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ATTORNEY GENERAL OF TEXAS

September 30, 2015

Mr. Kipling D. Giles  
Senior Counsel  
Legal Services Division  
CPS Energy  
P.O. Box 1771  
San Antonio, Texas 78296-1771

OR2015-20464

Dear Mr. Giles:

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# 581354.

The City Public Service Board of the City of San Antonio ("CPS") received a request for information pertaining to specified rebate programs, the total monthly amount of energy generated by solar farms for a specified period of time, and the location and number of consumers supplementing their consumption with solar installation. CPS does not take a position as to whether the submitted information is excepted from disclosure under the Act. However, CPS states, and provides documentation showing, it notified Duke Energy of CPS's receipt of the request for information and of Duke Energy's right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and

explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

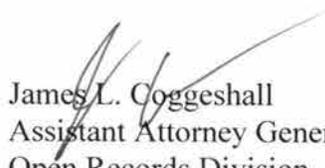
Initially, we note CPS has only submitted information pertaining to monthly energy production totals, but not other information responsive to the remaining requested categories of information. We assume, to the extent any additional responsive information existed when CPS received the request for information, CPS has released it to the requestor. If not, then CPS must do so immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, Duke Energy has not submitted to this office any reasons explaining why the requested information should not be released. Thus, we have no basis for concluding the submitted information constitutes proprietary information of that third party, and CPS may not withhold any portion of it on that basis. *See* Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Therefore, CPS must release the submitted information.

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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/cbz

Ref: ID# 581354

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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