



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 15, 2020

Ms. Leah A. Curtis
Counsel for the Greenville Electric Utility System
Curtis, Alexander & McCampbell, P.C.
P.O. Box 2174
Greenville, Texas 75403-1274

OR2020-01413

Dear Ms. Curtis:

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# 807794.

The Greenville Electric Utility System (the "GEUS") received a request for six categories of information pertaining to a specified board of trustees meeting, a specified resolution, and specified budget amendments and expenses. The GEUS states it has released some information to the requestor. The GEUS informs us it does not have information responsive to portions of the request.¹ The GEUS claims the submitted information is excepted from disclosure under section 552.133 of the Government Code. We have considered the exception the GEUS claims 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.

¹ The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App. San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

(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:

(A) generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;

(B) bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;

(C) effective fuel and purchased power agreements and fuel transportation arrangements and contracts;

(D) risk management information, contracts, and strategies, including fuel hedging and storage;

(E) plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider; and

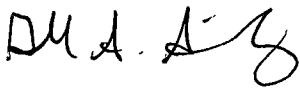
(F) customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies[.]

Id. § 552.133(a), (a-1)(1). Section 552.133(a-1)(2) provides fifteen categories of information that are not competitive matters. *Id.* § 552.133(a-1)(2). The GEUS explains, and we agree, it is a municipally-owned utility service and is a public power utility for purposes of section 552.133. The GEUS asserts the submitted information pertains to the public electric utility's competitive activities specifically identified by section 552.133(a-1)(1). 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). *See id.* Based on these representations and our review, we find the information at issue relates to competitive matters as defined by section 552.133(a-1). Thus, we conclude the GEUS 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,

A handwritten signature in black ink, appearing to read "G. Arismendez", written in a cursive style.

Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/be

Ref: ID# 807794

Enc. Submitted documents

c: Requestor
(w/o enclosures)