

Bigger Pie Forum

FILED

JAN 27 2021

**MISS. PUBLIC SERVICE
COMMISSION**

January 27, 2021

VIA E-MAIL

Katherine Collier, Executive Secretary
Mississippi Public Service Commission
P.O. Box 1174
Jackson, MS 39215-1174

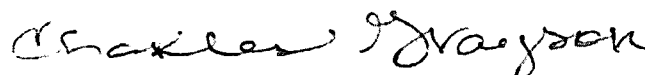
**Re: Intervenor Bigger Pie Forum's Signed Confidentiality and Non-Disclosure Agreement
Form in Mississippi Power Company's IRP
Docket No. 2019-UA-231**

Dear Katherine:

Please see the attached for filing with the Commission in the above referenced docket, Bigger Pie Forum's signed Confidentiality and Non-Disclosure Agreement Form for use by intervening parties in their participation in Mississippi Power Company's IRP proceedings before the Commission.

Regards,

Bigger Pie Forum



Charles Grayson

CG:jbr

January 7, 2021

VIA E-MAIL

Katherine Collier, Executive Secretary
Mississippi Public Service Commission
501 North West Street, Suite 201A Jackson,
MS 39201

**Re: Mississippi Power Company's Revised Form Confidentiality and Non-Disclosure Agreement
Docket No. 2019-UA-231**

Dear Katherine:

Please find enclosed for filing with the Commission in the above referenced docket, Mississippi Power's revised Form Confidentiality and Non-Disclosure Agreement. The Commission's Rule 29 requires that each public utility subject to the IRP rule requirements file a form agreement with the Commission for use by intervening parties in their participation in IRP proceedings before the Commission. On or about December 23, 2019, MPC submitted a form agreement in compliance with the Commission's newly promulgated IRP Rule.

Upon further review, Mississippi Power has determined that the terms of the current form agreement are more appropriate for use by a consultant hired by the Commission and Staff, and, therefore, could inadvertently discourage third-party stakeholders from fully participating in the IRP proceedings. Mississippi Power requests that the Commission remove the current form agreement from the record and replace the enclosed revised Form Confidentiality and NonDisclosure Agreement to correct this issue.

Mississippi Power will coordinate with correcting this issue with any existing intervening parties that have already sought to participate in the IRP proceedings and executed the original form agreement.

Very truly yours,

MISSISSIPPI POWER COMPANY



SHAWN SHURDEN

SSS:alm

Confidentiality & Nondisclosure Agreement

This Confidentiality and Nondisclosure Agreement ("Agreement") is entered into this the 27th day of January, 2021 ("Effective Date"), by and between Mississippi Power Company ("MPC" or "Company") and BiggerPieForum

("Recipient"). Each Party to the Agreement shall be referred to separately as a "Party" and collectively as the "Parties."

WHEREAS, in compliance with Rule 29 of the Mississippi Public Service Commission's ("Commission") Public Utilities Rules of Practice and Procedure ("Rules"), MPC has commenced its Integrated Resource Planning ("IRP") process in Commission Docket No. 2019-UA-231 ("IRP Docket");

WHEREAS, Recipient been authorized by the Commission to intervene in the IRP Docket;

WHEREAS, in connection with the IRP Docket, MPC will furnish and is prepared to furnish Recipient with information which is deemed by MPC, for itself, its affiliates, partners, joint venturers, contractors, or agents as confidential, proprietary, generally not available to the public, or information in the nature of trade secrets under Sections 25-61-9, 25-61-11, 75-26-3, and 79-23-1 of the *Mississippi Code of 1972, as amended*, and which is clearly marked as such pursuant to Commission Rules 4.100(3), 4.101(3) and/or 29.108 ("Confidential Information");

WHEREAS, as an inducement to and in exchange for the Company furnishing any such Confidential Information, Recipient agrees to treat confidentially any Confidential Information designated by MPC to be confidential commercial or financial information and/or trade secret and furnished in connection with the IRP, whether furnished before or after the Effective Date of this Agreement, and all notes, analyses, compilations, studies, or other documents, including any copies or extracts thereof, which contain or otherwise reflect such Confidential Information;

