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ATTORNEY GENERAL OF TEXAS

May 6, 2022

Mr. David V. Overcash
Counsel for the City of Anna
Wolfe Tidwell & McCoy, L.L.P.
2591 Dallas Parkway, Suite 300
Frisco, Texas 75034

OR2022-12980

Dear Mr. Overcash:

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# 946059 (ORR# W003701).

The City of Anna (the "city"), which you represent, received a request for utility information pertaining to specified addresses. The city indicates it will withhold information pursuant to section 552.136(c) of the Government Code.¹ The city claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.1331 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

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 exception encompasses section 182.052 of the Utilities Code, which provides, in part, as follows:

- (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

¹ 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).

amounts billed to or collected from the individual for utility usage, unless the customer requests that the government-operated utility disclose the information.

(b) A customer may request disclosure of information described by Subsection (a) by delivering to the government-operated utility an appropriately marked form provided under Subsection (c)(2) or any other written request for disclosure.

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). However, 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* Open Records Decision No. 625 at 4-5 (1994) (in context of section 182.051(4) of the Utilities Code, “individual” means only natural persons and does not include artificial entities). Upon review, we find the city has failed to demonstrate the submitted information is made confidential by section 182.052 of the Utilities Code. Accordingly, the city may not withhold any of the submitted information under section 552.101 of the Government Code on that basis.

Section 552.1331 of the Government Code provides, in part:

(a) In this section:

(1) “Advanced metering system” means a utility metering system that collects data at regular intervals through the use of an automated wireless or radio network.

(2) “Government-operated utility” has the meaning assigned by Section 182.051, Utilities Code.

(b) Except as provided by Subsection (c) of this section and Section 182.052, Utilities Code, information maintained by a government-operated utility is excepted from the requirements of Section 552.021 if it is information that:

(1) is collected as part of an advanced metering system for usage, services, and billing, including amounts billed or collected for utility usage; or

(2) reveals whether:

(A) an account is delinquent or eligible for disconnection; or

(B) services have been discontinued by the government-operated utility.

Gov't Code § 552.1331(a)–(b). We understand the city is a government-operated utility for purposes of section 552.1331. *See* Util. Code § 182.051(3) (providing a “government-operated utility” is a governmental body or entity that, for compensation, provides water, wastewater, sewer, gas, garbage, electricity, or drainage service). The city represents the information at issue was collected as part of an advanced metering system for usage, services, and billing. Upon review, we conclude the city must withhold the information we have marked under section 552.1331 of the Government Code. However, the city has not established section 552.1331 is applicable to the remaining information and may not withhold any of it on that ground. Thus, 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-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/jm

Ref: ID# 946059

Enc. Submitted documents

c: Requestor
(w/o enclosures)