



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 15, 2014

Mr. Frank J. Garza
Davidson, Troilo, Ream & Garza, P.C.
7550 West Interstate 10, Suite 800
San Antonio, Texas 78229

OR2014-00907

Dear Mr. Garza:

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# 511580.

The Brownsville Public Utilities Board (the "board"), which you represent, received a request for the electric consumption information for a specified address during 2012. You claim the requested information is excepted from disclosure under section 552.133 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

¹Although you also raise section 552.101 of the Government Code, you have provided no arguments in support of this exception. Accordingly, we assume you no longer assert section 552.101. *See* Gov't Code §§ 552.301, 302. We note section 552.101 does not encompass other exceptions to disclosure under the Act.

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.133 of the Government Code exempts from disclosure a public power utility's information that is "reasonably related to a competitive matter." Gov't Code § 552.133(b). Section 552.133 provides in relevant part:

(a) In this section, "public power utility" means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

(a-1) For purposes of this section, "competitive matter" means a utility-related matter that is related to the public power utility's competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors. The term:

(1) means a matter that is reasonably related to the following categories of information:

...

(F) customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies[.]

Id. § 552.133(a), (a-1)(1)(F). Section 552.133(a-1)(2) provides fifteen categories of information that are not competitive matters. *Id.* § 552.133(a-1)(2).

You state the board is a public power utility subject to section 552.133. You assert the requested information pertains to the public power utility's "competitive customer information." We understand you to assert the requested information pertains to the board's competitive activity, specifically identified by subsection 552.133(a-1)(1)(F). Further, the information at issue is not among the fifteen categories of information expressly excluded from the definition of "competitive matter" by section 552.133(a-1)(2). Based on your representations and our review, we find the responsive information relates to competitive matters as defined by section 552.133(a-1). Thus, we conclude the board must withhold the requested information 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Cindy Nettles". The signature is fluid and cursive, with the first name "Cindy" being more prominent than the last name "Nettles".

Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 511580

Enc. Submitted documents

c: Requestor
(w/o enclosures)