



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 9, 2012

Mr. Frank J. Garza
Attorney for Brownville Public Utility Board
Davidson & Troilo, PC
7550 West IH-10, Suite 800
San Antonio, Texas 78229-5815

OR2012-02063

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# 444997.

The Brownsville Public Utility Board ("BPUB"), which you represent, received a request for the name of the person who paid the utility bill at a specified address for the previous six months. You claim the requested information is excepted from disclosure under sections 552.101 and 552.133 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note portions of the information you have submitted are not responsive to the instant request, which seeks only the name of the person at issue. This ruling does not address the public availability of non-responsive information, and BPUB is not required to release non-responsive information in response to this request.

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:

- (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 BPUB is a municipally owned utility for purposes of section 552.133. You inform us BPUB adopted a resolution describing categories of information determined to be competitive matters for purposes of section 552.133. You state the list includes competitive customer information, including the identity of BPUB’s customers. 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. Thus, we conclude the requested information is excepted from disclosure under section 552.133 of the Government Code and must be withheld from the requestor on this basis.¹

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

¹Because our ruling is dispositive, we do 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 cursive script that reads "Misty Haberer Barham".

Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/agn

Ref: ID # 444997

Enc. Submitted documents

c: Requestor
(w/o enclosures)