



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 13, 2015

Ms. Lindsey F. Bartula  
Assistant General Counsel  
Office of General Counsel  
University of North Texas System  
1155 Union Circle, #310907  
Denton, Texas 76203

OR2015-16731

Dear Ms. Batula:

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# 575491 (UNT PIR No. 003284).

The University of North Texas System (the "system") received a request for the purchase power agreement between the system and the City of Denton (the "city").<sup>1</sup> The system claims the submitted information is excepted from disclosure under section 552.133 of the Government Code. Additionally, the system states release of this information may implicate the proprietary interests of the city and Denton Municipal Electric ("DME"). Accordingly, the system states, and provides documentation showing, it notified the third parties of the request for information and of their rights to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have received comments from the city. We have considered the submitted arguments and reviewed the submitted information.

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<sup>1</sup>The system notes it received clarification of the request. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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:

...

(C) effective fuel and purchased power agreements and fuel transportation arrangements and contracts;

...

(E) plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certified retail provider; and

(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)(C), (E), (F). Section 552.133(a-1)(2) provides fifteen categories of information that are not competitive matters. *Id.* § 552.133(a-1)(2). The city informs us it owns and operates a public power utility, DME. The city asserts the submitted information pertains to DME's competitive activity, specifically identified by subsections 552.133(a-1)(1)(C), (E), and (F). The city further states the submitted information 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 the city's representations and our review, we find the submitted information relates to competitive

matters as defined by section 552.133(a-1). Accordingly, we conclude the system must withhold the submitted information under section 552.133 of the Government Code.<sup>2</sup>

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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/akg

Ref: ID# 575491

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Michael Copeland  
Deputy City Attorney  
City of Denton  
215 East McKinney  
Denton, Texas 76201  
(w/o enclosures)

Mr. Brent Heath  
Denton Municipal Electric  
1685 Spencer Road  
Denton, Texas 76205  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.