



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 1, 2010

Mr. Frank J. Garza
Law Offices of Davidson & Troilo
For Brownsville Public Utility Board
7550 West IH-10, Suite 800
San Antonio, Texas 78229-5815

OR2010-01525

Dear Mr. Garza:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 368794.

The Brownsville Public Utility Board (the "BPUB"), which you represent, received a request for any information on a named utility customer, including a social security number or a picture ID. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.133 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.133 of the Government Code excepts from disclosure a public power utility's information related to a competitive matter. Section 552.133(b) provides:

Information or records are excepted from [required public disclosure] if the information or records are reasonably related to a competitive matter, as defined in this section. Excepted information or records include the text of any resolution of the public power utility governing body determining which issues, activities, or matters constitute competitive matters. Information or records of a municipally owned utility that are reasonably related to a competitive matter are not subject to disclosure under this chapter, whether or not, under the Utilities Code, the municipally owned utility has adopted customer choice or serves in a multiply certificated service area. This section does not limit the right of a public power utility governing body to withhold from disclosure information deemed to be within the scope of any other exception provided for in this chapter, subject to the provisions of this chapter.

Gov't Code § 552.133(b). A "competitive matter" is defined as a matter the public power utility governing body in good faith determines by vote to be related to the public power utility's competitive activity, and the release of which would give an advantage to competitors or prospective competitors. *See id.* § 552.133(a)(3). However, section 552.133(a)(3) lists thirteen categories of information that may not be deemed competitive matters. *See id.* The attorney general may conclude that section 552.133 is inapplicable to the requested information only if, based on the information provided, the attorney general determines that the public power utility governing body has not acted in good faith in determining that the issue, matter, or activity is a competitive matter or that the information requested is not reasonably related to a competitive matter. *See id.* § 552.133(c).

You assert that the submitted information is related to "competitive matters," as defined in a resolution adopted by the BPUB, governing body of a public power utility, pursuant to section 552.133. You have submitted a copy of the resolution. We note the resolution defines "competitive customer information" to include customer lists or identification data, consumption data, and account data. The submitted information is not among the thirteen categories of information that section 552.133(a)(3) expressly excludes from the definition of competitive matter. Moreover, we have no evidence that BPUB failed to act in good faith. *See id.* § 552.133(c). Therefore, based on your representations, the resolution, and our review of the information at issue, we conclude that BPUB must withhold the information at issue under section 552.133 of the Government Code. As our ruling is dispositive, we do not address your remaining arguments against disclosure.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/dls

Ref: ID# 368794

Enc. Submitted documents

c: Requestor
(w/o enclosures)