

**388.9 Competitive information.**

1. Notwithstanding [section 21.5, subsection 1](#), the governing body of a city utility or combined utility system, or a city enterprise or combined city enterprise as defined in [section 384.80](#), by a vote of two-thirds of the members of the body or all of the members present at the meeting, may hold a closed session to discuss marketing and pricing strategies or proprietary information if its competitive position would be harmed by public disclosure not required of potential or actual competitors, and if no public purpose would be served by such disclosure. The minutes and an audio or audiovisual recording of a session closed under [this subsection](#) shall be available for public examination at that point in time when the public disclosure would no longer harm the utility's competitive position.

2. *a.* Notwithstanding [section 22.2, subsection 1](#), public records of a city utility or combined utility system, or a city enterprise or combined city enterprise as defined in [section 384.80](#), which shall not be examined or copied as of right, include proprietary information, records of customer names and accounts, records associated with marketing or pricing strategies, preliminary working papers, spreadsheet scenarios, and cost data, if the competitive position of the city utility, combined utility system, city enterprise, or combined city enterprise would be harmed by public disclosure not required of a potential or actual competitor, and if no public purpose would be served by such disclosure. A public record not subject to examination or copying under [this subsection](#) shall be available for public examination and copying at that point in time when public disclosure would no longer harm the competitive position of the city utility, combined utility system, city enterprise, or combined city enterprise.

*b.* For purposes of [this subsection](#), “*proprietary information*” includes customer records that if disclosed would harm the competitive position of a customer; or information required by a noncustomer contracting party to be kept confidential pursuant to a nondisclosure agreement which relates to electric transmission planning and construction, critical energy infrastructure, an ownership interest or acquisition of an ownership interest in an electric generating facility, or other information made confidential by law or rule.

[99 Acts, ch 63, §3, 8; 2008 Acts, ch 1126, §16, 33; 2020 Acts, ch 1063, §206](#)

Referred to in [§388.10](#)