



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 27, 2010

Ms. Gretchen Reuwer  
Communications Manager  
New Braunfels Utilities  
P.O. Box 310289  
New Braunfels, Texas 78131-0289

OR2010-14621

Dear Ms. Reuwer:

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# 396978.

New Braunfels Utilities ("NBU") received a request for the date utilities were turned off at a specified address. You claim 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). Section 552.133(a)(3) defines a "competitive matter" 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. *Id.* § 552.133(a)(3). However, section 552.133(a)(3) also provides thirteen categories of information that may not be deemed competitive matters. The attorney general may conclude section 552.133 is inapplicable to the requested information only if, based on the information provided, the attorney general determines the public power utility governing body has not acted in good faith in determining the issue, matter, or activity is a competitive matter or the information requested is not reasonably related to a competitive matter. *Id.* § 552.133(c).

You state NBU is a municipally owned utility for purposes of section 552.133. You have also submitted a portion of a resolution delineating categories of information determined by the NBU Board of Trustees to be competitive matters for purposes of section 552.133. The list includes competitive customer information, including customer lists or identification data, consumption data, or billing/account data. Based on your assertions, we find the requested information relates to a competitive matter as defined under the resolution. In addition, we have no evidence to conclude NBU failed to act in good faith in adopting this resolution, and the adopted competitive matter in that resolution does not clearly fall within any of the thirteen categories of information made public by section 552.133(a). Thus, we conclude the submitted information is excepted from disclosure under section 552.133 of the Government Code and must be withheld from the requestor on this basis.<sup>1</sup>

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.

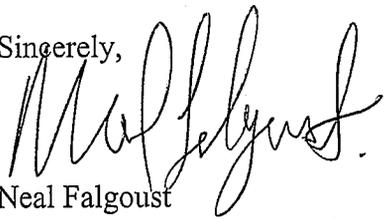
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,

A handwritten signature in black ink, appearing to read "Neal Falgoust". The signature is written in a cursive style with a large initial "N".

Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/eb

Ref: ID# 396978

Enc. Submitted documents

c: Requestor  
(w/o enclosures)