



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 1, 2017

Mr. Frank J. Garza  
Counsel for the Brownsville Public Utility Board  
Davidson Troilo Ream & Garza, P.C.  
601 Northwest Loop 410, Suite 100  
San Antonio, Texas 78216

OR2017-12035

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# 660406.

The Brownsville Public Utility Board (the "BPUB"), which you represent, received a request for a written statement of damages done to a utility meter and copies of service orders pertaining to a specified address during a specified time period. You state you will redact some information pursuant to section 552.136(c) of the Government Code.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101 and 552.133 of the Government Code. We have considered the exceptions 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>Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

(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 BPUB is a public power utility subject to section 552.133. You assert the submitted information pertains to the public power utility’s “competitive customer information.” Additionally, 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 BPUB must withhold the information we marked under section 552.133 of the Government Code.<sup>2</sup> However, we find the remaining information relates to water service. Section 552.133 applies to electric or gas utility services only, not water services. *Id.* § 552.133(a). Thus, this information is not subject to section 552.133 and the BPUB may not withhold it on that basis. As you raise no further exceptions to disclosure, the BPUB 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.

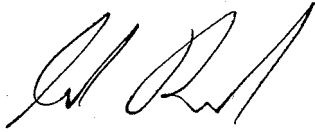
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

---

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

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 'S. Pounds', written in a cursive style.

Sidney M. Pounds  
Assistant Attorney General  
Open Records Division

SMP/tdw

Ref: ID# 660406

Enc. Submitted documents

c: Requestor  
(w/o enclosures)