



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 11, 2014

Ms. Amy L. Sims
Assistant City Attorney
Office of the City Attorney
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR2014-16022

Dear Ms. Sims:

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# 535843.

The City of Lubbock (the "city") received a request for a specified contract between Lubbock Power and Light ("LP&L") and a specified consulting firm. You claim the submitted 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 information.

¹Although you also raise section 552.101 for the submitted information, you provide no arguments explaining how this exception is applicable to the information at issue. Therefore, we assume you no longer assert this exception. See Gov't Code §§ 552.301, .302.

Section 552.133 of the Government Code exempts from disclosure a public power utility's information that is "reasonably related to a competitive matter."² Gov't Code § 552.133(b). Section 552.133 provides in relevant part:

(a) In this section, "public power utility" means an entity⁴ 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:

(A) generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;

(B) bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;

(C) effective fuel and purchased power agreements and fuel transportation arrangements and contracts[.]

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

You state LP&L is a city-owned utility. You state some of the submitted information pertains to the assessment and review of current and future electric generation for LP&L, analysis of the fuel supply system and related designs, and exploration of options for future generation. The submitted documentation further indicates the city's Electric Utility Board has adopted a resolution that identifies the information at issue as relating to "competitive

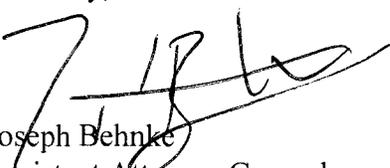
²We note the submitted information falls within the scope of section 552.022(a)(3) of the Government Code, which requires disclosure of "information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]" unless the information is expressly confidential under other law. Gov't Code § 552.022(a)(3). Section 552.133(c) provides, however, that "[t]he requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under [section 552.133]." *Id.* § 552.133(c).

activity” for the purposes of section 552.133. Additionally, upon review, we conclude the information at issue is not clearly 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 information you have highlighted relates to competitive matters as defined by section 552.133(a-1). Thus, we conclude the city must withhold the information you have highlighted 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.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,


Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 535843

Enc. Submitted documents

c: Requestor
(w/o enclosures)