



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 24, 2010

Mr. Timothy E. McCoy  
Senior Counsel  
The Williams Companies, Inc.  
P.O. Box 2400 MD 47-9  
Tulsa, OK 74102-2400

OR2010-07527

Dear Mr. McCoy:

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# 380355.

Mockingbird Pipeline, L.P. and its General Partner, Williams Production Company, L.L.C. (collectively "Mockingbird"), received two requests from two requestors, the first for ten categories of information concerning Mockingbird from January 1, 2008 to the present and the second for three categories of information concerning Mockingbird from June 1, 2007 to the present. You claim the requested information is not subject to the Act. We have considered your arguments. We have also received and considered comments from one of the requestors. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

Section 552.0037 of the Government Code addresses the applicability of the Act when an entity that is not a governmental body possesses eminent domain powers:

Notwithstanding any other law, information collected, assembled, or maintained by an entity that is not a governmental body but is authorized by law to take private property through the use of eminent domain is subject to this chapter in the same manner as information collected, assembled, or maintained by a governmental body, but only if the information is related to the taking of private property by the entity through the use of eminent domain.

Gov't Code § 552.0037. Thus, under section 552.0037, information related to the taking of private property through the use of eminent domain by an entity that is not a governmental body is generally subject to the Act. *See* Attorney General Opinion GA-0517 at 3 (2007). You acknowledge that Mockingbird, a non-governmental body, is authorized by law to take private property through the use of eminent domain. *See* Util. Code § 161.125 (electric cooperative may exercise power of eminent domain to acquire private property for public use). However, you claim Mockingbird is excepted from the requirements of section 552.0037 by section 21.024(i) of the Property Code.

Section 21.024(i) provides “[s]ection 552.0037, Government Code, does not apply in relation to those entities described in Subsection (a).” Prop. Code § 21.024(i). The entities described in subsection (a) are “[a] utility, a common carrier, or a transporter of oil, gas, or the products of oil or gas[.]” *Id.* § 21.024(a). Thus, under section 21.024(i), section 552.0037 does not apply to a utility, a common carrier, and a transporter of oil, gas, or the products of oil or gas. *See id.* § 21.024(a), (i). We note chapter 21 of the Property Code does not define the term, “utility.”

You state Mockingbird is a gas utility and common carrier that transports natural gas by pipeline. You also state that the Railroad Commission of Texas recognizes Mockingbird as a gas utility and issues permits to Mockingbird for it to operate its pipeline in Texas under section 121.001 of the Utility Code. Section 121.001 states that, for the purposes of chapter 121, which concerns the regulation of gas pipelines, “gas utility” means a person who owns, manages, operates, leases, or controls in this state property or equipment or a pipeline, facility, franchise, license, or permit for a business that, among other things, owns, operates, or manages a pipeline that is for transporting or carrying natural gas, whether for public hire or not, and for which the right-of-way has been or is hereafter acquired by exercising the right of eminent domain. *See* Util. Code § 121.001(a)(2); *see also id.* § 121.001(b) (defining “person” for purposes of Subchapter A of Chapter 121). Accordingly, based on your representations, we find that, pursuant to section 21.024(i) of the Property Code, section 552.0037 of the Government Code does not apply to Mockingbird. We thus conclude the Act does not require Mockingbird to release the requested information in response to a request made under the Act.<sup>1</sup>

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.

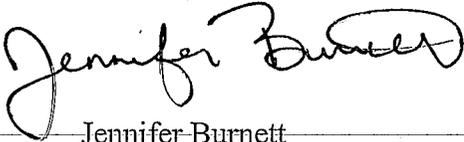
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and

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<sup>1</sup>As we are able to make this determination, we do not address your argument that section 552.0037 of the Government Code does not require release of the requested information in this instance because the information requested is not related to the taking of private property through the use of eminent domain.

responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](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,



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Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 380355

Enc. Submitted documents

c: Requestors  
(w/o enclosures)