



Frankfort Plant Board

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Cable Modem/ISP  
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October 25, 2016

Mr. James Herrick  
Attorney General's Office  
700 Capitol Avenue  
Frankfort, KY 40601

Via Fax: (502) 564-6801

Re: Log Number 201600420 – Frankfort Plant Board/Kentucky Municipal Energy Agency

Dear Mr. Herrick:

Thank you for the opportunity to file a response to the open records appeal filed by Andy McDonald (“McDonald”) who is a member of EnvisionFranklinCounty and Director of Sustainable Systems Programs at Earth Tools, Inc. a vendor of solar PV systems. While the record provided by your office regarding the appeal only includes every other page of McDonald’s materials, Frankfort Plant Board (“FPB”) understands that McDonald seeks unredacted copies of the power purchase agreement (“PPA”) between the Kentucky Municipal Energy Agency (“KyMEA”) and Big Rivers Electric Corporation (“Big Rivers”).

The Electric and Water Plant Board of the City of Frankfort, Kentucky (“FPB”) maintains that the contract requested, or portions thereof, is exempt from production because it contains confidential information regarding the pricing of energy, delivery of energy and other proprietary commercial terms. As such, it satisfies the standard contained in KRS 61.878(1)(c)1. which protects “records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”

#### **I. The formation of the Kentucky Municipal Energy Agency**

In November of 2013, FPB, along with several other municipal electric systems began to explore alternatives to purchasing wholesale electric power from Kentucky Utilities (“KU”). These systems had purchased energy from KU for many years. However, FPB and the other

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systems experienced over a 30% increase in KU's all requirements rate from 2007 to 2013. Hence, the group began to study alternatives.

In April of 2014, the group concluded that there were viable alternatives to KU and 9 of 11 municipal systems provided notice to terminate service from KU. Thereafter, the group of municipals determined that working together through a joint action agency offers significant potential advantages. The group then determined how to structure this agency.

In June of 2015, FPB passed a resolution approving an interlocal cooperation agreement authorizing the formation of the Kentucky Municipal Energy Agency ("KyMEA"). The agency's purpose is to allow the members to collaborate to do all things necessary or convenient to serve the electric power and energy requirements of the members. In August of 2016, FPB's board approved an all requirements power contract between it and KyMEA. McDonald was provided a copy of this all requirements contract on August 24, 2016.

## **II. KyMEA entered into non-disclosure agreements with its power suppliers and the obligation to maintain the confidentiality of certain portions of the power purchase agreements extends to KyMEA members such as Frankfort Plant Board.**

After KyMEA was formed it began the process of developing a power supply portfolio. That is, KyMEA enters into power purchase agreements with power suppliers such as Big Rivers. The KyMEA members then purchase this power from KyMEA and resell it to their local retail electric customers.

KyMEA entered into non-disclosure agreements with its power suppliers including Big Rivers. The obligations of these agreements extend to KyMEA members as well. On December 16, 2015, KyMEA adopted a confidentiality policy relating to the review of confidential information provided to KyMEA. (Ex. 1.) Summarizing that confidentiality policy, confidential information may be made available to KyMEA directors, KyMEA representatives and to the individuals serving on the governing boards of KyMEA members if disclosure of such confidential information would assist the member representatives in making decisions subject to the understanding that the individual reviewing said confidential information agrees to abide by the terms of the non-disclosure agreements and the KyMEA confidentiality policy.

KyMEA's confidentiality policy notes:

Notwithstanding any procedures herein to the contrary, KyMEA as a public agency, as are its Members, are subject to state law relating to open meetings and open records, and if KyMEA, and/or any Representative or Member Representative, receives an open records request or other demand for Confidential Information, then KyMEA or the Representative or Member Representative shall notify the Provider, as soon as possible, to allow the Provider the opportunity to protect any Confidential Information from disclosure.

As such, as a KyMEA member, FPB is contractually obligated to honor these non-disclosure obligations. KyMEA's counsel contacted Big Rivers and advised it of this request.

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**III. Big Rivers maintains that certain information contained in the power purchase agreements is confidential and exempt from production.**

Big Rivers response filed in this matter is attached hereto and incorporated by reference herein. (Ex. 2.) Big Rivers explains in its response why the information contained in the PPA meets the standard contained in KRS 61.878(1)(c)1.

