

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC EXAMINATION BY THE PUBLIC	)	
SERVICE COMMISSION OF THE	)	
ENVIRONMENTAL SURCHARGE MECHANISM	)	CASE NO.
OF BIG RIVERS ELECTRIC CORPORATION FOR	)	2026-00089
THE SIX-MONTH BILLING PERIOD ENDING	)	
JANUARY 31, 2026	)	

ORDER

This matter arises upon four motions for confidential treatment filed by Big Rivers Electric Corporation (BREC) pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for an indefinite period. Each motion is individually addressed below.

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records “be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884.”¹

In support of its motions, BREC argued for the application of two open records exemptions set forth in KRS 61.878. KRS 61.878(1)(a) prevents disclosure of “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” KRS 61.878(1)(c)(1) provides an exception to the requirement for public disclosure for records that are “generally recognized as confidential or proprietary, which if openly

¹ KRS 61.872(1).

disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”

Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.² The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.³

JUNE 8, 2026 MOTION

On June 8, 2026, BREC filed a motion pursuant to 807 KAR 5:001 Section 13 and KRS 61.878, for an order granting confidential treatment for an indefinite period for the highlighted portions provided in BREC’s response to Commission Staff’s First Request for Information (Staff’s First Request), Item 5 and its Attachment.

BREC’s response to Staff’s First Request, Item 5 and its Attachment, contains customer specific usage data and bill information of Nucor Corporation (Nucor), in addition to provision of the special contract among BREC, Meade County Rural Electric Cooperative Corporation (Meade RECC), and Nucor.⁴

BREC argued that the highlighted information in BREC’s response to Staff’s First Request, Item 5 Attachment, reveals Nucor’s historical monthly demand and base energy data, and because Nucor is not a party to the proceeding, publicly revealing the information would constitute an unwarranted invasion of Nucor’s privacy pursuant to KRS 61.878(1)(a).⁵ In addition, BREC argued that a competitor armed with BREC’s

² See KRS 61.871.

³ 807 KAR 5:001, Section 13(2)(c).

⁴ Motion of BREC of Confidential Treatment (filed June 8, 2026)(June 8, 2026 Motion) at 1.

⁵ June 8, 2026 Motion at 3.

proprietary and confidential information highlighted in Staff's First Request, Item 5 and its Attachment, would be able to increase BREC's cost or decrease BREC's revenues, and the information should remain confidential to prevent an unfair competitive advantage pursuant to KRS 61.878(1)(c)(1).⁶

Having considered the motion and the material at issue, the Commission finds that BREC's June 8, 2026 motion 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)(a) and (1)(c)(1). The Commission finds that since Nucor is not a party to the proceeding, public disclosure of Nucor data would constitute a clearly unwarranted invasion of personal privacy pursuant to KRS 61.878(1)(a). Additionally, the Commission finds that the highlighted information in BREC's response to Staff's First Request, Item 5 and its Attachment, are recognized as confidential or proprietary, that if disclosed would permit an unfair commercial advantage to competitors of the disclosing party, and meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to KRS 61.878(1)(c)(1).

JULY 15, 2026 MOTION

On July 15, 2026, BREC filed a motion pursuant to 807 KAR 5:001 Section 13 and KRS 61.878, for an order granting confidential treatment for an indefinite period for the highlighted portions of information provided in BREC's response to Commission Staff's Second Request for Information (Staff's Second Request), Items 2, 8, and Attachments

⁶ June 8, 2026 Motion at 8.

8(a) and 8(b).⁷ BREC also requested the entirety of Staff's Second Request, Attachment 8(b) remain confidential for an indefinite period.⁸

BREC argued that the highlighted information in BREC's response to Staff's Second Request, Items 2, 8, Attachment 8(a), and Attachment 8(b), reveals Nucor's historical monthly demand and base energy data, and because Nucor is not a party to the proceeding, publicly revealing the information would constitute an unwarranted invasion of Nucor's privacy pursuant to KRS 61.878(1)(a).⁹ In addition, BREC argued that a competitor armed with BREC's proprietary and confidential information highlighted in Staff's Second Request, Items 2, 8, Attachment 8(a), and Attachment 8(b), would be able to increase BREC's cost or decrease BREC's revenues, and the information should remain confidential to prevent an unfair competitive advantage pursuant to KRS 61.878(1)(c)(1).¹⁰

Having considered the motion and the material at issue, the Commission finds that BREC's July 15, 2026 motion 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)(a) and (1)(c)(1). The Commission finds that since Nucor is not a party to the proceeding, public disclosure of Nucor data would constitute a clearly unwarranted invasion of personal privacy pursuant to KRS 61.878(1)(a). Additionally, the Commission finds that the highlighted information in BREC's response to Staff's Second Request,

⁷ Motion of BREC for Confidential Treatment (filed July 15, 2026)(July 15, 2026 Motion) at 1.

⁸ July 15, 2026 Motion at 1.

⁹ July 15, 2026 Motion at 5.

¹⁰ July 15, 2026 Motion at 7.

