

RESOLUTION NO. 2023-0522 (IC02)

RESOLUTION OF THE PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS, REPEALING RESOLUTION NUMBERED 2011-1212 (CA07) ADOPTED DECEMBER 12, 2011 AND ADOPTING A NEW COMPETITIVE MATTER RESOLUTION AND ADDING INTEGRATED RESOURCES PLANS AS A COMPETITIVE MATTER, INFORMATION THAT IS COLLECTED AS PART OF AN ADVANCED METERING SYSTEM, AND ADDING A PROVISION FOR REVIEW AND/OR POSSIBLE RELEASE OF OUTDATED DOCUMENTS WHICH NO LONGER SERVE TO PROTECT THE COMPETITIVE POSITION OF ELECTRIC AND NATURAL GAS SERVICE AS PROVIDED FOR IN THE TEXAS GOVERNMENT CODE §552.133 AND SETTING AN EFFECTIVE DATE

WHEREAS, Section 552.133 of the Texas Government Code provides an exception to the Texas Public Information Act for documents containing certain information relating to the public power utility governing body whom determines in good faith to be “competitive” in nature, and would, if disclosed, give advantage to competitors in the electric market

WHEREAS, in October 1999, Public Utilities Board of the City of Brownsville, Texas made a good faith determination and adopted a Competitive Matter Resolution, which included a specific definition of "competitive matter," that must be used for exceptions for both Open Meetings and under the Public Information Act; and

WHEREAS, in December 2011, Public Utilities Board repealed the original Competitive Matter Resolution by adopting Resolution No. 2011-1212(CA07) to adopt a new Competitive Matter Resolution to reflect the changes in what was deemed competitive matter under the amended Section 552.133 of the Texas Government Code; and

WHEREAS, House Bill 872 that went into effect June 2021 added Section 552.1331 of the Texas Government Code to except from disclosure information that is collected as part of an advanced metering system for usage, services, and billing, including amounts billed or collected for utility usage; and

WHEREAS, the Public Utilities Board of the City of Brownsville, a separate and distinct agency of the City of Brownsville, Texas, as the governing body of the City's public power utility, as that term is defined in Section 552.133 of the Texas Government Code, desires to adopt this Resolution defining "competitive matter" for the purpose of protecting the competitive position of electric and gas service provided by the Board;

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS:

Section 1: Competitive Matters (herein so called): For the purposes of application of Section 552.133 of the Texas Government Code as amended by House Bill 872 which provide for exceptions to disclosure of information related to advanced metering system for usage, services, and billing, including amounts billed or collected for utility usage, the disclosure of which would give advantage to competitors or prospective competitors:

- (A) Financial Information, including, but not limited to:
 - (1) Strategic and business plans and studies;
 - (2) Rate and pricing strategies and studies;
 - (3) Revenue and expense projections and targets;
 - (4) Fuel pricing and usage;
 - (5) Fuel hedging/risk management strategies;
 - (6) Cost of service studies;
 - (7) Capital improvements and project plans and studies;
 - (8) Target electric generation and production levels; and
 - (9) Business forecasts.
- (B) Purchasing and Contract Information, including, but not limited to:
 - (1) Power supply (energy and capacity) pricing, bidding information, proposals and contracts;
 - (2) Power sales pricing, proposals and contracts;
 - (3) Fuel contracts and proposals;
 - (4) Stored reserve fuel supply;
 - (5) Power purchase contracts and proposals;
 - (6) Purchasing information, including bids, specifications, proposals, contracts and bid results, other than for routine maintenance and replacement items;
 - (7) Fuel transportation pricing and contracts;
 - (8) Fuel hedging;
 - (9) Negotiations, modeling, data, correspondence, drafts and memoranda related to negotiations and consideration of the above contracts and pricing.

