

COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC 2026 INTEGRATED RESOURCE	)	CASE NO.
PLAN OF BIG RIVERS ELECTRIC CORPORATION	)	2026-00268

**MOTION OF BIG RIVERS ELECTRIC CORPORATION FOR
CONFIDENTIAL TREATMENT**

1. Big Rivers Electric Corporation (“*Big Rivers*” or the “*Company*”) hereby petitions the Kentucky Public Service Commission (“*Commission*”), pursuant to 807 KAR 5:001 Section 13, KRS 61.878 and KRS 278.160(3), to grant confidential treatment to certain information contained in Big Rivers’ 2026 Integrated Resource Plan (“*IRP*”) filed concurrently with this petition. The information for which Big Rivers seeks confidential treatment is hereinafter referred to as the “*Confidential Information*.”

2. The Confidential Information is contained in Figure 1.2.6(a), Appendix C, selected figures, tables, and text within Chapters 3, 6, 7, and 9, Appendix A, and Appendix D of the IRP, as specifically indicated by redactions in the public version of the filing and described more fully below.

3. Pursuant to the Commission’s March 24, 2020, Order in *In the Matter of Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, Case No. 2020-00085 (“*Case No. 2020-00085*”), one (1) copy of the Confidential Information highlighted in yellow, or otherwise marked “CONFIDENTIAL,” is being filed with this motion by electronic mail or posting to a secure file share site. A copy of the 2026 IRP,

with the Confidential Information redacted, is being electronically filed into the public docket with this motion.

4. 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(b).

5. 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. *See* 807 KAR 5:001 Section 13(10)(b).

6. As discussed below, the Confidential Information is entitled to confidential treatment under KRS 61.878(1)(m), KRS 278.160(3) or KRS 61.878(1)(c)(1). *See* 807 KAR 5:001 Section 13(2)(a)(1).

I. Confidential Treatment is Warranted Under KRS 61.878(1)(m)

7. KRS 61.878(1)(m)(1) protects “[p]ublic records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act. . . .”

8. Figure 1.2.6(a) and Appendix C of the IRP include maps detailing Big Rivers’ high-voltage electric transmission infrastructure, a public utility critical system. The maps constitute infrastructure records revealing the location and configuration of public utility critical systems under KRS 61.878(1)(m)(1)(f) and detailed maps of facilities under KRS 61.878(1)(m)(1)(g).

9. As disclosure of this information would provide the public with a tool to analyze, discover, or create vulnerabilities in Big Rivers' transmission system, and thereby threaten public safety, this information should be granted confidential treatment. The Commission granted confidential treatment on these grounds for an indefinite period to similar maps contained in Big Rivers' 2014 IRP, 2017 IRP, and 2020 IRP. See *In the Matter of: 2014 Integrated Resource Plan of Big Rivers Electric Corporation*, Case No. 2014-00166, Order (Ky. P.S.C. Aug. 26, 2014); *In the Matter of 2017 Integrated Resource Plan of Big Rivers Electric Corporation*, Case No. 2017-00384, Order (Ky. P.S.C. Apr. 25, 2019); and most recently, *In the Matter of: Electronic 2023 Integrated Resource Plan of Big Rivers Electric Corporation*, Case No. 2023-00310, Order (Ky. P.S.C. May 9, 2024) (the "2023 IRP Confidentiality Order"). The 2023 IRP Confidentiality Order includes the Commission's finding that disclosure of similar transmission system maps "would create a risk to public safety" and that the information constituted "critical infrastructure."

II. Confidential Treatment is Warranted Under KRS 61.878(1)(c).

10. KRS 61.878(1)(c)(1) protects "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." Section A, below, explains that Big Rivers operates in competitive environments in the wholesale power market and in the credit market. Section B, below, shows that the Confidential Information is generally recognized as confidential or proprietary.

Section C, below, demonstrates that public disclosure of the Confidential Information would permit an unfair commercial advantage to Big Rivers' competitors.

