

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BIG RIVERS	)	
ELECTRIC CORPORATION AND MEADE	)	
COUNTY RURAL ELECTRIC COOPERATIVE	)	CASE NO.
CORPORATION FOR (1) APPROVAL OF	)	2019-00365
CONTRACTS FOR ELECTRIC SERVICE WITH	)	
NUCOR CORPORATION; AND (2) APPROVAL	)	
OF TARIFF	)	

ORDER

On August 13, 2020, Big Rivers Electric Corporation (BREC) filed a motion, pursuant to 807 KAR 5:001, Section 13, KRS 278.160(3), and KRS 61.878(1)(c)(1), requesting that the Commission grant confidential protection for an indefinite period certain information contained in the BREC's responses to Commission Staff's Third Request for Information (Staff's Third Request), Items 2 and 3.

In support of its motion, BREC states that the information contained in its responses to Staff's Third Request, Items 2 and 3, consists of the confidential terms of the Nucor special contracts that are the subject of this proceeding. The confidential information in the attachment to the responses to Item 2 consists of the confidential terms of certain contracts, including the Nucor contracts and the contract between BREC and Geronimo that is pending before the Commission in Case No. 2020-00183,<sup>1</sup> and it reveals BREC's confidential and proprietary strategic business plan, containing sensitive projected information regarding BREC's plans to hedge the Nucor energy requirements.

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<sup>1</sup> Case No. 2020-00183, *Electronic Application of Big Rivers Electric Corporation for Approval of Solar Power Contracts* (filed June 24, 2020), Application.

BREC argues that public disclosure of the information contained in its responses to Staff's Third Request, Items 2 and 3, would allow BREC's competitors to discover, and make use of, confidential contract terms and information concerning BREC's business strategies, to the unfair competitive disadvantage of BREC. BREC also argues that public disclosure of the subject information would provide insight into the prices at which BREC is willing to buy, or sell energy and capacity, and BREC's future needs for energy and capacity. BREC further contends that the information is also indicative of the market conditions BREC expects to encounter and its ability to compete with competitors.

Having considered the motion and the material at issue, the Commission finds that designated materials are generally recognized as confidential or proprietary; the designated materials therefore meet the criteria for confidential treatment and are exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. BREC's August 13, 2020 motion for confidential protection is granted.
2. The designated materials shall not be placed in the public record or made available for public inspection for an indefinite period or 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 nonparty 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, 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 requested material available for inspection for 30 days from the date of service of an Order finding 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:

  
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