



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 21, 2015

Mr. Michael S. Copeland
Deputy City Attorney
City of Denton
City Attorney's Office
215 East McKinney
Denton, Texas 76201

OR2015-22081

Dear Mr. Copeland:

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# 583988.

The City of Denton (the "city") received a request for information pertaining to non-operating expenditures found in the 2015-2016 Electric Fund – Resources and Expenditures Summary. 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 representative sample of information.²

¹Although you also raise section 552.101 of the Government Code in conjunction with section 552.133 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). Accordingly, we do not address your argument under section 552.101.

²We assume 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 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:

...

(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)(E), (F). Section 552.133(a-1)(2) provides fifteen categories of information that are not competitive matters. *Id.* § 552.133(a-1)(2). You inform us the city owns and operates a public utility, Denton Municipal Electric ("DME"). You assert the submitted information pertains to DME's competitive activity, specifically identified by subsections 552.133(a-1)(1)(E) and (F). You also state 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 submitted information relates to competitive matters as defined by section 552.133(a-1). Thus, we conclude the city must withhold the submitted 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 'N. A. Ybarra', written in a cursive style.

Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/cbz

Ref: ID# 583988

Enc. Submitted documents

c: Requestor
(w/o enclosures)