entitled to
18 confidential treatment, pursuant to KRS 278.160(3); 807 KAR 5:001 Section 13;
19 and KRS 61.878. If the Commission disagrees that Big Rivers' Confidential
20 Information is entitled to confidential treatment, due process requires the

1 Commission to hold an evidentiary hearing. *See Utility Regulatory Comm'n v.*
2 *Kentucky Water Serv. Co., Inc.*, 642 S.W.2d 591 (Ky. App. 1982).

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

6 On this the 11th day of June, 2026.

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Respectfully submitted,

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/s/ Senthia Santana

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