



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 11, 2009

Mr. Matthew L. Wade
General Counsel
Lubbock Power & Light
P.O. Box 2000
Lubbock, Texas 79457

OR2009-11181

Dear Mr. Wade:

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# 351727.

The City of Lubbock (the "city") received a request for all expenditures made to outside legal firms during a specified time period. You state the city has released some of the requested information. You claim that the submitted information is excepted from disclosure under section 552.133 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.133 excepts from disclosure a public power utility's information related to a competitive matter. Section 552.133(b) provides:

Information or records are excepted from [required public disclosure] if the information or records are reasonably related to a competitive matter, as defined in this section. Excepted information or records include the text of any resolution of the public power utility governing body determining which issues, activities, or matters constitute competitive matters. Information or records of a municipally owned utility that are reasonably related to a competitive matter are not subject to disclosure under this chapter, whether or not, under the Utilities Code, the municipally owned utility has adopted customer choice or serves in a multiply certificated service area. This section does not limit the right of a public power utility governing body to withhold from disclosure information deemed to be within the scope of any other exception provided for in this chapter, subject to the provisions of this chapter.

Gov't Code § 552.133(b). Section 552.133(a)(3) defines a "competitive matter" as a matter the public power utility governing body in good faith determines by vote to be related to the public power utility's competitive activity, and the release of which would give an advantage to competitors or prospective competitors. *Id.* § 552.133(a)(3). However, section 552.133(a)(3) also provides thirteen categories of information that may not be deemed competitive matters. The attorney general may conclude section 552.133 is inapplicable to the requested information only if, based on the information provided, the attorney general determines the public power utility governing body has not acted in good faith in determining that the issue, matter, or activity is a competitive matter or that the information requested is not reasonably related to a competitive matter. *Id.* § 552.133(c).

The city informs us that it owns and operates a public power utility for purposes of section 552.133. The city has also submitted a copy of a resolution delineating categories of information that have been determined by the city to be competitive matters for purposes of section 552.133. Based on our review of your arguments and the resolution, we find that the submitted information relates to a competitive matter as defined under the resolution. In addition, we have no evidence to conclude that the city failed to act in good faith in adopting this resolution, and the adopted competitive matter in that resolution does not clearly fall within any of the thirteen categories of information made public by section 552.133(a). Thus, we conclude that the submitted information is excepted from disclosure under section 552.133 of the Government Code and must be withheld from the requestor on this basis.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 351727

Enc. Submitted documents

c: Requestor
(w/o enclosures)