

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC	)	CASE NO
CORPORATION FOR AN ADJUSTMENT OF	)	2012-00535
RATES	)	

ORDER REGARDING REQUEST FOR CONFIDENTIAL TREATMENT

On March 6, 2013, Big Rivers Electric Corporation (“Movant”) filed a petition, pursuant to 807 KAR 5:001, Section 13, revising its February 28, 2013 petition for confidentiality<sup>1</sup> and requesting that certain supplemental materials filed with the Commission be afforded confidential treatment and not be placed in the public record subject to public inspection. In particular, Movant states that the information it is requesting to be held confidential is contained in certain of its responses to the discovery requests of the Office of the Attorney General’s (“AG”) Initial Request for Information, Item Nos. 37, 58, 69, and 128 (hereinafter referred to as AG 1-37, AG 1-58, AG 1-69, and AG 1-128, respectively). The response to AG 1-37 includes audit and financial information. The response to AG 1-58 includes information protected under confidentiality agreements. The response to AG 1-69 includes information regarding projections of Movant’s finances. The response to AG 1-128 includes Movant’s proprietary financial data. The information contains, among other things, Movant’s recent and projected cost of producing power, recent and projected off-system sales volumes and prices, and Movant’s future need for power or availability of excess power to sell into the market.

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<sup>1</sup> Movant’s February 28, 2013 petition for confidentiality was granted in full pursuant to an Order issued on April 25, 2013.

The revised petition also withdraws the request for confidential treatment relating to the information contained in Movant's responses to the AG's Initial Request for Information, Item Nos. 171, 172, 190, 212, 228, and 231.

Having carefully considered the motion and the materials at issue, the Commission finds that that the information for which Movant seeks confidential treatment meets the criteria for confidential treatment and is exempted from public disclosure pursuant to KRS 61.878(1)(c)(1), and 807 KAR 5:001, Section 13. The Commission further finds that the materials for which Movant seeks confidential treatment should not be placed in the public record or made available for public inspection until March 6, 2018.

IT IS THEREFORE ORDERED that:

1. Movant's petition for confidential protection is hereby granted.
2. The information for which Movant seeks confidential treatment shall not be placed in the public record or made available for public inspection until March 6, 2018, or until further Orders of this Commission. At the end of this period, the materials shall be placed in the public record. The Movant may request that the materials continue to be treated as confidential, but must demonstrate that the materials still falls within the exclusions established in KRS 61.878.
3. If Movant objects to the time limits that the Commission has placed on the confidential treatment for the materials in question, it must seek either rehearing pursuant to KRS 278.400, or judicial review of this Order pursuant to KRS 278.410. Failure to exercise either of these statutory rights will be deemed as agreement with the Commission's determination of the period for which the material is afforded confidential

treatment and will require Movant to demonstrate a change in circumstances in any subsequent motion for continued confidential treatment of the materials in question after the end of the period set forth in ordering paragraph 2.

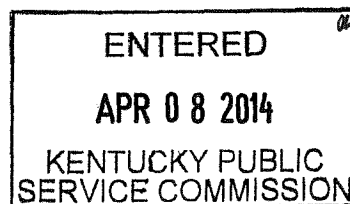
4. Use of the materials in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

5. Movant shall inform the Commission if the information in question becomes publicly available or no longer qualifies for confidential treatment.

6. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order and the period during which the materials have been granted confidential treatment has not run, the Movant shall have 20 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If Movant is unable to make such demonstration, the requested materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

7. The Commission shall not make the requested materials available for inspection for 20 days following an Order finding the materials no longer qualify for confidential treatment in order to allow Movant to seek a remedy afforded by law.

By the Commission



ATTEST:

  
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