I appreciate your assistance. If you have any questions, please contact me at 352-4541 or [hprice@fewpb.com](mailto:hprice@fewpb.com).

Sincerely,

*Hance Price*

Hance Price  
Staff Attorney

cc: Andy McDonald, Appellant  
Charles S. Musson, Esq.  
James M. Miller, Esq.

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**KENTUCKY MUNICIPAL ENERGY AGENCY**  
**GUIDELINES AND PROCEDURES**  
**RELATING TO CONFIDENTIAL INFORMATION**

**BACKGROUND**

**KyMEA.** The Kentucky Municipal Energy Agency ("KyMEA"), is organized and existing under Section 65.210 to 65.300 of the Kentucky Revised Statutes ("KRS"), as amended, known as the "Interlocal Cooperation Act" (the "Act"), to act as a joint agency for the mutual advantage of its members (the "Members") who are municipal electric systems in the Commonwealth of Kentucky in the coordinated planning, permitting, acquisition, construction and operation of new and existing facilities, and from joint purchases, sales and exchanges of electric power and related sources.

In order to carry out its purpose and the directives of its Members, KyMEA may be required to enter into non-disclosure agreements or may receive information which KyMEA has been requested to keep confidential from the provider. In addition KyMEA may need to preserve the confidentiality of information or proposals when entering into competitive negotiation with one or more persons for services or goods.

KyMEA has established these Guidelines and Procedures (the "Protocol") to establish rules by which its Directors, its Members and the governing body, employees, officers and consultants of such Members and KyMEA's employees, officers and consultants will review and utilize any and all information, material or discussions which KyMEA has agreed, or is required, to keep confidential (the "Confidential Information").

**PROTOCOL**

**Disclosure Agreements.** When feasible, prior to receiving Confidential Information, KyMEA will enter into an agreement (each a "Disclosure Agreement") with the provider (the "Provider") of the Confidential Information which outlines the understanding of the Provider and KyMEA relating to:

- (i) the information, material or discussions which are to be considered as Confidential Information;
- (ii) the disposition, destruction or retention of such Confidential Information;
- (iii) the term of the agreement or period of confidentiality;
- (iv) any remedies of the parties for a breach of confidentiality; and
- (v) such other terms and provisions that may be applicable or desired by the Provider or KyMEA.

Ex. 1



**KyMEA Representatives.** Confidential Information received by KyMEA may be disclosed to its directors, officers, employees, attorneys, consultants and financial advisors (collectively, "Representatives"), but only if such Representatives (i) need to know the Confidential Information and (ii) understand and agree to be bound by the terms of this Protocol and any Disclosure Agreement relating to the Confidential Information. Representatives shall not disclose the Confidential Information to any person other than as expressly permitted by this Protocol and any Disclosure Agreement relating to the Confidential Information, and the Representatives shall safeguard the Confidential Information from unauthorized disclosure. The KyMEA Board or, in its absence, the KyMEA Executive Committee, shall determine the Representatives who may or may not have access to the Confidential Information.

**Conflicted Representative.** Any Representative of KyMEA who has, or may have, a conflict of interest or who may achieve a competitive advantage over a Provider if Confidential Information is disclosed to such Representative shall be deemed a "Conflicted Representative" and shall be denied access or review of such Confidential Information. The KyMEA Board or, in its absence, the KyMEA Executive Committee, shall determine who is a Conflicted Representative. The KyMEA Board or the Executive Committee may seek and rely upon the advice of its legal counsel in determining whether or not a person is a Conflicted Representative.

**Unauthorized Disclosure.** Notwithstanding anything in this Protocol or any Disclosure Agreement to the contrary or to any remedy set forth in any Disclosure Agreement, any unauthorized disclosure of the Confidential Information by any Representative, who was aware or should have known that such disclosure was unauthorized, shall be considered a breach of such Representative's duties to KyMEA, and such Representative may be liable to KyMEA for any damages suffered by KyMEA as a result of such unauthorized disclosure.

