



May 12, 1999

Mr. W. Lane Lanford  
Executive Director  
Public Utility Commission of Texas  
P.O. Box 13326  
Austin, Texas 78711-3326

OR99-1287

Dear Mr. Lanford:

You have asked whether certain information is subject to required public disclosure under the Texas Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 124075.

The Public Utility Commission of Texas (the "commission") received the following request for

electronic files identified or known as 'active server pages' (.asp), which are used in the processing of requests for filing information on the Public Utility Commission's (PUC) web site using the PUC Interchange.

In response to the request, you submit to this office for review a representative sample of the information at issue. You assert that the requested information is excepted from required public disclosure by sections 552.101 and 552.110 of the Government Code.<sup>1</sup> We have considered the exceptions and arguments you raise, and have reviewed the information submitted.

We first consider your assertion that the requested information is excepted from disclosure, since the information constitutes "program files identified or known as 'active server

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<sup>1</sup>Since the property and privacy rights of third parties *may* be implicated by the release of the requested information, this office notified Price Imaging Corp. ("PIC") about the request for information. *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 that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Public Information Act in certain circumstances). Since we have determined that the requested information is not subject to the act we need not consider PIC's failure to timely respond to our notification nor determine whether they met their burden under section 552.110.

pages.”<sup>2</sup> See Open Records Decision No. 581 (1990). You explain that “.asp” files are “the source code to the PUCT’s Interchange System, a service that provides public information by remote electronic access via the Internet.” We have reviewed the representative sample of the responsive information, and agree that it constitutes computer source code.

In Open Records Decision No. 581 (1990), this office determined that certain computer-related information, such as *source codes* and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. You assert that the requested .asp files “are used to interface with the PUCT’s database . . . [and] [the requestor] seeks the PUCT’s program used to retrieve and present information to the user through the Interchange System, not the information held in the database.” You further explain that since “the .asp files in question are tools . . . for the maintenance, manipulation, and protection of public property,” they are not subject to the act. We agree. Based on our review of the information and your arguments, we conclude that the requested information is not subject to the act, and the commission therefore need not release this information.

As we resolve that the requested information is not subject to the act, we need not address your other arguments at this time.<sup>3</sup> We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive, flowing style with a large initial "S".

Sam Haddad  
Assistant Attorney General  
Open Records Division

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<sup>2</sup>You also express concern that “access to all [the commission’s] .asp [computer code] could create a security breach for the PUC electronic filing, data storage and retrieval system.” See *generally* Open Records Decision No. 571 (1990) (Public Information Act does not give members of public right to use governmental body’s computer to inspect records as alternative to receiving computer printout).

<sup>3</sup>We assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

SH/nc

Ref: ID# 124432

Encl: Submitted documents

cc: Mr. Steven P. Houser, Vice President  
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