



February 9, 2015

Mr. Frank J. Garza  
For Brownsville Public Utility Board  
Davidson, Troilo, Ream & Garza, P.C.  
7550 West Interstate 10, Suite 800  
San Antonio, Texas 78229-5815

OR2015-02511

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# 553030.

The Brownsville Public Utility Board (the "board"), which you represent, received a request for information pertaining to certain billing information for a specified property. You indicate the board does not possess some of the requested information.<sup>1</sup> You claim some of the submitted information is excepted from disclosure under section 552.133 of the Government Code.<sup>2</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.133 of the Government Code excepts 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:

---

<sup>1</sup>The Act does not require a governmental body to release information that did not exist when it received a request, create responsive information, or obtain information that is not held by the governmental body or on its behalf. See *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>Although you raise section 552.101 of the Government Code in conjunction with section 552.133 of the Government Code, we note section 552.101 does not encompass other exceptions in the Act.

(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 some of the submitted information pertains to the public power utility’s “competitive customer information.” We understand you to assert the information at issue 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 some of the information at issue relates to competitive matters as defined by section 552.133(a-1). However, we find the remaining information at issue pertains to water, wastewater, and trash service. This information is not subject to section 552.133 and the board may not withhold it in that basis. Thus, we conclude the board must withhold the information we have marked under section 552.133.

We note a portion of the remaining information is subject to section 552.136 of the Government Code.<sup>3</sup> Section 552.136 states, “Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b); *see also id.* § 552.136(a) (defining “access device”). Upon review, we conclude the board must withhold the account number we have marked under section 552.136.

---

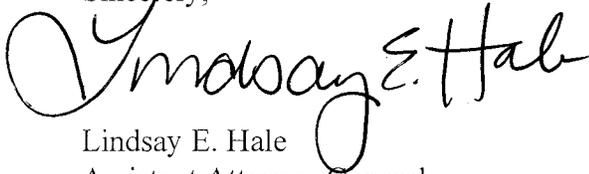
<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the board must withhold the information we have marked under section 552.133 of the Government Code and the account number we have marked under section 552.136 of the Government Code. The board must release the remaining information.

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](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 that reads "Lindsay E. Hale". The signature is written in a cursive, flowing style.

Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/akg

Ref: ID# 553030

Enc. Submitted documents

c: Requestor  
(w/o enclosures)