COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC EXAMINATION OF THE APPLICATION OF THE FUEL ADJUSTMENT CLAUSE OF BIG RIVERS ELECTRIC CORPORATION FROM NOVEMBER 1, 2022 THROUGH OCTOBER 31, 2024.	)))))	CASE NO. 2025-00343

ORDER

Pursuant to 807 KAR 5:056, the Commission, on December 19, 2025, established this case to review and evaluate the operation of the Fuel Adjustment Clause (FAC) of Big Rivers Electric Corporation (BREC) for the period of November 1, 2022, through October 31, 2024, and to determine the amount of fuel costs that should be included in its base rates.[1]

In establishing this review, the Commission ordered BREC to submit certain information concerning its fuel procurement, fuel usage, and the operation of its FAC. BREC submitted this information on January 23, 2026,[2] and subsequently filed responses to two additional requests for information.[3] On April 30, 2026, BREC filed a motion

[1] Opening Order (Ky. PSC Dec. 29, 2025).

[2] BREC's Responses to Commission Staff's First Request for Information (Staff's First Request) (filed Jan. 23, 2026).

[3] BREC's Response to Commission Staff's Second Request for Information (Staff's Second Request) (filed Feb. 20, 2026) and BREC's Response to Commission Staff's Third Request for Information (Staff's Third Request) (filed Mar. 20, 2026).

requesting to submit the case for a decision on the existing record.[4] There are no intervenors in this proceeding.

LEGAL STANDARD

The FAC is a regulatory mechanism that permits jurisdictional utilities to regularly adjust the per unit price of electricity to reflect fluctuations in the cost of fuel, or purchased power, used to supply that electricity and is pursuant to 807 KAR 5:056. The statutory foundations for the regulation are KRS 278.480, which gives the Commission exclusive jurisdiction over the regulation of rates and services of utilities, and KRS 278.030(1), which grants the PSC the authority to set rates that are fair, just and reasonable. The Commission's right to conduct six-month and two-year reviews of a utility's FAC is established in 807 KAR 5:056, Section 3. Every two years the Commission shall conduct a formal review and evaluate past operations of the clause, disallow improper expenses and, to the extent appropriate, reestablish the baseline fuel clause charge.

DISCUSSION AND FINDINGS

In Case Nos. 2024-00141[5] and 2024-00149,[6] the Commission discovered that, while calculating its FAC, BREC excluded the sales to one industrial customer but included the fuel and purchased power costs to serve that industrial customer in the FAC calculation, resulting in a possibly higher FAC factor than should have been calculated.[7]

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[4] BREC's Motion to Submit on the Record (filed Apr. 30, 2026).

[5] Case No. 2024-00141, *An Electronic Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from November 1, 2022 through April 30, 2023* (Ky. PSC May 29, 2026), final Order.

[6] Case No. 2024-00149, *An Electronic Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from May 1, 2023 through October 31, 2023* (Ky. PSC May 29, 2026), final Order.

[7] Case No. 2024-00141, May 29, 2026 final Order at 2.

In the respective final Orders, BREC was ordered to file a proposed “Interim Energy Adjustment” (IEA) tariff, and once approved by the Commission, BREC was ordered to include the sales to the excluded industrial customer in its FAC calculation for the month following approval of the tariff.[8] The Commission notes that the IEA tariff was proposed after this proceeding was initiated and has not yet been approved, so the current review period will not consider IEA tariff proposed changes.[9]

Included in the two-year FAC review cases the Commission conducts a six-month review of the last six months of the period under review, to examine the calculation or application of BREC’s FAC charges and fuel procurement practices. Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that during the period under review, BREC has complied with the provisions of 807 KAR 5:056. The Commission further finds no evidence of improper calculation or application of BREC’s FAC charges or improper fuel procurement practices for the last six months of the period under review, from May 1, 2024, to October 31, 2024, other than the issued discussed in Case Nos. 2024-00141 and 2024-00149.

<u>Base Fuel Cost</u>

BREC proposed that the current base fuel cost remain unchanged at the fuel cost of $0.020932 per kWh, retaining the current base period amount from the month of October 2010.[10] BREC acknowledged that fuel costs have exceeded the base fuel rate

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[8] Case No. 2024-00141, May 29, 2026 final Order at 16, ordering paragraphs 2 and 3; Case No. 2024-00149, May 29, 2026 final Order at 22-23, ordering paragraphs 2 and 3.