**Disclosure to KyMEA Members.** It is understood that from time to time a KyMEA Director may need to consult with representatives of his or her respective KyMEA Member governing body, including but not limited to any board member, city council or commission members, officials, directors, officers, employees, attorneys, consultants and financial advisors of the KyMEA Member (the "Member Representatives"), which may require to the need to disclose Confidential Information to the Member Representatives. In order to preserve the confidentiality of the information to be disclosed and to protect KyMEA from a breach of its duties and representations under a Disclosure Agreement, Confidential Information may be disclosed to a Member Representative upon compliance with the following procedures:

(i) a KyMEA Director shall provide a written statement to KyMEA stating that the KyMEA Member Representative has a need for access to the Confidential Information to fulfill the Member's role in providing direction to the KyMEA Director relating to the matter for which the Confidential Information pertains; and

(ii) the Member Representative shall enter into a Disclosure Agreement with KyMEA, substantially in the form submitted to the Member Representative by KyMEA and which shall set forth the terms and provisions relating to the use and confidentiality of the Confidential Information.

Member Representatives shall not disclose the Confidential Information to any person other than as expressly permitted by this Protocol, the Disclosure Agreement entered into by and between the Provider and KyMEA and the Disclosure Agreement entered into by and between KyMEA and the Member Representative relating to the Confidential Information, and the Member Representative shall safeguard the Confidential Information from unauthorized disclosure. The KyMEA Board or, in its absence, the KyMEA Executive Committee, shall have sole discretion as to the disclosure, release or access to the Member Representative of the Confidential Information.

KyMEA shall have the sole determination as to the format in which the Confidential Information will be presented. Generally it shall be the policy of KyMEA and this Protocol that the Confidential Information will be disclosed in a presentation format in order to limit the distribution of written materials to the Member Representative to further aid KyMEA and the Member Representative in maintaining the confidentiality of the Confidential Information.

Any Member Representative who has, or may have, a conflict of interest or who may achieve a competitive advantage over a Provider if Confidential Information is disclosed to such Representative, as solely determined by the KyMEA Board or Executive Committee, shall be deemed a "Conflicted Representative" and shall be denied access or review of such Confidential Information.

**Procurement Procedures.** Having adopted the certain rules and procedures relating to the procurement of goods and services, when implementing this Protocol KyMEA shall consider its procurement rules and procedures particularly requirements relating to competitive negotiation provisions to maintain the confidentiality of any proposals submitted therefore to protect the interest of KyMEA in maintaining the strongest negotiation position.

Open Records. Notwithstanding any procedures herein to the contrary, KyMEA as a public agency, as are its Members, are subject to state law relating to open meetings and open records, and if KyMEA, and/or any Representative or Member Representative, receives an open records request or other demand for Confidential Information, then KyMEA or the Representative or Member Representative shall notify the Provider, as soon as possible, to allow the Provider the opportunity to protect any Confidential Information from disclosure.

= This Protocol is dated December 16, 2015, the date of its approval by the KyMEA Board.



October 25, 2016

**VIA FAX ONLY (502) 564-6801**

James Herrick  
Attorney General's Office  
700 Capitol Avenue  
Frankfort, Kentucky 40601

Re: Open Records Appeal Log Number 201600420

Dear Mr. Herrick:

We represent Big Rivers Electric Corporation ("Big Rivers") in the above-referenced appeal to the Attorney General made by Andy McDonald of his request for an unredacted version of the Agreement for the Purchase and Sale of Firm Capacity and Energy (the "Agreement") between Big Rivers and Kentucky Municipal Energy Agency ("KyMEA"). Mr. McDonald was provided a copy of the redacted version of the Agreement<sup>1</sup>, but argues that he is entitled to an unredacted version because none of the exceptions to public disclosure set forth in KRS 61.878(1) apply. However, the redacted information was properly excluded from disclosure under KRS 61.878(1)(c)1.

#### **A. Background**

Big Rivers is an electric generation and transmission cooperative corporation headquartered in Henderson, Kentucky and organized pursuant to KRS Chapter 279. Big Rivers owns electric generation and transmission facilities and generates, purchases, transmits, and sells electricity at wholesale.

Big Rivers exists for the principal purpose of providing the wholesale electricity requirements of its three member distribution cooperatives, Jackson Purchase Energy Corporation, Kenergy Corp., and Meade County Rural Electric Cooperative Corporation. Big Rivers is owned by these three member cooperatives and they in turn provide retail electric service to approximately 115,000 customers located in portions of 22 western Kentucky counties. Big Rivers is not a public agency as defined in the Kentucky Open Records Act, KRS 61.870 to 61.884 (the "ORA").

