



GUADALUPE-BLANCO RIVER AUTHORITY

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Opinion Committee

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The Honorable Dan Morales
Attorney General of Texas
209 West 14th Street, Suite 700
Austin, Texas 78711-2548

RO-562

Attention: Opinion Committee

Re: Request for decision from the Attorney General regarding the disclosure of attorney and consultant fee invoices

Dear Attorney General Morales:

On March 8, 1993, Guadalupe-Blanco River Authority ("GBRA") received a request from Guadalupe Valley Electric Cooperative, Inc. ("GVEC") for disclosure of certain attorney and consultant fee invoices pursuant to Tex. Rev. Civ. Stat. Ann. art. 6252-17a (Vernon Supp. 1993) (the "Open Records Act"). A copy of GVEC's Open Records Act request is attached as Exhibit "A" hereto. For the reasons set forth below, it is the position of GBRA that the requested information is excepted from disclosure pursuant to Sections 3(a)(1), 3(a)(3) and 3(a)(7) of the Open Records Act. Pursuant to Section 7 of the Open Records Act, GBRA hereby formally requests a determination regarding whether the requested information is exempt from disclosure under the Open Records Act.

GBRA is currently involved in a contested rate case before the Public Utility Commission of Texas ("PUC") regarding the price of the wholesale electricity that it sells to GVEC.^{1/} As part of its rate request in Docket No. 11266, GBRA seeks reimbursement of its rate case expenses incurred through August 31, 1992, and has provided detailed

^{1/} Docket No. 11266, *Application of Guadalupe-Blanco River Authority for a Rate Increase for the Guadalupe Valley Hydro System*, before the Public Utility Commission of Texas.

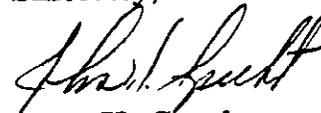
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information relating to that period. The rate case expenses incurred after August 31, 1992 are not included in GBRA's rate request in Docket No. 11266, and those expenses have not been considered by the PUC in this docket. During the course of this ongoing litigation, GVEC provided a discovery request to GBRA (GVEC Request for Information No. R1.4) seeking production of all of the rate case expenses incurred by GBRA in this docket, including those incurred after August 31, 1992. GBRA objected to producing the requested information for periods after August 31, 1992. In Examiner's Order No. 14 in this docket, the Commission hearings examiner assigned to this case sustained GBRA's objection to producing the requested rate case expense information for all periods after August 31, 1992. Attached as Exhibit "B" hereto is a copy of Examiner's Order No. 14 sustaining GBRA's objection to GVEC RFI R1.4 with regard to rate case expenses incurred after August 31, 1992, which were not considered in this docket. In an attempt to circumvent the Commission hearings examiner's discovery ruling, GVEC now seeks to obtain the same information from GBRA by means of an Open Records Act request.

Attached as Exhibit "C" for your review are copies of the attorney fee invoices responsive to GVEC's Open Records Act request, for periods after August 31, 1992. Also attached as Exhibit "D" are copies of the consultant fee invoices responsive to the request, for periods after August 31, 1992. It is GBRA's position that the requested information reveals attorney work product and contains information protected by the attorney-client privilege. The detailed information contained in these invoices would disclose GBRA's ongoing trial strategy and would give GVEC an unfair advantage in this continuing litigation not intended by the Open Records Act. In light of the Commission hearings examiner's order protecting the discovery of the requested information and the nature of the ongoing litigation, GBRA requests a determination that the requested information should be withheld from public inspection.

Thank you for your consideration of this request. Please forward all correspondence related to this matter to Mr. Michael J. Tomsu, Vinson & Elkins, L.L.P., 2800 One American Center, 600 Congress Avenue, Austin, Texas 78701-3200. ←

Sincerely,



John H. Specht
General Manager

cc: Michael J. Tomsu
Marcus W. Pridgeon