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ATTORNEY GENERAL OF TEXAS

June 10, 2022

Mr. Robert E. Hager
Counsel for the City of Rowlett
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
500 North Akard Street, Suite 1800
Dallas, Texas 75201

OR2022-16780

Dear Mr. Hager:

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# 952685 (File Reference No. 128739).

The City of Rowlett (the "city"), which you represent, received a request for two specified lists during a defined period of time. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.1331 of the Government Code.¹ We have considered the exceptions 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.

¹ Although you do not cite to section 552.101 of the Government Code in your brief to this office, we understand you to raise this section based on the substance of your arguments.

(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). You state the information at issue reveals whether utility services have been discontinued by the city. Based on this representation and our review, we conclude the city must withhold the information we indicated under section 552.1331(b)(2)(B) of the Government Code.² However, we find the city has failed to demonstrate the applicability of section 552.1331 to the remaining information and it may not be withheld 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.” Gov't Code § 552.101. Section 552.101 encompasses section 182.052 of the Utilities Code, which provides, in relevant 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 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.

(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.

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

Util. Code § 182.052(a)-(b). “Personal information” under section 182.052(a) means an individual’s address, telephone number, or social security number, but does not include the individual’s name. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). Water service is included in the scope of utility services covered by section 182.052. Util. Code § 182.051(3).

Upon review, we find the city has not demonstrated any of the remaining information is protected by section 182.052. Therefore, the city may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with section 182.052(a) of the Utilities Code.

In summary, the city must withhold the information we indicated under section 552.1331(b)(2)(B) 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-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/jm

Ref: ID# 952685

Enc. Submitted documents

c: Requestor
(w/o enclosures)