

(c) This section does not affect whether information is considered confidential or privileged under Section 508.313.

(d) A release of information described by Subsection (a) to an eligible entity, as defined by Section 508.313(d), for a purpose related to law enforcement, prosecution, corrections, clemency, or treatment is not considered a release of information to the public for purposes of Section 552.007 and does not waive the right to assert in the future that the information is excepted from required disclosure under this section or other law.

Section 508.313 of the Government Code generally makes confidential all information the Texas Department of Criminal Justice obtains and maintains about certain classes of inmates, including an inmate of the institutional division subject to release on parole, release to mandatory supervision, or executive clemency. Section 508.313 also applies to information about a releasee and a person directly identified in any proposed plan of release for an inmate. Section 508.313 permits the release of the information it covers to the Governor, a member of the Board of Pardons and Paroles, the Criminal Justice Policy Council or an eligible entity requesting information for a law enforcement, prosecutorial, correctional, clemency, or treatment purpose.⁶³⁹ Section 508.313 does not apply to information that is subject to required public disclosure under section 552.029.⁶⁴⁰ There are no cases or opinions interpreting section 552.131 or 552.029.

GG. Section 552.131: Public Power Utility Information Related to Competitive Matters



Section 552.131 as added by Senate Bill 7⁶⁴¹ reads as follows:

(a) In this section:

(1) “Public power utility” means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

(2) “Public power utility governing body” means the board of trustees or other applicable governing body, including a city council, of a public power utility.

⁶³⁹ Gov’t Code § 508.313(c).

⁶⁴⁰ *Id.* § 508.313(f). Act of May 26, 1999, 76th Leg., R.S., H.B. 1379, § 3 (codified at Gov’t Code § 508.313).

⁶⁴¹ Act of May 27, 1999, 76th Leg., R.S., S.B. 7, § 46 (codified at Gov’t Code § 552.131).

(3) "Competitive matter" means a utility-related matter that the public power utility governing body in good faith determines by a vote under this section is related to the public power utility's competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors but may not be deemed to include the following categories of information:

(A) information relating to the provision of distribution access service, including the terms and conditions of the service and the rates charged for the service but not including information concerning utility-related services or products that are competitive;

(B) information relating to the provision of transmission service that is required to be filed with the Public Utility Commission of Texas, subject to any confidentiality provided for under the rules of the commission;

(C) information for the distribution system pertaining to reliability and continuity of service, to the extent not security-sensitive, that relates to emergency management, identification of critical loads such as hospitals and police, records of interruption, and distribution feeder standards;

(D) any substantive rule of general applicability regarding service offerings, service regulation, customer protections, or customer service adopted by the public power utility as authorized by law;

(E) aggregate information reflecting receipts or expenditures of funds of the public power utility, of the type that would be included in audited financial statements;

(F) information relating to equal employment opportunities for minority groups, as filed with local, state, or federal agencies;

(G) information relating to the public power utility's performance in contracting with minority business entities;

(H) information relating to nuclear decommissioning trust agreements, of the type required to be included in audited financial statements;

(I) information relating to the amount and timing of any transfer to an owning city's general fund;

(J) information relating to environmental compliance as required to be filed with any local, state, or national environmental authority, subject to any confidentiality provided under the rules of those authorities;

(K) names of public officers of the public power utility and the voting records of those officers for all matters other than those within the scope of a competitive resolution provided for by this section;

(L) a description of the public power utility's central and field organization, including the established places at which the public may obtain information, submit information and requests, or obtain decisions and the identification of employees from whom the public may obtain information, submit information or requests, or obtain decisions; or

(M) information identifying the general course and method by which the public power utility's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.

(b) Information or records are excepted from the requirements of Section 552.021 if the information or records are reasonably related to a competitive matter, as defined in this section. Excepted information or records include the text of any resolution of the public power utility governing body determining which issues, activities, or matters constitute competitive matters. Information or records of a municipally owned utility that are reasonably related to a competitive matter are not subject to disclosure under this chapter, whether or not, under the Utilities Code, the municipally owned utility has adopted customer choice or serves in a multiply certificated service area. This section does not limit the right of a public power utility

governing body to withhold from disclosure information deemed to be within the scope of any other exception provided for in this chapter, subject to the provisions of this chapter.

(c) In connection with any request for an opinion of the attorney general under Section 552.301 with respect to information alleged to fall under this exception, in rendering a written opinion under Section 552.306 the attorney general shall find the requested information to be outside the scope of this exception only if the attorney general determines, based on the information provided in connection with the request:

(1) that the public power utility governing body has failed to act in good faith in making the determination that the issue, matter, or activity in question is a competitive matter; or

(2) that the information or records sought to be withheld are not reasonably related to a competitive matter.

Section 552.131 excepts from disclosure a public power utility's information related to a competitive matter. The exception defines "competitive matter" as a matter the public power utility governing body in good faith determines by vote to be related to the public power utility's competitive activity. The governing body must also, in like manner, determine that the release of the information would give an advantage to competitors or prospective competitors. Similarly, section 552.104 of the Government Code protects from public disclosure information that if released would possibly cause harm to a governmental body's marketplace interests. (For a discussion of section 552.104, refer to page 85 of this handbook.) Section 552.131 lists thirteen categories of information that may not be deemed competitive matters. The attorney general must find section 552.131 is inapplicable to requested information only if, based on the information provided, the public power utility governing body has not acted in good faith in determining that the issue, matter, or activity is a competitive matter or if the attorney general determines that the information requested is not reasonably related to a competitive matter. There are no cases or opinions interpreting this provision.

HH. Section 552.131: Information Relating to Economic Development Negotiations

Section 552.131 as added by Senate Bill 1851⁶⁴² reads as follows:



⁶⁴² Act of May 25, 1999, 76th Leg., R.S., S.B. 1851, § 9 (codified at Gov't Code § 552.131).