



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 21, 2019

Ms. Rachel Saucier
Executive Assistant
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR2019-29597

Dear Ms. Saucier:

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# 792478.

The City of Georgetown (the "city") received a request for water, sewer, and electric billing and usage history for a specified facility, as well as rate schedules applicable to the specified facility. You state the city has released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.133 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

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.

(a-1) For purposes of this section, "competitive matter" means a utility-related matter that is related to the public power utility's competitive

¹ We 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.

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 Georgetown Utility System is a municipally-owned utility subject to section 552.133. You assert the information in Exhibit B “pertains to customer billing, contract, and usage information” and is related to a “competitive matter.” Additionally, the information in Exhibit B 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 in Exhibit B relates to competitive matters as defined by section 552.133(a-1). Therefore, the city must withhold the submitted electrical information under section 552.133 of the Government Code.² However, we find the remaining information relates to water and sewer services. Section 552.133 applies to electric or gas utility services only, not water services. *Id.* § 552.133(a). This information is not subject to 552.133 and the city may not withhold it on that basis.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 of the Government Code encompasses section 182.052 of the Utilities Code, which provides in relevant part, the following:

(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.

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

(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). Water service is included in the scope of utility services covered by section 182.052. *Id.* § 182.051(3). “Personal information” under section 182.052(a) includes an individual’s address, but does not include the individual’s name. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). A customer’s request for confidentiality must precede the utility’s receipt of the request for information. ORD 625 at 6. Additionally, because section 182.052 is intended to protect the safety and privacy of individual customers, this statute is applicable to only information pertaining to natural persons, and does not protect information relating to business, governmental, and other artificial entities. *See id.* at 4-5 (in context of section 182.051(4) of the Utilities Code, “individual” means only natural persons and does not include artificial entities).

You contend the remaining information is subject to section 182.052. We note the information at issue pertains to businesses or other artificial entities, and not natural persons. As such, the information at issue is not information made confidential by section 182.052, and the city may not withhold the remaining information under section 552.101 of the Government Code on this basis.

Section 552.136(b) of the Government Code provides, “[n]otwithstanding any other provision of [the Act], 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.”³ Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Accordingly, the city must withhold the utility account numbers within the remaining information under section 552.136 of the Government Code.

In summary, the city must withhold the submitted electrical information under section 552.133 of the Government Code. The city must withhold the utility account numbers within the remaining information under section 552.136 of the Government Code. The city must release the remaining information.

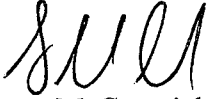
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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 <https://www.texasattorneygeneral.gov/open->

³This office will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

government/members-public/what-expect-after-ruling-issued or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Sean McCormick
Attorney
Open Records Division

SMC/eb

Ref: ID# 792478.

Enc. Submitted documents

c: Requestor
(w/o enclosures)