KyMEA is an inter-local agency organized by several municipalities in Kentucky to provide for the aggregated wholesale electricity requirements of their respective municipal utilities. One of the municipal utilities served by KyMEA is the Frankfort Plant Board. Both KyMEA and the Frankfort Plant Board are public agencies as defined in the ORA.

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<sup>1</sup> Big Rivers has filed a proceeding before the Public Service Commission as required by law to obtain approval of the Agreement, and has petitioned for confidential treatment of the Agreement in that proceeding. The same redacted version provided to Mr. McDonald was filed by Big Rivers in the PSC proceeding.

Ex. 2

Big Rivers can generate energy in excess of the requirements of its member cooperatives. Big Rivers attempts to sell this energy in the wholesale electric power market, where it competes with other generators of electricity. Big Rivers negotiated with KyMEA to sell wholesale electric power from Big Rivers to serve the KyMEA municipalities. The negotiations resulted in the Agreement between KyMEA and Big Rivers. The Agreement is the subject of this appeal.

### **B. Big Rivers' standing to respond in this appeal**

Big Rivers has standing to contest an ORA request for the Agreement because of its interest in protecting from public disclosure confidential and proprietary information of Big Rivers in the Agreement that could give competitors of Big Rivers an unfair advantage against Big Rivers in the wholesale electricity market. In *Beckham v. Bd. of Educ. of Jefferson Cty.*, 873 S.W.2d 575 (Ky. 1994), the Kentucky Supreme Court addressed the question of whether “a party affected by the decision of a public agency to release records pursuant to the Kentucky Open Records Act, KRS 61.870, et seq., has standing to contest the agency decision in court; or whether the only parties who may be heard are the agency and the person making the Open Records request.” In the case, the *Courier-Journal* made an ORA request of the Board of Education of Jefferson County to inspect records related to the employment of the appellant, Beckham. In reversing both the Circuit Court and the Court of Appeals, the Supreme Court ruled that Beckham had standing to challenge disclosure under the privacy exception as a party affected by an Open Records request, reasoning:

[the statute]broadly grants the circuit court of the county where the agency has its principal place of business or where the record is maintained jurisdiction “to enforce the provisions of KRS 61.870 to 61.884, by injunction or other appropriate order on application of any person.” Try as we may, this Court is at a loss to discover any meaning in subsection (1) other than its plain meaning.

*Beckham v. Bd. of Educ. of Jefferson Cty.*, 873 S.W.2d 575, 578 (Ky. 1994). The Court was referring to the plain meaning of “any person” in its expansive interpretation of who may bring an injunctive action in Circuit Court. See also *Lawson v. Office of Atty. Gen.*, 415 S.W.3d 59, 67-68 (Ky. 2013) (persons or entities the particular exemption was meant to protect have standing).

Also, the Attorney General has noted that the entity contracting with the public agency has a right to intervene and be heard in an ORA appeal to the Attorney General:

This office recognizes that in some instances the details of the confidential and proprietary nature of documents may not be readily available or recognizable to a public agency. Because the agency is ultimately the party responsible for satisfying its burden of proof in excluding documents from inspection under KRS 61.878(1)(c)1., in those instances where a public agency has been asked to disclose information it believes may be confidential or proprietary in nature, best practice would be for the agency to notify the entity most interested in protecting



the confidential nature of the document(s). Just as the circuit court would allow a party to intervene for the purpose of protecting the confidentiality of its documents, the Attorney General would permit input from the private third party whose information was at issue in cases where KRS 61.878(1)(c)1. is being argued.

*09-ORD-010*. In this case, Frankfort Power Board notified Big Rivers of this appeal, and Big Rivers has standing to be heard in this appeal because of its interest in preventing public disclosure of its confidential and proprietary information contained in the Agreement.

