



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 9, 2016

Ms. Hadassah Schloss  
Director  
Open Government  
Texas General Land Office  
P.O. Box 12873  
Austin, Texas 78711-2873

OR2016-03075

Dear Ms. Schloss:

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# 597586.

The Texas General Land Office (the "GLO") received a request for the names of the natural gas providers for specified University of Texas locations. The GLO claims the submitted information is excepted from disclosure under sections 552.104 and 552.110 of the Government Code. Additionally, the GLO states release of the information may implicate the proprietary interests of certain third parties. Accordingly, the GLO states, and provides documentation showing, it notified these third parties of the request for information and of their right to submit arguments to this office as to why the information at issue should not be released.<sup>1</sup> See Gov't Code § 552.305(d); see also Open Records Decision No. 542 (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 considered the exceptions the GLO claims and reviewed the submitted information.

Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The GLO states it has specific marketplace interests in the information at issue because the GLO is competing with other bidders for the

---

<sup>1</sup>We have not received comments from any of the third parties.

provision and transport of natural gas to public retail customers. In addition, the GLO states, if the names of the companies selling the natural gas to the GLO were to be released, public retail customers could use such information to bypass the Gas Program. After review of the information at issue and consideration of the arguments, we find the GLO has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the GLO may withhold the submitted information under section 552.104(a) of the Government Code. As our ruling is dispositive, we need not address the GLO's remaining argument against disclosure.

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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/som

Ref: ID# 597586

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Gary Featherston  
Managing Director of Origination  
BP Energy Company  
201 Helios Way  
Houston, Texas 77079  
(w/o enclosures)

Ms. Julie Farr  
Manager, Gas Marketing  
Cokinos Energy Corporation  
5718 Westheimer, Suite 900  
Houston, Texas 77057  
(w/o enclosures)

Ms. Carla Johnson  
Director  
Origination, Gas & Power  
ConocoPhillips Company  
600 North Dairy Ashford  
Houston, Texas 77252  
(w/o enclosures)

Mr. Larry Bell  
Senior Account Manger  
Marketing & Transportation  
Kinder Morgan Tejas Pipeline, LLC  
1001 Louisiana Street, Suite 1000  
Houston, Texas 77002  
(w/o enclosures)