[9] *See* Tariff ID: TFS2026-00299.

[10] The base fuel rate based on the base month of October 2010 was initially set in Case No. 2010-00495, *An Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from July 17, 2009 through October 31*, 2010 (Ky. PSC May 31, 2011).

over the review period.[11] However, BREC proposed that the base fuel rate remain unchanged until it has more certainty over what its FAC charges will look like going forward, based upon whether the Commission changes how FAC charges are treated in Case Nos. 2024-00141 and 2024-00149.[12] In addition, BREC argued that Meade County Rural Electric County Corporation has hired a new President and Chief Executive Officer who should be given the opportunity to weigh in on any new rates including the base fuel rate.[13]

When establishing the appropriate level of base fuel cost to be included in BREC's rates, the Commission must determine whether the proposed base period cost per kWh is representative of the level of fuel cost currently being experienced by BREC. An analysis of BREC's monthly FAC filings shows that the total fuel cost for the two-year review period ranged from a low of $0.022258 per kWh in February 2023[14] to a high of $0.040963 per kWh in November 2022.[15] The two-year average fuel rate was $0.031320 per kWh and is $0.010388 per kWh more than the current base fuel rate with fluctuations between the monthly expense month fuel costs and the base fuel costs. Based upon its

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[11] BREC's Response to Staff's First Request Item, 23 at 1.

[12] BREC's Response to Staff's First Request For Information (Staff's First Request) Item 23 at 1. Also See Case No. 2024-00141 *An Electronic Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from November 1, 2022 through April 30, 2023* (filed Aug. 2, 2024) and Case No. 2024-00149 An Electronic Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from May 1, 2023 through October 31, 2023 (filed Aug, 2, 2024).

[13] BREC's Response to Staff's First Request, Item 23 at 1-2.

[14] BREC's FAC Form A, expense month February 2023 (filed. Mar. 21, 2023). BREC's Generator FAC form A filings are located on the Kentucky Public Service Commission's website at https://psc.ky.gov/Home/Library?type=FAC.

[15] BREC's FAC Form A, expense month November 2022 (filed. Dec. 21, 2022). BREC's Generator FAC form A filings are located on the Kentucky Public Service Commission's website at https://psc.ky.gov/Home/Library?type=FAC.

review, the Commission finds BREC's proposal to maintain its base period fuel cost at $0.020932 per kWh should be approved. However, the Commission finds that BREC should perform a thorough and comprehensive analysis into its forecasted fuel expenses in its next two-year FAC review proceeding. BREC should also be prepared to submit testimony on the matter and propose a change in its base FAC rate should the analysis support such a change to the base FAC rate.

Motions for Confidential Treatment

BREC filed two motions for confidential treatment for multiple attachments provided in response to Commission Staff's requests for information. Each motion is addressed below.

January 23, 2026 Motion

In its January 23, 2026 motion, BREC requested confidential treatment for identified portions of its responses to Commission Staff's First Request for Information (Staff's First Request), Items 12, 13, 32, 33, and 34, identified portions of the Direct Testimony of Thomas L. Melton (Melton Direct Testimony), and one attachment pursuant to KRS 61.878 and 807 KAR 5:001, Section 13.[16]

BREC provided that the identified portions its responses to Staff's First Request, Items 12 and 13 contain negotiated terms of special contracts and third-party proprietary information.[17] BREC requested that this information receive confidential treatment for an

[16] BREC's Motion for Confidential Protection (January Motion for Confidential Treatment) (filed Jan. 23, 2026) at 1-2.

[17] January Motion for Confidential Treatment at 1.

indefinite period of time pursuant to KRS 278.160(3), KRS 61.878(1)(c)(1), KRS 61.878(1)(a).[18]

BREC also requested that the following identified portions of its responses to Staff's First Request receive confidential treatment for a period of five years:[19] Item 32, which contains projected fuel requirements for years 2026 and 2027;[20] Item 33, which contains sales projections for 2026 and 2027;[21] Item 34, which contains planned maintenance outages for its generating units for years 2026 and 2027;[22] and the Attachment provided to Item 46, CONFIDENTIAL PSC 1-46, which contains detailed data related to recent power bids into MISO's day ahead market.[23] BREC requested that these responses remain confidential for a period of five years pursuant to KRS 61.878(1)(c)(1).[24] BREC argued that public disclosure of the material would harm its ability to successfully compete in the wholesale power market and its ability to negotiate power purchase agreements.[25]

Lastly, BREC requested confidential treatment for identified portions of the Direct Testimony of Thomas L. Melton, which indicate BREC's internal projections related to the market prices and potential effects of market conditions on BREC and BREC's capacity

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[18] January Motion for Confidential Treatment at 13.