### **C. KRS 61.878(1)(c)1 exempts from disclosure the information at issue**

The information Big Rivers seeks to protect as confidential is hereinafter referred to as the “Confidential Information.” The Confidential Information is exempt from disclosure under KRS 61.878(1)(c)1, which protects “records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”

#### 1. The redacted information was confidentially disclosed by Big Rivers to KyMEA

The information Big Rivers seeks to protect is contained in the Agreement. The intent of the parties to keep the Agreement confidential is evidenced by the fact that the unredacted version of the Agreement is stamped “Confidential” on each page. Also, Big Rivers has, pursuant to KRS 273.160(3) and 807 KAR 5:001 Section 13, filed a petition with the Public Service Commission (“PSC”) seeking confidential treatment of the same portions of the Agreement that were redacted from the copy provided to Mr. McDonald.<sup>2</sup> The petition is pending with the PSC. In addition, before engaging in negotiations, Big Rivers and KyMEA entered into a Confidentiality and Non-Disclosure Agreement dated December 7, 2015, attached hereto as Exhibit A, to protect confidential information disclosed during the negotiations. Finally, in Section 18.8 of the Agreement, the Parties agree to enter into a Mutual Confidentiality Agreement attached as Exhibit G to the Agreement, the purpose of which is to protect confidential information disclosed in performance of the Agreement. Thus, it is clear that Big Rivers has always intended to protect the confidential and proprietary information related to its transactions with KyMEA, including the provisions of the Agreement that Big Rivers wanted to keep confidential.

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<sup>2</sup> KRS 273.160(3) provides that Big Rivers is not required to publicly disclose its rates and conditions of service not filed in its general schedule if those provisions “would otherwise be entitled to be excluded from the application of KRS 61.870 to 61.884 under the provisions of KRS 61.878(1)(c)1.” Thus, the standard for keeping these provisions confidential in the PSC proceeding is the same the standard applicable to this appeal; namely, KRS 61.878(1)(c)1.



2. The Confidential Information is generally recognized as confidential or proprietary and disclosure of the Confidential Information would permit an unfair commercial advantage to Big Rivers' competitors

The Confidential Information consists of the confidential terms of the Agreement, and KRS 278.160(3) specifically recognizes that terms of contracts like the Agreement are not required to be publicly disclosed if such terms are entitled to protection under KRS 61.878(1)(c)(1). The Confidential Information is not publicly available, is not disseminated within Big Rivers except to those employees and professionals with a legitimate business need to know and act upon the information, and is not disseminated to others without a legitimate need to know and act upon the information. As such, the Confidential Information is generally recognized as confidential and proprietary.

Big Rivers competes in the wholesale power market to sell energy excess to its members' needs. Big Rivers' ability to successfully compete in the wholesale power market is dependent upon a combination of its ability to get the maximum price for the power sold, to keep its cost of producing that power as low as possible, and to negotiate the best terms available for wholesale power contracts. Fundamentally, if there is an increase in Big Rivers' cost of producing power or its business risk, its ability to sell that power in competition with other utilities is adversely affected.

Big Rivers also competes for reasonably-priced credit in the credit markets, and its ability to compete in that respect is directly impacted by its financial results and business risks assumed. Any event that adversely affects Big Rivers' margins will adversely affect its financial results and potentially impact the price it pays for credit. A utility the size of Big Rivers that operates generation and transmission facilities will always have periodic cash and borrowing requirements for both anticipated and unanticipated needs. Big Rivers expects to be in the credit markets on a regular basis in the future, and it is imperative that Big Rivers improve and maintain its credit profile.

The Confidential Information includes the method for determining the contract price for power. The Confidential Information also includes obligations Big Rivers or KyMEA has undertaken; in other words, the relative risks assumed by each party. These provisions are independently negotiated with each customer. If future customers are aware of the risks assumed by Big Rivers, or by KyMEA, this could impact Big Rivers' negotiations with future customers, who could demand similar provisions, and it could unfairly benefit Big Rivers' competitors, who may use this information to make more competitive proposals than Big Rivers.

Additionally, the Agreement was the result of extensive negotiations by sophisticated businesses that are parties to a complex transaction. Therefore, some very unique terms were negotiated by the parties. The Agreement also contains a unique combination of these terms. For both of these reasons, public disclosure of these terms and how they are used in the Agreement can harm Big Rivers' ability to compete.



Public disclosure of the Confidential Information would permit an unfair commercial advantage to Big Rivers' competitors. As discussed above, Big Rivers faces actual competition in the wholesale power market and in the credit market. It is likely that Big Rivers would suffer competitive injury if the Confidential Information was publicly disclosed because disclosure of that Confidential Information will undermine Big Rivers' ability to negotiate with future purchasers of power and Big Rivers' ability to negotiate against other power providers competing with Big Rivers for business.

