



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 24, 2016

Mr. Frank J. Garza  
Counsel to Brownsville Public Utilities Board  
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San Antonio, Texas 78216-5511

OR2016-06756

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# 602854.

The Brownsville Public Utilities Board (the "board"), which you represent, received a request for invoices pertaining to a specified account during a specified period of time.<sup>1</sup> The board claims the requested information is excepted from disclosure under section 552.133 of the Government Code. We have considered the claimed exception 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:

(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.

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<sup>1</sup>The board sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

(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). The board states it is a public power utility subject to section 552.133. It asserts the submitted information pertains to the public power utility’s “competitive customer information.” We understand the board to also assert the information at issue pertains to its 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 these representations and our review, we find some of the information at issue, relates to competitive matters as defined by section 552.133(a-1). Therefore, the board must withhold this information, a representative sample of which we have marked, under section 552.133. 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 on that basis.

We note a portion of the remaining information is subject to section 552.136 of the Government Code.<sup>2</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 numbers in the remaining information under section 552.136.

In summary, the board must withhold the submitted information pertaining to competitive matters as defined by section 552.133(a-1), a representative sample of which we have marked, under section 552.133 of the Government Code. The board must also withhold the account numbers in the remaining information under section 552.136 of the Government Code. The board must release the remaining information.

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/sdk

Ref: ID# 602854

Enc. Submitted documents

c: Requestor  
(w/o enclosures)