



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 27, 2022

Ms. Patricia M. Borschow  
Assistant General Counsel  
El Paso Water Utilities - Public Service Board  
P.O. Box 511  
El Paso, Texas 79961-0511

OR2022-15322

Dear Ms. Borschow:

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# 950302 (EPW #03.04).

The El Paso Water Utilities – Public Service Board (the "board") received a request for certain information pertaining to a specified utility during a defined period of time.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.1331 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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.

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<sup>1</sup> You state the board 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.2d 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).

(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.

(c) A government-operated utility must disclose information described by Subsection (b)(1) to a customer of the utility or a representative of the customer if the information directly relates to utility services provided to the customer and is not confidential under law.

Gov't Code § 552.1331(a)-(c). You state the board 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). You further state the information at issue reveals whether utility services have been discontinued by the board. Based on these representations and our review, we conclude the board must withhold the submitted information under section 552.1331(b)(2)(B) of the Government Code.

The board also asks this office to issue a previous determination that would permit it to withhold certain information pertaining to government-operated utilities under section 552.1331 of the Government Code without requesting a ruling from this office. Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). After due consideration, we have decided to grant the request on this matter. Therefore, this letter ruling authorizes the board to withhold information that is collected from an advanced metering system or information that reveals whether an account is eligible for disconnection or that services have been discontinued under section 552.1331 of the Government Code without seeking a ruling from this office so long as section 552.1331(c) of the Government Code is not applicable or an election to release such information has not been made under section 182.052 of the Utilities Code. *See* Gov't Code § 552.301(a), (f); ORD 673. So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the board need not ask for a decision from this office again with respect to this type of information. *See* ORD 673 at 7.

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,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

KK/jxd

Ref: ID# 950302

Enc. Submitted documents

c: Requestor  
(w/o enclosures)