NOW THEREFORE, for and in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

Section 1. This Agreement shall govern the treatment of all Confidential Information exchanged by the Parties in the IRP docket. Only documents, records, data and/or information designated in writing by MPC as confidential shall be Confidential Information. MPC specifically retains the right to object, in whole or in part, to any request by Recipient or any of its Authorized Representatives for Confidential Information. In addition, MPC reserves the right to designate a subset of Confidential Information as "Highly Confidential" that may be shared with the Commission and/or Mississippi Public Utilities Staff but not the Recipient. In the event of any such objections or designations, the Parties reserve all rights to pursue motions to compel, for protective order and/or any other remedies available under or pursuant to Mississippi law and the Rules of the Commission.

Section 2. Recipient agrees that such Confidential Information will be kept confidential by Recipient throughout the term of this Agreement. Recipient may only disclose Confidential Information to: (1) select employees of Recipient as identified on Exhibit "A" hereto (as may be amended from time to time by mutual agreement of the parties); and/or (2) third-party attorneys,

consultants and experts as identified on Exhibit "B" (as may be amended from time to time) hired for the purpose of assisting Recipient in the evaluation of the IRP (collectively the "Authorized Representatives"). Any other disclosure of such Confidential Information may be made only if MPC consents in writing. All Authorized Representatives shall be informed of the confidential nature of such Confidential Information and shall agree in writing to abide by the terms of this Agreement prior to first receiving any such Confidential Information by executing the form Joinder Agreement attached as Exhibit "C" hereto. If the Parties cannot agree on designation of Authorized Representative(s), or the scope of Confidential Information to be disclosed to any Authorized Representatives, or the manner of disclosure, or whether particular information is appropriately designated as Confidential Information, after reasonable and good faith efforts to obtain resolution among themselves, any Party may file a motion with the Commission and obtain resolution by the Commission of such dispute.

Section 3. Recipient agrees that it will not use any Confidential Information of MPC, whether supplied by MPC, the Commission, the Mississippi Public Utilities Staff ("Staff") or another party to the IRP Docket, in any way that is detrimental to or in competition with MPC or its affiliates business, as determined in the sole judgment of MPC; provided, however, this Section 3 shall in no way limit Recipient's ability to use of the Confidential Information for purposes of its participation in the IRP Docket. Recipient agrees that it will notify and obtain the written agreement of its Authorized Representatives not to use any of the Confidential Information for any reason or purpose other than to evaluate issues in the IRP Docket.

Section 4. Recipient agrees that it will make all necessary and appropriate efforts to safeguard the Confidential Information from disclosure to any person other than the Authorized Representatives consistent with Section 2 above. In furtherance of such efforts, Recipient will not distribute the Confidential Information to any person other than the Authorized Representatives consistent with Section 2 above without prior written authorization from MPC or duplicate the Confidential Information more than is reasonably necessary to provide the Confidential Information to Authorized Persons. The term "person" as used in this Agreement shall be broadly interpreted to include without limitation any individual, public body, corporation, company, partnership, firm, joint venture, association or other private or public entity. Upon written request from MPC, Recipient will promptly return or destroy all documents, files or other materials constituting or containing Confidential Information; provided, however, Recipient may retain such Confidential Information to the extent specifically required by applicable law.

Section 5. If Recipient or any Authorized Representatives should be required by law (by oral questions, interrogatories, requests for information or documents, subpoena, or similar process) to disclose any Confidential Information, it is agreed that Recipient or the Authorized Representative will provide MPC with prompt notice of such requirement(s) so that MPC may seek any appropriate legal remedy or waive compliance with the provisions of this Agreement. It is further agreed that if, in the absence of a protective order or the receipt of a waiver hereunder, any Recipient or any Authorized Representative is nonetheless, based upon a written opinion of its counsel, compelled to disclose the Confidential Information to any tribunal or else risk liability for contempt or suffer other censure or penalty, such party may disclose the Confidential Information to such tribunal, to the extent necessary, without liability hereunder. Notwithstanding anything to the contrary in this Section 5, Recipient shall not be required to provide MPC with prior notice of a request from a regulatory or governmental entity to disclose a copy of this Agreement.

