



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 22, 2011

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

OR2011-18909

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# 440063.

New Braunfels Utilities ("NBU") received a request for information pertaining to a specified utility account. You claim that the submitted information is excepted from disclosure under section 552.133 of the Government Code. In addition, you state, and provide documentation showing, you have notified an interested third party of the request and of her right to submit arguments to this office as to why the information at issue should not be released.¹ See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exception you claim and reviewed the submitted information.

Section 552.133 of the Government Code excepts from disclosure a public power utility's information that is "reasonably related to a competitive matter." Gov't Code § 552.133(b). The Texas Legislature recently amended section 552.133, which now provides in relevant part:

¹As of the date of this letter, this office has not received correspondence from this individual.

(a) In this section, “public power utility” means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

(a-1) For purposes of this section, “competitive matter” means 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. The term:

(1) means a matter that is reasonably related to the following categories of information:

...

(F) customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies[.]

Id. § 552.133(a)-(a-1). Section 552.133(a-1)(2) provides fifteen categories of information that are not competitive matters. *Id.* § 552.133(a-1)(2).

We understand NBU is a municipally owned utility for purposes of section 552.133. You inform us the NBU Board of Trustees adopted a resolution delineating categories of information determined by to be competitive matters for purposes of section 552.133. You state the list includes competitive customer information, including customer lists or identification data, consumption data, or billing/account data. The information at issue is not among the fifteen categories of information expressly excluded from the definition of “competitive matter” by section 552.133(a-1)(2). 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. 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.

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,

A handwritten signature in black ink, appearing to read "Sarah Casterline", with a long horizontal flourish extending to the right.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/ag

Ref: ID# 440063

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Donna Campbell
1319 Mary's Cove
New Braunfels, Texas 78130
(w/o enclosures)