

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| AN ELECTRONIC EXAMINATION OF THE |) | |
| APPLICATION OF THE FUEL ADJUSTMENT |) | CASE NO. |
| CLAUSE OF BIG RIVERS ELECTRIC |) | 2019-00231 |
| CORPORATION FROM NOVEMBER 1, 2018 |) | |
| THROUGH APRIL 30, 2019 |) | |

ORDER

On August 27, 2019, Big Rivers Electric Corporation (BREC) filed a petition, pursuant to KRS 61.878 and 807 KAR 5:001, Section 13(2), requesting that the Commission grant confidential protection for five years to the identified portions of its responses to Item 4 (Response 4) and Item 12 (Response 12) to the information requested in an Appendix to the Commission's Order dated August 12, 2019. BREC also requested that its response to Item 13 (Response 13) be granted confidential protection indefinitely.

The information for which BREC seeks confidential treatment is described as: fuel supply bids and BREC's analysis of the bids (Response 4); the terms of future off-system sales (Response 12); and private usage information of individual retail customers (Response 13).

As the basis for its request, BREC states that it competes in the wholesale power market. BREC asserts that its ability to compete in the wholesale market depends upon its ability to obtain the maximum price for the power that it sells and keep its production costs as low as possible. BREC also states that it competes in the credit market for

reasonably priced credit. Therefore, BREC asserts that it has competitors in both the wholesale power and capital markets.

BREC argues that public disclosure of fuel supply bids and BREC's analysis of the bids (Response 4) would indicate to BREC's suppliers, buyers, and competitors the price at which BREC is willing to buy or sell. BREC argues that public disclosure of the terms of future off-system sales (Response 12) would give BREC's suppliers, buyers, and competitors information as to when BREC would have power available to sell, when BREC would need to purchase power, and the amount of power BREC would have to buy or sell. BREC asserts that publicly revealing the power usage of individual large industrial retail customers (Response 13) would constitute an unwarranted invasion of personal privacy under KRS 61.878(1)(a) because these customers are not parties to this proceeding.

BREC further asserts that public disclosure of the information for which confidential protection is sought would give an unfair competitive advantage to direct competitors that could result in higher power production prices, which would increase prices to BREC's customers, and harm BREC's ability to successfully compete in the electric wholesale market. BREC states that public disclosure of the data, if it were to lead to higher power production prices, would also negatively affect BREC's creditworthiness.

Having considered the petition and the material at issue, the Commission finds that the designated material contained in Response 4 and Response 12 is generally recognized as confidential or proprietary, and therefore 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 designated material

contained in Response 13 is exempted from public disclosure pursuant to KRS 61.878(1)(a).

IT IS THEREFORE ORDERED that:

1. BREC's petitions for confidential protection for Response 4 and Response 12 are granted. The identified information shall not be placed in the public record or made available for public inspection for five years or until further Order of this Commission.

2. BREC's petition for confidential protection for Response 13 is granted. The identified information shall not be placed in the public record or made available for public inspection until further Order of this Commission.

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

4. BREC shall inform the Commission if the material in question becomes publicly available or no longer qualifies for confidential treatment.

5. If a non-party to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, then BREC shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If BREC is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the material available for inspection for 30 days following an Order that the material no longer qualifies for confidential treatment in order to allow BREC to seek a remedy afforded by law.

By the Commission



ATTEST:

A handwritten signature in blue ink, consisting of stylized initials and a surname.

Executive Director

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