



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 25, 2017

Ms. Linda Pecina  
City Secretary  
City of Hearne  
209 Cedar Street  
Hearne, Texas 77859

OR2017-11467

Dear Ms. Pecina:

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# 659429.

The City of Hearne (the "city") received a request for the start date and end date of utility services for a specified address and, if the services at issue were cut off, the reason for the cutoff. We understand the city does not have any information responsive to a portion of the request.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note most of the submitted information is not responsive to the request because it does not consist of the requested start date or end date of utility services for a specified address or, if the services at issue were cut off, the reason for the cutoff. The city need not release nonresponsive information in response to this request, and this ruling will not address that information.

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<sup>1</sup>We note the Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Attorney General Opinion H-90 (1973); Open Records Decision Nos. 452 at 2-3 (1986), 342 at 3 (1982), 87 (1975); *see also* Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 416 at 5 (1984).

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes. Section 182.052 of the Utilities Code provides, in relevant part:

(a) Except as provided by Section 182.054, a government-operated utility may not disclose personal information in a customer’s account record, or any information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage, if the customer requests that the government-operated utility keep the information confidential. However, a government-operated utility may disclose information related to the customer’s volume or units of utility usage or amounts billed to or collected from the individual for utility usage if the primary source of water for such utility was a sole-source designated aquifer.

(b) A customer may request confidentiality by delivering to the government-operated utility an appropriately marked form provided under Subsection (c)(3) or any other written request for confidentiality.

Util. Code § 182.052(a)-(b). “Personal information” under section 182.052(a) means an individual’s address, telephone number, or social security number, but does not include the individual’s name. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). Water service is included in the scope of utility services covered by section 182.052. Util. Code § 182.051(3).

You seek to withhold the responsive information, which consists of the start date and end date of utility services for the specified address. You have also submitted a request for confidentiality from the customer at issue. However, as discussed above, the “personal information” protected under section 182.052 only excepts certain information from disclosure. Upon review, we find the information the city seeks to withhold does not consist of personal information in a customer’s account record, nor information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage. Thus, this information is not confidential under section 182.052, and the city may not withhold it under section 552.101 on that basis. As no other exceptions to disclosure have been raised, the responsive 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,



Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/sb

Ref: ID# 659429

Enc. Submitted documents

c: Requestor  
(w/o enclosures)