Big Rivers previously noted that the standard applied by the PSC to keep information confidential is the same standard applicable to this appeal, KRS 61.878(1)(c)1. Applying this standard in another case, the PSC granted confidential protection for bids submitted to Union Light Heat & Power ("ULH&P"). Order dated August 4, 2003, in *In the Matter of: Application of the Union Light, Heat and Power Company for Confidential Treatment*, PSC Case No. 2003-00054, attached hereto as Exhibit B. The information at issue was contained in bid documents for ULH&P projects submitted to ULH&P by contractors. ULH&P argued, and the PSC implicitly accepted, that if the bids it received were publicly disclosed, contractors on future work could use the bids as a benchmark, which would likely lead to the submission of higher bids. The PSC also implicitly accepted ULH&P's further argument that the higher bids would lessen ULH&P's ability to compete with other gas suppliers. *Id.* Similarly, in this instance, public disclosure of the confidential terms of the Agreement will establish a benchmark both for the price at which Big Rivers is willing to sell power and the risks Big Rivers is willing to accept. In other words, public disclosure of the confidential terms of the Agreement would allow potential purchasers of power from Big Rivers in the future to use the terms as a benchmark for negotiations, leading to less favorable prices and increased risks for power sales for Big Rivers. As discussed above, this places Big Rivers at an unfair competitive disadvantage in the wholesale power and credit markets.

Additionally, public disclosure of the confidential terms of the Agreement would provide the power producers and marketers with whom Big Rivers competes to sell power to potential buyers insight into the prices Big Rivers is willing to sell power and other terms for which Big Rivers negotiates in such agreements. These other suppliers would be able to use this information to potentially underbid Big Rivers in wholesale transactions.

Finally, public disclosure of the confidential terms of the Agreement would give potential suppliers of power to Big Rivers a competitive advantage because they will be able to manipulate the price of power bid to Big Rivers in order to maximize their revenues, thereby driving up Big Rivers' costs and impairing Big Rivers' ability to compete in the wholesale power and credit markets.

The Attorney General found that similar information met this statutory exception in *03-ORD-235*, which involved a contract between the Kentucky Department for the Blind and the U.S. Department of Defense for provision of food services at Fort Knox. The documents requested included the prime contract between the parties and the pricing schedules. The Kentucky Department for the Blind refused to produce any of the documents, relying on KRS

61.878(1)(c)1, calling the contract a “hard fought victory” in a “highly competitive field.” The Department for the Blind also noted that disclosure of the information on pricing and quantities would provide competitors in military solicitations an unjust advantage, since competitors could simply copy and refine the Department’s work. The Attorney General expressly agreed with the Department’s arguments and found that the entire contract, including pricing schedules, was properly excluded from disclosure. Likewise, in this case, Big Rivers is involved in the very competitive wholesale power and credit markets. The Confidential Information can be used by competitors of Big Rivers and future purchasers to undermine Big Rivers’ negotiation strategy, thereby harming Big Rivers’ ability to secure future sales, or secure such sales on competitive and favorable terms.

The Attorney General reached a similar result in *08-ORD—083*. The documents at issue were affinity agreements between a credit card company and the University of Kentucky Alumni Association, which documents were in the possession of the University of Kentucky. It was noted that the credit card industry and affinity agreements “are routinely reported to be highly competitive,” and that harm could occur through disclosure of either the financial terms or the business and operational terms. The Attorney General agreed, noting that disclosure of the terms and conditions of the contract, from which competitive marketing strategies can be extrapolated, would permit an unfair commercial advantage to competitors. Likewise, with Big Rivers, the terms and conditions that have been redacted are as important as the price when it comes to competitive negotiation of future contracts. Thus, those terms are entitled to as much protection as the terms in the Agreement related to price.

#### **D. Conclusion**

Based on the foregoing, the Confidential Information is entitled to confidential protection under KRS 61.878(1)(c)1.

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James M. Miller  
R. Michael Sullivan  
Tyson A. Kamuf

c: Andy McDonald, Appellant

Ralph Ludwig, Chair  
Frankfort Plant Board

Hance Price, Esq.  
Counsel for Frankfort Plant Board

Charles S. Musson, Esq.  
Counsel for Kentucky Municipal Energy Agency