



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 4, 2011

Mr. Mark G. Mann  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR2011-04527

Dear Mr. Mann:

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# 413407 (GCA 11-0016).

The City of Garland (the "city") received a request for the names, titles, and salaries of city employees with a salary of above \$100,000 per year, or in the alternative, the names and salaries of specified city officials and directors. You claim some of 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.

You seek to withhold the job titles and salaries of certain city electric department employees under section 552.133 of the Government Code. 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 the requirements of Section 552.021 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 utility-related 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).

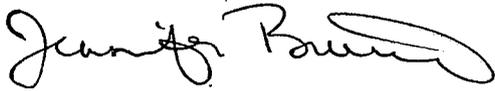
You inform us the city is a home-rule municipality that owns and operates its own electric utility, and the Garland City Council (the "council") is the utility's governing body for purposes of section 552.133. You further explain, and provide documentation showing, that on July 20, 2004, the council, as governing body of the utility, approved Resolution No. 9160, in which the council defined the information to be within the scope of the term "competitive matter" for purposes of section 552.133. The information you seek to withhold is not among the thirteen categories of information that section 552.133(a)(3) expressly excludes from the definition of competitive matter. Furthermore, we have no evidence that the city failed to act in good faith. *See id.* § 552.133(c). Thus, we determine the information you have marked relates to a competitive matter in accordance with the council's resolution and must be withheld under section 552.133 of the Government Code. As you raise no further exceptions to disclosure, the remaining information must be released.

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](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,

A handwritten signature in cursive script, appearing to read "Jennifer Burnett".

Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 413407

Enc. Submitted documents

c: Requestor  
(w/o enclosures)