



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 18, 2014

Ms. Patricia Ana Garcia Escobedo  
Senior Counsel  
CPS Energy  
P.O. Box 1771  
San Antonio, Texas 78296-1771

OR2014-10507

Dear Ms. Escobedo:

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# 526264.

The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS") received a request for (1) specified contracts or agreements and tariffs related to named power plants, (2) all agreements and settlements related to a specified agreement, and (3) four categories of financial information related to CPS's pension plan. You state you have released some of the requested information to the requestor. You claim 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 representative sample of information.<sup>1</sup>

Section 552.133 of the Government Code excepts from disclosure a public power utility's information that is "reasonably related to a competitive matter." Gov't Code § 552.133(b). Section 552.133 provides in relevant part:

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(a) In this section, “public power utility” means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

(a-1) For purposes of this section, “competitive matter” means a utility-related matter that is related to the public power utility’s competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors. The term:

(1) means a matter that is reasonably related to the following categories of information:

(A) generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;

(B) bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;

(C) effective fuel and purchased power agreements and fuel transportation arrangements and contracts[.]

*Id.* § 552.133(a), (a-1)(1)(A)-(C). Section 552.133(a-1)(2) provides fifteen categories of information that are not competitive matters. *Id.* § 552.133(a-1)(2).

You state CPS is a city-owned utility. You explain the information marked as Exhibit A includes price points and favorable terms for generated energy and related manufacturing obligations. You further explain the information marked as Exhibit B includes current and projected financial data, renewable energy plans, and forecast assumptions. You state the release of the submitted information would place CPS at a competitive disadvantage with its competitors. You inform us the submitted information is not among the fifteen categories of information expressly excluded from the definition of “competitive matter” by section 552.133(a-1)(2). Based on your representations and our review, we find the submitted information relates to competitive matters as defined by section 552.133(a-1). Thus, we conclude CPS must withhold the submitted information under section 552.133 of the Government Code.

Finally, you request that this office issue a “previous determination” that would permit CPS in the future to withhold from disclosure bidding and pricing information for purchased power without the need of requesting a ruling from us about whether such information can be withheld from disclosure. We decline to issue such a previous determination at this time. Accordingly, 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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a stylized flourish extending to the right.

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/dls

Ref: ID# 526264

Enc. Submitted documents

c: Requestor  
(w/o enclosures)