A. Big Rivers Faces Actual Competition.

11. As a generation and transmission cooperative, Big Rivers competes in the wholesale power market. This includes not only the short-term bilateral energy market, the day-ahead and real time energy and ancillary services markets, and the capacity market to which Big Rivers has access by virtue of its membership in the Midcontinent Independent System Operator, Inc. ("*MISO*") system, but also forward bilateral long-term agreements and wholesale agreements with utilities and industrial customers. Big Rivers' ability to successfully compete in the market is dependent upon a combination of its ability to: 1) obtain the maximum price for the power it sells, and 2) keep its cost of production or purchase as low as possible. Fundamentally, if Big Rivers' cost of producing or purchasing a unit of power increases, its ability to sell that unit in competition with other utilities is adversely affected.

12. 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 on 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.

13. Finally, the ability to negotiate the most advantageous power purchase agreements and then offer competitive prices to Big Rivers' Member-Owners, companies interested in expanding in Kentucky, and potential new Members is fundamental to Big Rivers' continued success.

14. Accordingly, Big Rivers has competitors in both the power and capital markets, and its Confidential Information should be protected to prevent the imposition of an unfair competitive advantage. When Big Rivers' competitors have access to the Company's proprietary, non-public information, internal projections, and like data, the resulting imbalance of information is disadvantageous to Big Rivers and its Member-Owners.

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

15. The Confidential Information for which Big Rivers seeks confidential treatment under KRS 61.878(1)(c)(1) includes the following categories of information, identified by location for ease of review:

- a. Big Rivers' projected rates to its Member-Owners (Table 9(a));
- b. detailed operational information concerning Big Rivers' existing generation portfolio, such as heat rates (Figure 1.2.3(a); Tables 1.2.3 (a) and (b); and Appendix D, Technical Appendix) and projected capacity

and energy positions (Figures and text in Section 6.7 Existing Resources and System Descriptions; figures in Section 6.9.1 Reference Case - Optimization Results; and Appendix D);

- c. projected costs and volumes with respect to purchased power and energy and capacity prices (Appendix D) and fuel prices (Figure 6.8.3(a) and text in Section 6.8.3 Coal Prices and Appendix D);
- d. planned transmission system additions (Table 7.2(b)), projected costs for capital projects and new resource options (Section 6.7.7 Green Fuel Oil Backup Project; Section 6.7.8 Wilson Reliability Projects; Tables and Figures in Sections 6.8, Model Inputs and 6.9 Capacity Expansion Results; and Appendix D), and projected operating and maintenance (“*O&M*”) costs (Table 7.1.4(d) and Appendix D);
- e. projected inflation and discount rates (Chapter 3 Load Forecast; Appendix A; and Appendix D, Technical Appendix), modeling inputs and detailed net present value (“NPV”) analyses and outcomes (Chapter 6 Electric Integration Analysis and Appendix D); and
- f. negotiated terms of special contracts and sensitive commercial information including usage data of large industrial customers (Tables 3.3(a) and 3.4(a) and Appendix D).

16. Appendix D consists of three Excel workbooks which contain detailed modeling inputs, market forecasts, resource costs, production cost outputs, and other confidential material used in Big Rivers' resource planning process. Collectively,

these data reveal Big Rivers' market expectations and resource valuation methodologies. Certain market forecasts and commodity price projections were obtained under licenses or commercial arrangements that restrict public disclosure. These spreadsheets effectively reveal the assumptions, methodologies, and economic thresholds used by Big Rivers in evaluating generation, transmission, and market transactions. Because the confidential and non-confidential information within these workbooks is highly integrated, extracting and producing non-confidential portions in a meaningful or usable format would be impracticable and unduly burdensome. Accordingly, Big Rivers requests confidential treatment for the Excel workbooks in their entirety.

17. The Confidential Information also provides insight into Big Rivers' cost of producing and acquiring power; the price at which Big Rivers is willing to buy or sell fuel, power, and other products; and the price Big Rivers is willing or expecting to pay for capital projects. Additionally, certain projections are obtained from third parties, and those projections are proprietary products of those third parties, which Big Rivers does not have the authority to publicly disclose.

