



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 8, 2011

Ms. Zeena Angadicheril
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701

OR2011-16382

Dear Ms. Angadicheril:

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# 435975 (UT OGC# 139538).

The University of Texas at Austin (the "university") received a request for the agreement between the university and Hydro-Québec regarding lithium-ion material technology, including side agreements and financial terms, royalty payments, and any other payments. You inform us that portions of the submitted information have been previously ruled upon by this office. You additionally claim that the submitted information is excepted from disclosure under sections 552.101 and 552.104 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Hydro-Québec, Phostech Lithium Inc., and Sony Corporation. Accordingly, you notified these third parties of the request and of their right to submit arguments to this office as to why their information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). We have received comments from Hydro-Québec and Phostech Lithium Inc. We have

considered the submitted arguments and reviewed the submitted representative sample of information.¹

Initially, we note you have marked some of the submitted information as non-responsive because “the only two parties identified on the face of the request are the [u]niversity and Hydro-Québec.” Upon review of the request, we understand the requestor to be seeking agreements, including side agreements, between the university and Hydro-Québec. Accordingly, we agree the information at issue, which you have marked, is not responsive to the request. This ruling does not address the public availability of non-responsive information, and the university is not required to release non-responsive information in response to this request. However, we note the remaining information consists of agreements between the university, Hydro-Québec, and other third parties. We find this information to be responsive to the instant request for information. Accordingly, we will consider your arguments against disclosure of this information.

We note the remaining information was the subject of two previous requests for information, in response to which this office issued Open Records Letter Numbers 2007-01422 (2007) and 2011-11685 (2011). In those rulings, we concluded the university may withhold the responsive information under section 552.104 of the Government Code. We have no indication the law, facts, and circumstances on which Open Records Letter Numbers 2007-01422 and 2011-11685 were based have changed. Accordingly, we conclude the university may continue to rely on Open Records Letter Numbers 2007-01422 and 2011-11685 as previous determinations and withhold or release any previously ruled upon information in accordance with those rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). As we are able to make this determination, we need not address your remaining arguments against disclosure, or the arguments submitted by Hydro-Québec and Phostech Lithium Inc.

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

¹We assume the “representative sample” of information submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

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,



Sean Opperman
Assistant Attorney General
Open Records Division

SO/dls

Ref: ID# 435975

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Hydro-Québec
c/o Ms. Michelle LeCointe
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Austin, Texas 78701
(Third party w/o enclosures)

Mr. Christian Knobloch
Mr. Christophe Michot
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