



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 19, 2010

Mr. Michael S. Copeland
Utility Attorney
City of Denton
215 East McKinney Street
Denton, Texas 76201

OR2010-07165

Dear Mr. Copeland:

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# 379887.

The City of Denton (the "city") received a request for the departments, titles, and salaries of city employees making \$56,000 or more per year. You state that, with the exception of information pertaining to the city's electric department, the requested information has been released. You claim the submitted documents are 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 of the Government Code 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.

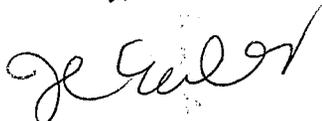
Id. § 552.133(b). Section 552.133(a)(3) defines a “competitive matter” as a matter the public power utility governing body in good faith determines by vote to be related to the public power utility’s competitive activity, and the release of which would give an advantage to competitors or prospective competitors. *See 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 that 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).

You inform us, and provide documentation showing, that the city council, as governing body of a public power utility, adopted Resolution No. R 2000-15 pursuant to section 552.133 in which the city council defined the information considered to be within the scope of the term “competitive matter.” You assert the salary information of Denton Municipal Electric employees is a competitive matter under the “personnel compensation” provision of the resolution. You have provided a copy of the resolution for our review. Salary information is not clearly among the types of information that section 552.133(a)(3) expressly excludes from the definition of competitive matter. Furthermore, we have no evidence that the city council failed to act in good faith in adopting its resolution under section 552.133. Therefore, based on the city’s representations and our review of the resolution and the information at issue, we conclude the submitted documents are excepted from disclosure under section 552.133 of the Government Code.

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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 379887

Enc. Submitted documents

c: Requestor
(w/o enclosures)