



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 7, 2014

Mr. Thomas K. Anson
Counsel for the City of Robstown Utility Systems
Strasburger & Price, L.L.P.
720 Brazos Street, Suite 700
Austin, Texas 78701

OR2014-05694

Dear Mr. Anson:

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# 519073.

The City of Robstown Utility Systems ("CORUS"), which you represent, received a request for the four most recent annual budgets, the four most recent financial audit reports, and a copy of the energy procurement contract between CORUS and AEP Energy Partners, Inc. ("AEPEP"). You state that CORUS will release the annual budgets and audit reports, along with portions of the contract at issue to the requestor. However, you claim the remaining requested information is excepted from disclosure under section 552.133 of the Government Code. Additionally, you state the information at issue may implicate the interests of AEPEP. Accordingly, you notified AEPEP of the request for information and of its right to submit arguments stating why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from AEPEP. We have considered the submitted arguments 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). 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:

...

(B) bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;

(C) effective fuel and purchased power agreements and fuel transportation arrangements and contracts[.]

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

You state that CORUS provides electric and gas utility services and therefore is a public power utility subject to section 552.133. You assert the information in Attachment B pertains to CORUS's competitive activity because it includes pricing information for purchased power subject to section 552.133(a-1)(1)(B). You also assert the information in Attachment B constitutes a purchased power agreement subject to section 552.133(a-1)(1)(C). You explain release of this information would give competitors an advantage. You state, and we agree, 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 representations and our review, we find the submitted information relates to competitive matters as defined by section 552.133(a-1). Thus, we conclude CORUS must withhold the submitted information under section 552.133 of the Government Code.¹

¹As our ruling is dispositive, we need not address AEPEP's arguments 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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/dls

Ref: ID# 519073

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Alyssa J. Bowerman
Attorney
American Electric Power
155 West Nationwide Boulevard, Fifth Floor
Columbus, Ohio 43215
(w/o enclosures)