COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

In the Matter of:

ELECTRONIC TARIFF FILING OF BIG RIVERS ELECTRIC CORPORATION OF A RETAIL ELECTRIC SERVICE AGREEMENT WITH JUSTIFIED DATAPOWER LLC, A SUBSIDIARY OF TERAWULF INC.	**)))))**	**Case No. 2026-00115**

<u>AMENDED MOTION OF BIG RIVERS ELECTRIC CORPORATION FOR CONFIDENTIAL TREATMENT</u>

1. Comes now Big Rivers Electric Corporation ("*Big Rivers*"), by and through counsel, pursuant to 807 KAR 5:001 Section 13, KRS 61.878, and KRS 278.160(3),and respectfully submits this Amended Motion for Confidential Treatment. On June 11, 2026, Big Rivers filed its original Motion for Confidential Treatment regarding its responses to Staff's First Request for Information and the Initial Data Request of the Attorney General. Subsequently to that filing, Big Rivers discovered that certain confidential information in Big Rivers responses to Items No. 6 and 15 of the Commission Staff's First Request for Information was inadvertently left unredacted in the public version.

2. Big Rivers now files this Amended Motion to encompass both the confidential information identified in its original motion and the inadvertently omitted redactions, and concurrently files a substituted public version of the filing containing the proper redactions.

3. Big Rivers respectfully moves the Public Service Commission of Kentucky (the "Commission"), pursuant to 807 KAR 5:001 Section 13, KRS 61.878, and KRS 278.160(3), for an order granting confidential treatment to certain information contained in Big Rivers' responses to Item Nos. 6, 11, 12, and 15 ("PSC 1-6," "PSC 1-11," "PSC 1-12,"and "PSC 1-15") and the attachments to the responses to Item Nos. 3 and 4 ("PSC 1-3" and "PSC 1-4") of the Commission Staff's First Request for Information, dated May 27, 2026, and also, the attachment to Big Rivers' Response to Item No. 5 of the Initial Data Request of the Attorney General ("AG 1-5"), dated May 28, 2026, in this proceeding.

4. The information for which Big Rivers seeks confidential treatment (the "*Confidential Information*") consists of:

(a) provisions of the proposed special contract, among Big Rivers, Kenergy Corp. ("*Kenergy*"), and Justified DataPower, LLC, a subsidiary of TeraWulf, Inc. ("*TeraWulf*") (the "*Proposed Agreement*");

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

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

(d) Big Rivers' projected annual revenues associated with application of the Wholesale Demand Adder;

5. While the credit support structure itself, Section 3.04 of the proposed Agreement, is publicly disclosed in the redacted copy filed in this proceeding, the Confidential Information, consisting of data, projections, and modeling used to calculate and support that requirement, including customer-specific billing projections, Big Rivers' projected revenues derived from the Wholesale Demand Adder, and market exposure analyses, is confidential and proprietary.

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

7. The attachments to PSC 1-4 consist of internal written procedures and operational protocols used by Big Rivers in managing system operations, including communications protocols, emergency response procedures, and coordination practices related to system reliability and load curtailment. These materials reflect internal processes, decision-making frameworks, and system operation methodologies that are not publicly available and are maintained as

confidential within Big Rivers. Accordingly, Big Rivers respectfully requests confidential treatment of these attachments in their entirety.

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

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

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

11. As discussed below, the Confidential Information is entitled to confidential treatment and is being submitted confidentially under the purview of KRS 278.160(3), KRS 61.878(1)(a) and KRS 61.878(1)(c)(1). 807 KAR 5:001 Section 13(2)(a)(1).

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

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

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

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

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[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).

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

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

16. KRS 61.878(1)(a) explicitly protects "[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy."

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

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

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

20. According, this information is entitled to confidential treatment.

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[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).*

III. <u>The Confidential Information is also entitled to confidential treatment based upon KRS 61.878(1)(c)(1)</u>

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

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

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

A. Big Rivers Faces Actual Competition

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

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

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

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

B. The Confidential Information is Generally Recognized as Confidential or Proprietary

27. The Confidential Information for which Big Rivers seeks confidential treatment includes:

(a) detailed projections of energy and capacity costs;

(b) customer-specific billing and collateral requirements;

(c) modeling of market exposure and pricing scenarios;

(d) inputs and assumptions used to calculate credit support obligations;

(e) operational and financial terms unique to the Proposed Agreement;

(f) internal system operations procedures, communications protocols, and emergency response practices, and

(g) Big Rivers' projected revenues derived from the application of the Wholesale Demand Adder.

28. Such information is not publicly available and 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.

29. The Commission has previously recognized that the Confidential Information, including projections, pricing, financial models, revenue projections and special contract terms, is competitively sensitive and entitled to protection.[3]

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

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

31. Disclosure of the Confidential Information would permit an unfair commercial advantage to Big Rivers' competitors. As discussed above, Big Rivers 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).

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

32. Given the nature of the Confidential Information, its disclosure would provide competitors, market participants, suppliers, and counterparties with detailed insight into the structure, pricing, and timing of the contractual terms governing service to TeraWulf. In particular, disclosure would allow third parties to reverse engineer Big Rivers' pricing framework, including the application of confidential billing components and the projected revenues associated with the Wholesale Demand Adder, thereby revealing the expected economic value of the Proposed Agreement. Armed with this information, market participants could benchmark, anticipate, and undercut Big Rivers' positions in future negotiations or bidding processes. This would place downward pressure on revenues and upward pressure on costs, impairing Big Rivers' ability to compete effectively in the wholesale power markets. Moreover, any competitive pressure that adversely affects Big Rivers' revenue and/or margins could make Big Rivers appear less creditworthy and impair its ability to compete in the credit markets.In Big Rivers' case, Big Rivers is currently in negotiations with potential counterparties and expects to continue to engage in negotiations with counterparties for power sales agreements. If confidential treatment of the Confidential Information is denied, potential counterparties would know that the confidential terms of their contracts, agreements, and their private usage and billing information 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, reducing Big Rivers' ability to sell power and impairing its ability to compete in the wholesale power and credit markets.

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

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

IV. Time Period

35. Big Rivers requests that the Confidential Information contained in its responses to Item Nos. 6 and 15 to remain confidential for a period of ten years from the date of this motion, which will allow sufficient time for the information to become stale or inapplicable such that it no longer warrants confidential treatment .

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

V. Conclusion

37. Based on the foregoing, the Confidential Information is entitled to confidential treatment, pursuant to KRS 278.160(3); 807 KAR 5:001 Section 13; and KRS 61.878. If the Commission disagrees that Big Rivers' Confidential Information is entitled to confidential treatment, due process requires the Commission to hold an evidentiary hearing. *See Utility Regulatory Comm'n v. Kentucky Water Serv. Co., Inc.*, 642 S.W.2d 591 (Ky. App. 1982).

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

On this the 12th day of June, 2026.

Respectfully submitted,

/s/ Senthia Santana

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