



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 25, 2014

Mr. Todd Kimbrough
General Counsel - LP&L
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79408-2000

OR2014-03467

Dear Mr. Kimbrough:

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# 515189.

The City of Lubbock and its municipally owned electric utility, Lubbock Power & Light, (collectively, the "city") received a request for a specified power purchase agreement, including all amendments, addendums, and riders, for a particular time period. You claim some of the requested information is excepted from disclosure under sections 552.101 and 552.133 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

¹By letter dated January 6, 2014, you state the city has withdrawn its initial claim that the submitted information is excepted from disclosure in its entirety under sections 552.101 and 552.133. You explain Texas Tech University (the "university"), the other party to the agreement, has released a partially redacted copy of the agreement to the requestor. The city now seeks to withhold only a list of utility customers other than the university (the "other utility customers") contained in the agreement.

The city claims the list of other utility customers contained in the submitted agreement is excepted from public disclosure under section 552.133 of the Government Code.² Section 552.133 excepts from disclosure a public power utility's information that is "reasonably related to a competitive matter." Gov't Code § 552.133(b). Section 552.133 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 and analyses and strategies[.]

Id. § 552.133(a), (a-1)(1)(F). Section 552.133(a-1)(2) provides fifteen categories of information that are not competitive matters. *Id.* § 552.133(a-1)(2). You explain the city owns and operates a public power utility subject to section 552.133. You assert the information you seek to withhold pertains to the public power utility's competitive activity, specifically identified by section 552.133(a-1)(1)(F).³ Further, 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). *See id.* Based on your representations and our review, we find the information at issue relates to competitive matters as defined by section 552.133(a-1). Thus, we conclude the city must withhold the list of other utility customers under section 552.133 of the Government Code. The city must release the remaining submitted information to the requestor.⁴

²We note you have not labeled the information at issue. *See* Gov't Code § 552.301(e)(2) (governmental body must label copy of information at issue to indicate which exceptions apply to which parts of the information). We understand the city seeks to withhold Appendices 5.A and 5.B.

³Although the city raises section 552.133(a)(a-1)(F) of the Government Code, we understand the city to assert section 552.133(a-1)(1)(F).

⁴As our ruling is dispositive, we need 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 515189

Enc. Submitted documents

c: Requestor
(w/o enclosures)