

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

ORDER

On October 21, 2019, Big Rivers Electric Corporation (BREC) and Meade County Rural Electric Cooperative Corporation (Meade County RECC) (jointly Joint Movants) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1), requesting that the Commission grant confidential protection for an indefinite period certain information contained in the joint application and the Direct Testimonies of Robert W. Berry and Paul G. Smith.

In support of its motion, Joint Movants argues that the information that it seeks to be kept confidential relates to the terms of a special contract between Meade County RECC and Nucor Corporation executed on November 9, 2019, which BREC concurred with in a letter agreement with Meade County RECC signed on September 18, 2019. Joint Movants state the subject information is generally recognized as confidential or proprietary, and that KRS 278.160(3) specifically recognizes that rates and conditions of service set forth in a special contract are not required to be publicly disclosed if such terms are entitled to protection under KRS 61.878(1)(c)(1). BREC contends that public

disclosure of the information would provide insight into the prices at which BREC is willing to buy or sell energy and capacity. BREC further contends that the contractual information is also indicative of the market conditions BREC expects to encounter and its ability to compete with competitors. BREC maintains that disclosure of this information would place it at a competitive disadvantage in attracting economic development projects and negotiating electric pricing structures with companies interested in expanding in Kentucky.

Joint Movants also point out that BREC is actively engaged in buying and selling power in the wholesale power markets. Joint Movants assert that public disclosure of the subject information would provide potential purchasers of energy or capacity from BREC; potential sellers of energy or capacity to BREC; and other providers competing against BREC for purchases or sales of energy or capacity with insight into the prices and terms under which BREC is willing to buy and sell energy and capacity. Joint Movants contend that these market participants could use this information as a benchmark, leading to higher costs, lower revenues, or less favorable terms to BREC, hurting BREC ability to compete in the wholesale power and credit markets.

Having considered the motion and the material at issue, the Commission finds that designated materials are generally recognized as confidential or proprietary; it therefore meets the criteria for confidential treatment and is 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. Joint Movants' October 21, 2019 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. Joint Movants 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, Joint Movants 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 Joint Movants are 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 following an Order finding that the material no longer qualifies for confidential treatment in order to allow Joint Movants to seek a remedy afforded by law.

By the Commission

ENTERED
MAR 12 2020
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


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