



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 26, 2014

Ms. Ana Vieira
Attorney and Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701

OR2014-17106

Dear Ms. Vieira:

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#537493 (UT OGC No. 157061).

The University of Texas at El Paso (the "university") received a request for a copy of the university's electricity and natural gas contracts and the total amounts billed to the university for natural gas and electricity in 2013. You state you will redact information pursuant to section 552.136(c) of the Government Code.¹ Although you take no position with respect to the remaining requested information, you state you notified El Paso Electric Company and Constellation NewEnergy - Gas Division L.L.C. of the request for information and of their right to submit arguments to this office as to why the submitted 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 reviewed the submitted information.

¹Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, neither El Paso Electric Company nor Constellation NewEnergy - Gas Division L.L.C. has submitted to this office any reasons explaining why the submitted information should not be released. Thus, we have no basis for concluding any portion of the submitted information constitutes proprietary information of the third parties, and the university may not withhold any portion of the submitted information on that basis. *See* Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. As no exceptions to disclosure have been raised, the submitted information must be released.

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,



Rustam Abedinzadeh
Assistant Attorney General
Open Records Division

RA/dls

Ref: ID# 537493

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Eduardo Rodriguez
El Paso Electric Company
123 West Mills
El Paso, Texas 79901
(w/o enclosures)

Constellation NewEnergy - Gas Division, LLC
Attn: Contract Administration
9960 Corporate Campus Drive, Suite 200
Louisville, Kentucky 40223
(w/o enclosures)