



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 23, 2012

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

OR2012-01064

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# 443016.

Lubbock Power & Light ("LP&L") received a request for manufacturer information concerning bid #7149-11-ELD. Although you take no position with respect to the public availability of the requested information, you state the proprietary interests of certain third parties might be implicated. Accordingly, you notified TEC-US&S ("TEC"), H.D. Supply Utilities ("H.D."), Wesco Distribution ("Wesco"), Stuart C. Irby Co. ("Irby"), and Border States Electric ("Border") of the request and of their right to submit arguments to this office explaining why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have reviewed the submitted information.

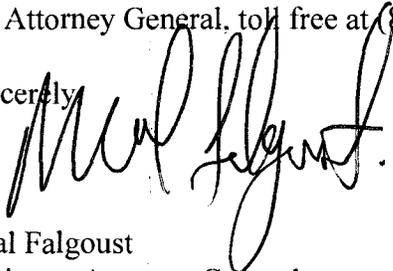
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from TEC, H.D., Wesco, Irby, or Border. Thus, none of these third parties has demonstrated that it has a protected proprietary interest in any of

the submitted information. *See id.* § 552.110(a)–(b); Open Records Decision Nos. 661 at 5–6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, LP&L may not withhold the submitted information on the basis of any proprietary interests these parties may have in the information. As you raise no exceptions to disclosure, the submitted 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,



Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/agn

Ref: ID# 443016

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Dave Dewbre  
H.D. Supply Utilities  
502 East 46<sup>th</sup> Street  
Lubbock, Texas 79404  
(w/o enclosures)

Mr. Robbie Filthen  
Wesco Distribution  
513 North Nelson  
Amarillo, Texas 79107  
(w/o enclosures)

Mr. Jon Renken  
Border States  
700 South Adams  
Amarillo, Texas 79101  
(w/o enclosures)

Ms. Susan Seefeldt  
Stuart C. Irby  
7125 Belton Street  
Fort Worth, Texas 76118  
(w/o enclosures)