



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 2, 2009

Ms. Zandra L. Pulis  
Senior Counsel  
Legal Services Division  
CPS Energy  
P.O. Box 1771  
San Antonio, Texas 78296

OR2009-07492

Dear Ms. Pulis:

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# 344861.

The City Public Service Board of the City of San Antonio, d/b/a CPS Energy ("CPS") received a request for monthly utility bills or documents showing the usage of utilities for a specified address over a specified time period. You claim that the submitted information is excepted from disclosure under section 552.133 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You assert that the customer-related information, specifically electric and gas consumption costs related to a particular address, is excepted under section 552.133 of the Government Code, which excepts from disclosure a public power utility's information related to a competitive matter. Section 552.133(b) provides as follows:

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.

Gov't Code § 552.133(b). A "competitive matter" is defined 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, and the release of which would give an advantage to competitors or prospective competitors. *Id.* § 552.133(a)(3). Section 552.133(a)(3) lists thirteen categories of information that may not be deemed competitive matters. The attorney general may conclude that section 552.133 is inapplicable to the requested information only if, based on the information provided, the attorney general determines 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 that the information requested is not reasonably related to a competitive matter. *Id.* § 552.133(c).

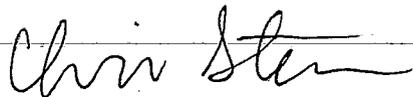
CPS is a public power utility for purposes of section 552.133. You inform us, and provide documentation showing, that the CPS Energy Board of Trustees (the "board"), as governing body of CPS, passed a resolution by vote pursuant to section 552.133 in which the board defined customer information and energy retail sales and revenue information to be within the scope of the term "competitive matter" for purposes of section 552.133. You assert that the submitted information, electric consumption costs that relate to a particular address and account which does not belong to the requestor, comes within the scope of the board's resolution. The submitted information is not among the thirteen categories of information that section 552.133(a)(3) expressly excludes from the definition of competitive matter. Consequently, we determine that the submitted information relates to a competitive matter in accordance with the submitted resolution. Therefore, CPS must withhold the submitted information pursuant to section 552.133 of the Government Code.

Although you request a previous determination regarding this type of information, we decline to issue such a ruling at this time. Accordingly, this letter ruling is limited to the particular records at issue in this request and limited to the facts presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records 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 [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chris Sterner".

Christopher D. Sterner  
Assistant Attorney General  
Open Records Division

CDSA/eeg

Ref: ID# 344861

Enc. Submitted documents

c: Requestor  
(w/o enclosures)