



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 18, 2022

Mr. Ariel San Miguel
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2022-36139

Dear Mr. Miguel:

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# 985909 (GovQA No. W081315-083122).

The City of Houston (the "city") received a request for three categories of information pertaining to a specified utility during a defined period of time. 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.

Initially, we note you have submitted only information responsive to two of the requested categories. You have not submitted information responsive to the remainder of the request. Although you state the city has submitted a representative sample of the requested information, we find the submitted information is not representative of all the types of information to which the requestor seeks access. Please be advised, this open records letter ruling applies only to the types of information you have submitted for our review. This ruling does not authorize the city to withhold any information that is substantially different from the types of information you submitted to this office. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of Gov't Code § 552.301, information at issue is presumed to be public). Accordingly, to the extent any information responsive to the remainder of the request existed on the date the city received the request, we assume the city has released it. If the city has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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 contends the submitted information is protected under section 552.1331 of the Government Code. However, upon review, we conclude the city has failed to demonstrate the applicability of section 552.1331 of the Government Code to the submitted information and thus, may not withhold it on that basis. The city must release the submitted 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/pt

Ref: ID# 985909

Enc. Submitted documents

c: Requestor
(w/o enclosures)