



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 19, 2011

Ms. Peggy Scheffler
Records Management Coordinator
Bexar Metropolitan Water District
P.O. Box 245994
San Antonio, Texas 78224-5994

OR2011-15298

Dear Ms. Scheffler:

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# 433564.

The Bexar Metropolitan Water District (the "district") received a request for a list of the top one hundred "residential and commercial customers by volume for the July billing cycle," including the amount of water used by each customer. You indicate you have released some of the responsive information. You claim that the remaining requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments submitted by a representative for the requestor. *See* Gov't Code § 552.304 (interested third party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information protected by other statutes, such as section 182.052 of the Utilities Code, which provides in relevant part:

- (a) Except as provided by Section 182.054, a government-operated utility may not disclose personal information in a customer's account record, or any information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage, if the customer

requests that the government-operated utility keep the information confidential. However, a government-operated utility may disclose information related to the customer's volume or units of utility usage or amounts billed to or collected from the individual for utility usage if the primary source of water for such utility was a sole-source designated aquifer.

(b) A customer may request confidentiality by delivering to the government-operated utility an appropriately marked form provided under Subsection (c)(3) or any other written request for confidentiality.

Util. Code § 182.052(a)-(b). Water service is included in the scope of utility services covered by section 182.052. *Id.* § 182.051(3). "Personal information" under section 182.052(a) includes an individual's address, telephone number, or social security number, but does not include the individual's name. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). A customer's request for confidentiality must precede the utility's receipt of the request for information. ORD 625 at 6. Additionally, because section 182.052 is intended to protect the safety and privacy of individual customers, this statute is applicable to only information pertaining to natural persons, and does not protect information relating to business, governmental, and other artificial entities. *See id.* at 4-5 (in context of section 182.051(4) of the Utilities Code, "individual" means only natural persons and does not include artificial entities).

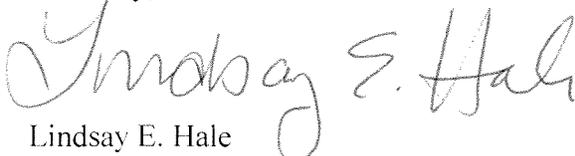
You contend the submitted information is subject to section 182.052. We note some of the information pertains to businesses or other artificial entities, and not natural persons. As such, the information pertaining to businesses or other artificial entities is not information made confidential by section 182.052, and the district may not withhold such information under section 552.101 of the Government Code on this basis. As to the information pertaining to natural persons, you do not inform us whether the individuals whose information is at issue timely requested confidentiality under section 182.052. We are also unable to determine whether the primary source of water for the district's utility is a sole-source designated aquifer. As such, we rule conditionally. To the extent that the individual customers whose information is at issue did not make written confidentiality requests prior to the district's receipt of this request, the district must release the information of such individual customers. To the extent the individual customers at issue made written requests for confidentiality prior to the district's receipt of this request for information, the district must withhold the addresses and utility usage information under section 552.101 in conjunction with section 182.052 if the primary source of water is not a sole-source designated aquifer. *See* ORD 625 at 7 (character of requested information as public or not public must be determined at time request for information is made). To the extent the primary source of water is a sole-source designated aquifer, then the district has the discretion to release the utility usage information, notwithstanding the customers' requests for confidentiality. Additionally, none of the remaining information constitutes personal information or information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage. Thus, the district may not

withhold any of the remaining information under section 552.101 in conjunction with section 182.052 of the Utilities Code. As you raise no further exceptions to disclosure, we find the district must release the remaining information.

You request that this office issue a previous determination that may be relied upon in future requests for similar information. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination). We decline to issue such a previous determination at this time. Accordingly, 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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/ag

Ref: ID# 433564

Enc. Submitted documents

c: Requestor
(w/o enclosures)