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

1. Big Rivers Electric Corporation ("*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. 13 and 14, ("PSC 2-13" and "PSC 2-14") and the attachment to the response to Item No. 9 ("PSC 2-9") of the Commission Staff's Second Request for Information, dated June 17, 2026, in this proceeding.

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

(a) certain negotiated, non-pass-through pricing components of the proposed special contract, among Big Rivers, Kenergy Corp. ("*Kenergy*"), and Justified DataPower, LLC, a subsidiary of TeraWulf Inc. ("*TeraWulf*") (the "*Proposed Agreement*") that constitute negotiated rates and pricing mechanisms included in Big Rivers' response to PSC 2-13 and the attachment to Big Rivers' response to PSC 2-9 (collectively, the "*Confidential Contract Terms*");

(b) the attachment to Big Rivers' response to PSC 2-9, which consists of customer-specific financial modeling, including the application of the Confidential Contract Terms to billing projections, (the "*Confidential Modeling*"); and

(c) Big Rivers' projected annual transmission revenues attributable to the Proposed Agreement contained in Big Rivers' response to PSC 2-14 (the "*Confidential Revenue Projections*").

3. The confidential attachment to Big Rivers' response to PSC 2-9 is an Excel workbook containing integrated financial modeling, including formulas, assumptions, and application of the Confidential Contract Terms to customer-specific billing projections and credit support calculations. The Confidential Modeling is embedded throughout the workbook and cannot be reasonably segregated from non-confidential information without rendering the file incomplete, misleading, or devoid of substantive value. Accordingly, Big Rivers respectfully requests confidential treatment of the Excel file in its entirety.

4. 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).

5. 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).

6. 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).

7. 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)

8. The Confidential Contract Terms contained in Big Rivers' response to PSC 2-13 and the attachment to the response to PSC 2-9 are entitled to confidential protection under 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)."

9. The Commission has consistently granted confidential treatment to provisions of special contracts, including detailed pricing mechanisms and customer-specific terms similar to the Confidential Contract Terms.[1]

10. Accordingly, the Confidential Contract Terms are entitled to confidential protection under KRS 278.160(3).

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

11. The Confidential Modeling consists of detailed customer-specific modeling of estimated invoices, credit support calculations, and billing exposure based on the Confidential Contract Terms.

12. 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."

13. Public disclosure of this information would reveal sensitive commercial data, including the structure and magnitude of negotiated adders and charges and the resulting customer-specific billing exposure.

---

[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).

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

15. Accordingly, the Confidential Modeling is entitled to confidential treatment.

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

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

17. Under KRS 61.878(1)(c)(1), the Commission may withhold records confidentially disclosed to it that are generally recognized as confidential or proprietary and that, if openly disclosed, would permit an unfair commercial advantage to competitors of the entity that disclosed the records.

18. 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

---

[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).*

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

19. 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.

20. 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.

21. 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

22. The Confidential Contract Terms, Confidential Modeling, and Confidential Revenue Projections relate to the inner workings of Big Rivers' business and is maintained as confidential. They are not publicly available and are not disseminated within Big Rivers except to those employees and professionals with a legitimate business need to know and act upon the information, and are not disseminated to others without a legitimate need to know and act upon the information.

23. Under Kentucky law, it is well recognized that the information about a company's detailed inner workings, such as the Confidential Information, is generally recognized as confidential or proprietary. *See, e.g., Hoy v. Kentucky Indus. Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995) ("[i]t does not

take a degree in finance to recognize that such information concerning the inner workings of a corporation is 'generally recognized as confidential or proprietary'").

24. The Commission has previously recognized that the Confidential Information, negotiated special contract terms, customer specific financial modeling, and internal financial projections, is competitively sensitive and entitled to protection.[3]

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

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

26. Disclosure of the Confidential Contract Terms, Confidential Modeling, and Confidential Revenue Projections would allow third parties to infer Big Rivers' pricing strategy and credit terms and to use that information to benchmark or undercut Big Rivers in future transactions.

---

[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), 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).*

27. Disclosure of this information would allow third parties to infer the evolution of pricing and service conditions under the Proposed Agreement and use that knowledge to benchmark, anticipate, or undercut Big Rivers' positions in future negotiations. In turn, such information could be used to manipulate the competitive bidding and negotiation process, leading to higher costs and/or lower revenues for Big Rivers, thereby impairing its ability to compete in the wholesale power markets. Furthermore, 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.

28. 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.

29. 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.

IV. **Time Period**

30. Big Rivers requests that the Confidential Revenue Projections contained in its response to Item No. 14 remain confidential for a period of ten (10) 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.

31. 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**

32. Based on the foregoing, the Confidential Contract Terms, Confidential Modeling, and Confidential Revenue Projections are entitled to confidential treatment, pursuant to KRS 278.160(3); 807 KAR 5:001 Section 13; and KRS 61.878.

33. 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 29th day of June, 2026.

Respectfully submitted,

/s/ Senthia Santana

Senthia Santana
Tyson Kamuf
Big Rivers Electric Corporation
710 W. Second Street
Owensboro, KY 42301
Phone: (270) 827-2561
Facsimile: (270) 844-6417
senthia.santana@bigrivers.com
tyson.kamuf@bigrivers.com

Counsel for Big Rivers Electric Corporation