



August 7, 2001

Mr. Kelly N. Saucier
Assistant City Attorney
City of Missouri City
P.O. Box 666
Missouri City, Texas 77459

OR2001-3436

Dear Mr. Saucier:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 150429.

The City of Missouri City (the "city") received a request for "information pertaining to the report by the Texas Public Utilities Commission to [the city] regarding phone lines within [the city] and the companies controlling them." You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you raise and have reviewed the information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception protects information that is made confidential under other statutes. You ask whether the requested information is confidential under section 283.005 of the Local Government Code and section 52.207 of the Utilities Code. Section 283.005 of the Local Government Code provides as follows:

- (a) The commission may collect and compile any information from certificated telecommunications providers and municipalities as is necessary to implement this chapter.
- (b) The commission shall maintain the confidentiality of the information described by Subsection (a) in accordance with Section 52.207, Utilities Code.
- (c) Information provided to municipalities under this chapter shall be governed by confidentiality procedures established by the commission in compliance with Section 52.207, Utilities Code.

Local Gov't Code § 283.005.¹ Section 52.207 of the Utilities Code provides in relevant part:

(a) In conjunction with the commission's authority to collect and compile information, the commission may collect a report from a holder of a:

- (1) certificate of operating authority; or
- (2) service provider certificate of operating authority.

(b) The commission shall maintain the confidentiality of information contained in a report collected under this section that is claimed to be confidential for competitive purposes. The confidential information is exempt from disclosure under Chapter 552, Government Code.

Util. Code § 52.207(a)-(b). You represent to this office that the requested report was provided to the city by the Public Utility Commission of Texas (the "commission."). You state that the commission clearly marked the report as being confidential and has informed the city that it did so due to the proprietary nature of the report. Based on your representations and our review of the information in question, we conclude that the requested report is confidential under section 283.005 of the Local Government Code and section 52.207 of the Utilities Code. Therefore, the city must withhold the report from the requestor under section 552.101 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public

¹The references to "the commission" in section 283.005 mean the Public Utility Commission of Texas. *See id.* § 283.002(3).

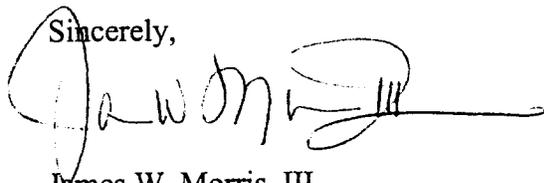
records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'James W. Morris, III', with a long horizontal flourish extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 150429

Enc: Submitted documents

c: Mr. Nick Landoski
Physician Credentialing & Information Service, Inc.
2423 Texas Parkway
Missouri City, Texas 77489
(w/o enclosures)