



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 24, 2019

Ms. Jenny Smith  
Assistant General Counsel  
Lubbock Power and Light  
1301 Broadway  
Lubbock, Texas 79401

OR2019-30141

Dear Ms. Smith:

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# 793416.

The City of Lubbock (the "city") received a request for specified information pertaining to aggregated monthly electricity sales and residential customer counts.<sup>1</sup> The city states it has released some of the requested information, but claims the submitted 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, the following:

(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:

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<sup>1</sup>The city 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).

(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)(F). Section 552.133(a-1)(2) provides fifteen categories of information that are not competitive matters. *Id.* § 552.133(a-1)(2). The city represents the information at issue pertains to a municipally owned utility that provides electric services. The city also indicates the submitted information pertains to its competitive activity specifically identified by section 552.133(a-1)(1)(F). The city does not inform us the information is among the fifteen categories of information expressly excluded from the definition of “competitive matter” by section 552.133(a-1)(2). *See id.* Upon review, we find the information at issue 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 <https://www.texasattorneygeneral.gov/open-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,

  
James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/gw

Ref: ID# 793416

Enc. Submitted documents

c: Requestor  
(w/o enclosures)