Section 6. The term "Confidential Information" does not include information that (1) becomes available to the public other than as a result of disclosure in violation of the terms hereof by a party hereto or its representatives, (2) was available on a non-confidential basis from any source prior to its disclosure to a party hereto, (3) becomes available on a confidential basis from a source other than a party hereto or its representatives, provided that such source is not bound by a confidentiality agreement with the pertinent party or its representatives or is not otherwise prohibited from transmitting the information to the party receiving such information by a contractual, legal, or fiduciary obligation, or (4) is subsequently developed by a party hereto through its independent efforts without use of the Confidential Information.

Section 7. The Parties hereby agree that no failure or delay of any party in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power, or privilege hereunder.

Section 8. Nothing contained herein shall constitute a waiver of MPC's claim of confidentiality of any of the Confidential Information or any other information filed confidentially or under seal with the Commission, Staff, Attorney General or any tribunal, nor require MPC to produce any of the Confidential Information to any other person unless that person signs a Confidentiality and Nondisclosure Agreement containing terms and conditions acceptable to MPC.

Section 9. Each Party warrants that it will act in good faith and will not purposefully do anything to deprive the other of the benefit of this Agreement.

Section 10. The Parties agree that MPC shall be entitled to specific performance as a remedy for any breach of this Agreement. Such remedy shall not be deemed to be the exclusive remedy for any breach of this Agreement but shall be in addition to all other remedies available at law or equity.

Section 11. This Agreement and the validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of the State of Mississippi. The provisions of this Agreement may only be enforced by appropriate proceedings before the Commission, chancery court and/or circuit court, as applicable, including any appropriate appeals therefrom to the Mississippi courts.

Section 12. This Agreement constitutes the entire agreement and supersedes all other prior agreements and understandings, both written and oral, among MPC, Recipient and Authorized Representatives, as applicable, with respect to confidentiality of information in the IRP docket.

Section 13. Nothing in this Agreement shall be construed to restrict MPC's right to challenge the admissibility or use in any proceeding of the Confidential Information on any legitimate ground, including but not limited to, competence, relevance, materiality, prejudicial effect or privilege.

Section 14. Each individual signing this Agreement warrants that: (i) his or her execution has been duly authorized by the party for which that individual is signing; (ii) the execution and performance of this Agreement by that individual has been duly authorized by all necessary

corporate action and in accordance with all applicable laws and regulations; and (iii) this Agreement constitutes the valid and enforceable obligation of the party in accordance with the terms of this Agreement.

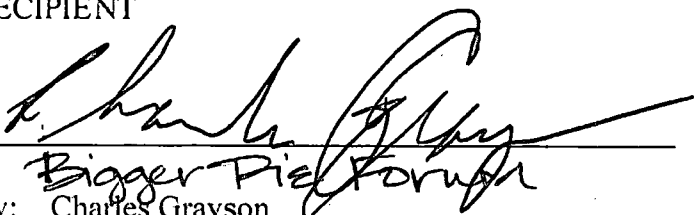
Section 15. This Agreement shall terminate five (5) years following the issuance of a final, non-appealable order of the Commission in the IRP Docket.

IN WITNESS WHEREOF, the parties do hereby execute this Agreement as of the Effective Date above.

MISSISSIPPI POWER COMPANY

By: _____

RECIPIENT

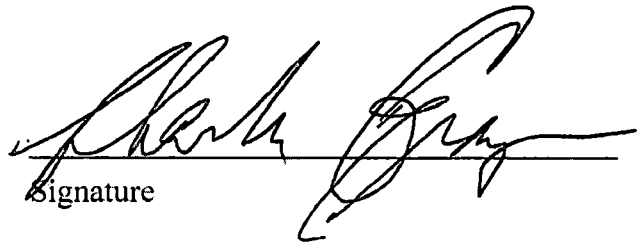


By: Charles Grayson

EXHIBIT "C" FORM JOINDER AGREEMENT

I the undersigned employee/agent of Recipient do hereby represent that I have reviewed the complete terms and conditions of that certain Confidentiality and Nondisclosure Agreement executed in connection with the IRP Docket pending before the Commission dated _January 27, 2021_____ and agree to such terms and conditions and the duties and obligations contains therein as if an original signatory thereto.

AUTHORIZED REPRESENTATIVE



Signature

Charles Grayson

Printed Name