



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 23, 2011

Mr. Frank J. Garza
Law Offices of Davidson & Troilo, P.C.
7550 West Interstate Highway-10, Suite 800
San Antonio, Texas 78229-5815

OR2011-12196

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# 427813.

The Brownsville Public Utilities Board (the "board"), which you represent, received a request for billing information on three warehouses serviced by the board for the past three years, specifically the names and addresses of those that have had a contract with the board. 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 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 disclosure] if the information or records are reasonably related to a competitive matter, as defined in this section. 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.

Act of May 24, 2011, 82nd Leg., R.S., S.B. 1613, § 2 (to be codified as an amendment to Gov't Code § 552.133(b)). Section 552.133(a-1) defines a "competitive matter" as a utility-related matter that is related to the public power utility's competitive activity, including commercial information, and would, if disclosed, give advantage to competitors

or prospective competitors. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1613, § 2 (to be codified as an amendment to Gov't Code § 552.133(a-1)). The definition of competitive matter includes information reasonably related to customer billing, contract, and usage information. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1613, § 2 (to be codified as an amendment to Gov't Code § 552.133(a-1)(1)(F)). However, section 552.133(a-1)(2) also provides fifteen categories of information that may not be deemed competitive matters.

You inform us that the board is a public power utility for purposes of section 552.133. You further inform us that the information at issue pertains to the board's customer billing information. The information at issue is not among the fifteen categories of information section 552.133(a-1)(2) expressly excludes from the definition of a "competitive matter". Based on our review of your arguments and the submitted information, we find that the submitted customer billing information relates to a competitive matter as defined under section 552.133(a-1). Thus, we conclude that 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. As our ruling is dispositive, we do not address your remaining argument 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,



Kirsten Brew
Assistant Attorney General
Open Records Division

KB/em

Ref: ID# 427813

Enc. Submitted documents

c: Requestor
(w/o enclosures)