Items 2, 8, and Attachment 8(a), as well as the entirety of Attachment 8(b), are recognized as confidential or proprietary, that if disclosed would permit an unfair commercial advantage to competitors of the disclosing party, and meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to KRS 61.878(1)(c)(1).

SEPTEMBER 11, 2026 MOTION

On September 11, 2026, BREC filed a motion pursuant to 807 KAR 5:001 Section 13 and KRS 61.878, for an order granting confidential treatment for an indefinite period for the highlighted portions provided in BREC's response to Commission Staff's Fourth Request for Information (Staff's Fourth Request), Item 1.¹¹

BREC's response to Staff's Fourth Request, Item 1, contains certain negotiated terms and provision of the special contract among BREC, Meade RECC, and Nucor.¹²

BREC argued that a competitor armed with BREC's proprietary and confidential information highlighted in Staff's Fourth Request, Item 1, would be able to increase BREC's cost or decrease BREC's revenues, and the information should remain confidential to prevent an unfair competitive advantage pursuant to KRS 61.878(1)(c)(1).¹³

Having considered the motion and the material at issue, the Commission finds that BREC's September 11, 2026 motion meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and

¹¹ Motion of BREC for Confidential Treatment (filed Sept. 11, 2026)(September 11, 2026 Motion) at 1.

¹² September 11, 2026 Motion at 1.

¹³ September 11, 2026 Motion at 6.

KRS 61.878(1)(c)(1). The Commission finds that the highlighted information in BREC's response to Staff's Fourth Request, Item 1, is recognized as confidential or proprietary, that if disclosed would permit an unfair commercial advantage to competitors of the disclosing party, and meet the criteria for confidential treatment and should be exempted from public disclosure pursuant to KRS 61.878(1)(c)(1).

OCTOBER 13, 2026 MOTION

On October 13, 2026, BREC filed a motion pursuant to 807 KAR 5:001 Section 13 and KRS 61.878, for an order granting confidential treatment for an indefinite period for information provided in BREC's response to Commission Staff's Fifth Request for Information (Staff's Fifth Request), Items 4 and 6.¹⁴

BREC's response to Staff's Fifth Request, Items 4 and 6, contains customer specific usage data and bill information of Nucor, in addition to provision of the special contract among BREC, Meade RECC, and Nucor.¹⁵

BREC argued that the information in BREC's response to Staff's Fifth Request, Items 4 and 6, includes Nucor's customer specific usage data, billing information, and special contract.¹⁶ BREC also argued that if openly disclosed the information would permit an unfair commercial advantage to competitors the information should remain confidential pursuant to KRS 61.878(1)(c)(1).¹⁷

¹⁴ Motion of BREC for Confidential Treatment (filed Oct. 13, 2026)(October 13, 2026 Motion) at 1.

¹⁵ October 13, 2026 Motion at 1.

¹⁶ October 13, 2026 Motion at 3.

¹⁷ October 13, 2026 Motion at 4.

Having considered the motion and the material at issue, the Commission finds that BREC's October 13, 2026 motion 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). The Commission finds that the highlighted information in BREC's response to Staff's Fifth Request, Items 4 and 6, are recognized as confidential or proprietary, that if disclosed would permit an unfair commercial advantage to competitors of the disclosing party, and meet the criteria for confidential treatment and should be exempted from public disclosure pursuant to KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

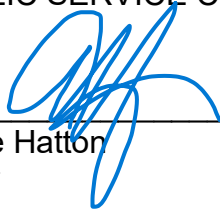
1. BREC's June 8, 2026 motion for confidential treatment is granted.
2. BREC's July 15, 2026 motion for confidential treatment is granted.
3. BREC's September 11, 2026 motion for confidential treatment is granted.
4. BREC's October 13, 2026 motion for confidential treatment is granted.
5. The designated material granted confidential treatment by this Order 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.
6. 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).
7. 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.

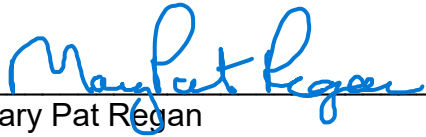
8. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, BREC shall have 20 days from receipt of written notice of the request to demonstrate that 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.

9. 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.

Entered on this 29th day of October, 2026.

PUBLIC SERVICE COMMISSION



Angie Hatton
Chair

Mary Pat Regan
Vice Chair

Andrew W. Wood
Commissioner

Barry L. Mayfield
Commissioner

ATTEST:



Justin McNeil
Executive Director

Case No. 2026-00089

Service List for Case 2026-00089

* Jackson Purchase Energy Corporation
Jackson Purchase Energy Corporation
6525 US Highway 60 W
Paducah, KY 42001

* Kenergy Corp.
Kenergy Corp.
6402 Old Corydon Road
P. O. Box 18
Henderson, KY 42419

* Meade County R.E.C.C.
Meade County R.E.C.C.
P. O. Box 489
Brandenburg, KY 40108-0489

* Big Rivers Electric Corporation
710 West 2nd Street
P. O. Box 20015
Owensboro, KY 42304