[19] January Motion for Confidential Treatment at 4-13.

[20] January Motion for Confidential Treatment at 1.

[21] January Motion for Confidential Treatment at 2.

[22] January Motion for Confidential Treatment at 2.

[23] January Motion for Confidential Treatment at 2.

[24] January Motion for Confidential Treatment at 6-13.

[25] January Motion for Confidential Treatment at 6-7.

projections.[26] BREC requested that this information receive confidential treatment for a period of five years.[27] BREC argued that the identified portions should receive confidential treatment pursuant to KRS 61.878(1)(c)(1) as public disclosure would harm its ability to negotiate.[28]

Having considered the motion and the material at issue, the Commission finds that BREC's motion for confidential treatment should be granted. The Commission notes that disclosure of some of this information would create an unfair disadvantage for BREC in the marketplace. The remainder of the information is confidential, and disclosure of the information would be an unwarranted invasion of privacy. The information provided is generally recognized as confidential or proprietary; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1) or KRS 61.878(1)(a) for the periods as requested by BREC.

February 20, 2026 Motion

In its February 20, 2026 motion, BREC requested that identified portions of its responses to Commission Staff's Second Request for Information (Staff's Second Request), Item 5 and the corresponding attachment, PSC 2-5(a) Attachment, receive confidential treatment pursuant to KRS 61.878(1)(c)(1) for a period of five years.[29] BREC asserted that the information consists of detailed data and information related to its

[26] January Motion for Confidential Treatment at 2.

[27] January Motion for Confidential Treatment at 13.

[28] January Motion for Confidential Treatment at 6-7.

[29] BREC's Motion for Confidential Treatment (February Motion for Confidential Treatment) (filed Feb. 20, 2026) at 1, 7.

capacity projections.[30] BREC argued that if this information was made publicly available, it would harm its ability to successfully compete in the wholesale power market and its ability to negotiate the most advantageous power purchase agreements.[31]

Having considered the motion and the material at issue, the Commission finds that BREC's motion for confidential treatment should be granted. The disclosure of this information may unfairly disadvantage BREC in the marketplace. The information provided is generally recognized as confidential or proprietary; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1) for a period as requested by BREC.

IT IS THEREFORE ORDERED that:

1. The charges and credits applied by BREC through the FAC for the period from November 1, 2022, through October 31, 2024, are approved.

2. BREC's continued use of the existing base fuel cost of $0.020932 per kWh is approved.

3. BREC's January 23, 2026 motion for confidential protection is granted.

4. BREC's responses to Staff's First Request, Items 12, 13 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.

5. BREC's responses to Staff's First Request Items 32, 33, 34, Attachment CONFIDENTIAL PSC 1-46 and the identified portions of the Direct Testimony of Thomas

[30] February Motion for Confidential Treatment at 1.

[31] February Motion for Confidential Treatment at 3-4.

L. Melton shall not be placed in the public record or made available for public inspection for a period of five years or until further order of this Commission.

6. BREC's February 20, 2026 motion for confidential protection is granted.

7. The identified portion of BREC's response to Staff's Second Request, Item 5 and the corresponding attachment, PSC 2-5(a) Attachment shall not be placed in the public record or made available for public inspection for a period of five years or until further order of this Commission.

8. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

9. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, BREC shall inform the Commission and file with the Commission an unredacted copy of the designated material.

10. 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 20 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.

11. 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.

12. This case is closed and removed from the Commission's docket.

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Entered on this 18th day of August, 2026.

PUBLIC SERVICE COMMISSION

Angie Hatton
Chair

Mary Pat Regan
Vice Chair

Andrew W. Wood
Commissioner

Barry L. Mayfield
Commissioner

ATTEST:

Justin McNeil RP

Justin McNeil
Executive Director

Service List for Case 2025-00343

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* Denotes served by Email