18. As noted above, public disclosure of the Confidential Information would reveal detailed information relating to Big Rivers' projected production costs for production factors such as fuel and other O&M costs, Big Rivers' projected rates to its Member-Owners, Big Rivers' projected costs for buying power, Big Rivers' projection of energy and capacity market prices, and outputs of Big Rivers' production cost model runs. The information is indicative of the market conditions Big Rivers expects to

encounter and its ability to compete with competitors. The Commission has previously granted confidential treatment to similar information. *See* the 2023 IRP Confidentiality Order (granting confidential treatment to, *inter alia*, fuel cost projections, power price projections, projected capital and O&M costs, NPV results of production cost model runs, and rate projections); *See also, In the Matter of: Duke Energy Kentucky, Inc.’s Integrated Resource Plan*, Case No. 2018-00195, Order (Ky. P.S.C. Sept. 3, 2019) (granting confidential treatment to “operations and management costs, projected fuel and environmental compliance forecasted costs, power market prices and projected capacity, and resource alternative capital costs, along with supply-side screen curves and resource evaluations, and third party owned and licensed modeling tool”).

19. In Case No. 2023-00310, the Commission specifically found that substantially similar information, including projected wholesale rates, heat rates, capacity positions, power and fuel price forecasts, planned transmission additions, capital costs, O&M costs, inflation and discount rates, modeling inputs, and NPV analyses, met the requirements for confidential treatment under KRS 61.878(1)(c)(1). 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. As such, the Confidential Information is generally recognized as confidential and proprietary.

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

20. 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 market. It is likely that Big Rivers would suffer competitive injury if that Confidential Information was publicly disclosed.

21. The Confidential Information includes fuel and purchased power cost projections, production cost projections, power market price projections, and other commercially sensitive planning information. Public disclosure would provide fuel suppliers, power suppliers, wholesale counterparties, power producers, and power marketers with insight into Big Rivers' costs, market expectations, and purchasing decisions. Such information could be used to manipulate bidding processes, increase Big Rivers' costs, reduce its revenues, or otherwise place Big Rivers at an unfair competitive disadvantage in the wholesale power and credit markets. The Commission recognized similar competitive concerns in *In the Matter of Application of the Union Light, Heat and Power Company for Confidential Treatment*, Case No. 2003-00054, Order (Ky. P.S.C. Aug. 4, 2003).

22. Disclosure of customer-specific usage information, negotiated contract terms, projected rates, and resource costs would likewise impair Big Rivers' ability to negotiate future wholesale service agreements and economic development arrangements and would provide counterparties with insight into Big Rivers'

negotiating positions. Public disclosure of such information would undermine Big Rivers' efforts to attract and serve new economic development opportunities.

23. Disclosure of customer-specific usage information and negotiated contract terms would impair Big Rivers' ability to negotiate future economic development and wholesale service agreements and would provide counterparties with insight into Big Rivers' negotiating positions. Big Rivers also competes to attract and serve new economic development opportunities. Public disclosure of projected rates, resource costs, and customer-specific information would impair those efforts.

24. Public disclosure would also discourage third parties from providing proprietary forecasts, pricing information, and other commercially sensitive information upon which Big Rivers relies in resource planning and wholesale market activities. As the Commission recognized in Case No. 2003-00054, disclosure of confidential commercial information may reduce participation by market participants and increase costs. Likewise, the Kentucky Supreme Court recognized in *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 769 (Ky. 1995), that entities may be reluctant to provide confidential business information absent protection from public disclosure.

25. Accordingly, the 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.

III. Time Period.

26. The Confidential Information is exempt from public disclosure because it consists of critical infrastructure information protected by KRS 61.878(1)(m) and commercially sensitive information protected by KRS 61.878(1)(c)(1).

27. Pursuant to 807 KAR 5:001 Section 13(2)(a)(2), Big Rivers requests that the Confidential Information be afforded confidential treatment for the time periods explained below.

28. Big Rivers requests that the Confidential Information protected by KRS 61.878(1)(m) remain confidential indefinitely; as long as the transmission system remains in place, the information should be confidential for the reasons stated above.

29. Big Rivers requests that the Confidential Information protected by KRS 61.878 (1)(c)(1) remain confidential for a period of five (5) years from the date of this motion. A five-year period is reasonable because the commercial sensitivity of the information will diminish over time. The requested period is also consistent with the period of confidential treatment granted by the Commission for similar information in Case No. 2023-00310.

IV. Conclusion.

30. Based on the foregoing, the Confidential Information is entitled to confidential treatment pursuant to 807 KAR 5:001 Section 13, KRS 61.878, and KRS 278.160(3). 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 grant this motion and classify and treat as confidential the Confidential Information.

On the 29th day of September 2026.

Respectfully submitted,

/s/ Senthia Santana

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