- (C) Business Operations Information other than transmission and distribution system improvements inside the service area for which BPUB is the sole certificated retail provider, including, but not limited to:
- (1) Work management studies, system configuration and system data;
 - (2) Benchmarking data, surveys, reports and other information;
 - (3) Market plans, studies and strategies;
 - (4) Cost of service studies;
 - (5) Internal business performance information;
 - (6) Energy and billing information;
 - (7) Internal cost assignments and allocation methodology;
 - (8) Financial planning, sensitivity and scenario analyses;
 - (9) Competitive intelligence systems and information;
 - (10) Product design information;
 - (11) Electric and natural gas systems sales forecasts;
 - (12) Sales and promotion strategies, plans, contracts, proposals and budgets (historical and forecast);
 - (13) Contracts or proposals for retail energy sales;
 - (14) Sales incentive plans;
 - (15) Strategies, plans, contracts, proposals and budgets regarding marketing research;
 - (16) Strategies, plans, contracts, proposals and budgets regarding analyses, sales and marketing and promotion of retail products and services, or the development of same;
 - (17) Research regarding energy loads;
 - (18) Corporate business plans;
 - (19) Assessments, plans or strategies related to acquisition of other utilities or divestiture elections of System facilities;
 - (20) Strategies, plans or studies regarding debt allocation or refunding;
 - (21) Internal audit reports containing competitive matter information;
 - (22) Consulting reports containing competitive matter information;
 - (23) Financial, accounting or statistical data submitted confidentially to industry groups or other third parties regarding Competitive Matters;
 - (24) Risk management information;
 - (25) Information or data related to firms supplying goods or services related to electric service;

- (26) Alliance and joint venture and aggregation information for power generation or sales; and
 - (27) Integrated Resource Plans.
- (D) Generation/System Operations Information, including, but not limited, to:
- (1) Generating unit operating and performance data, including heat rates;
 - (2) Engineering and design of generation units and transmission/distribution system;
 - (3) Control system design and capabilities;
 - (4) Maintenance schedules;
 - (5) Load and generation forecasts;
 - (6) Generation/Distribution system improvement plans, studies and workpapers;
 - (7) Generation unit and system audits;
 - (8) Non-fuel procurement activities;
 - (9) Data, studies, plans or contracts related to the acquisition, disposition or exchange of generation facilities, equipment or other property;
 - (10) Generation control system design and capabilities; Generation unit, generation system and facility construction and project management plans;
 - (11) Generation unit and generation system operating and performance data;
 - (12) Electric system improvement evaluations and recommendations, including economic evaluations;
 - (13) Maintenance policies and processes; and
 - (14) Operation management planning information.
- (E) Competitive Customer Information, including, but not limited to:
- (1) Customer lists or identification data, consumption data or rate-billing/account data.
- (F) Advanced Metering System, including, but not limited to:
- (1) Information that is collected as part of an advanced metering system for usage, services, and billing, including amounts billed or collected for utility usage; and
 - (2) Information that reveals whether an account is delinquent or eligible for disconnection; or services have been discontinued by BPUB.

- (3) This exception does not apply if the customer or a representative of the customer requests their own utility information.

Section 2. Information or records of the Public Utilities Board, in any media, that are reasonably related to a Competitive Matter as defined in Section 1 above are excepted from the disclosure requirements of Chapter 552 of Texas Government Code.

Section 3. The Public Utilities Board reserves the right to supplement or amend the list of Competitive Matters set out in this Resolution from time to time by addition or deletion or case-by-case determinations as may be appropriate and desirable in order to continue to operate and manage the electric system in a manner consistent with the interests of the City of Brownsville and its energy ratepayers.

Section 4. Notwithstanding the enumeration otherwise, this Resolution shall not deem a Competitive Matter any matter excluded from the definition of "competitive matter" in Chapter 552 of the Texas Government Code.

Section 5. The Board shall review or arrange a review of any documents designated "Competitive Matter" herein at such time as a document has been so designated for a seven (7) year period. If the document, in the opinion of the reviewer or review team, is no longer competitive, the recommendation shall be given to the Board for action either to retain the designation as a "competitive matter" or release the designation and make the released document available for public request.

Section 6. Findings of Fact. All of the above recitals are found to be true and correct and are incorporated into this Resolution as findings of fact.

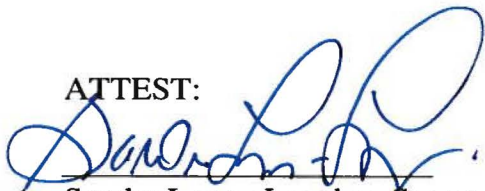
Section 7. Severability. If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this Resolution. The BPUB hereby declares that it would have passed this Resolution, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared void.

Section 8. Repealing Ordinances in Conflict. All resolutions in conflict herewith are hereby repealed to the extent of such conflict.

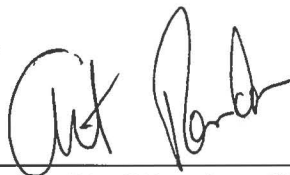
Section 9. Effective Date. This Resolution shall be effective immediately upon adoption.

PASSED and APPROVED this 22nd day of May 2023.

ATTEST:



Sandra Lopez-Langley, Secretary/Treasurer


Arthur "Art" Rendon, Chair