



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 19, 2017

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

OR2017-11006

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# 658518.

The City Public Service Board of San Antonio d/b/a CPS Energy ("CPS Energy") received a request for a specified request for proposals and the responses received by CPS Energy. You state you will provide some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.133 and 552.139 of the Government Code. You also state release of the submitted information may implicate the interests of ABB Enterprise Software; CGI Technologies and Solutions, Inc. ("CGI"); KPIT Technologies, Ltd.; and Starboard Consulting. Accordingly, you notified these third parties of the request for information and of their right to submit arguments stating why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from CGI. We have considered the submitted arguments and reviewed the submitted information.

Section 552.133 of the Government Code exempts 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 the following:

(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:

...

(E) plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider[.]

*Id.* § 552.133(a), (a-1)(1)(E). 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 Energy is a municipally-owned electric utility. Thus, CPS Energy is a public power entity for purposes of section 552.133. You inform us Exhibit C pertains to "plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider." You explain the information at issue relates to improvements to CPS's "primary system interface for electric and gas new construction management." You explain these improvements are end-use improvements and are not improvements to CPS's transmission and distribution system. You state the information at issue 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 information at issue relates to a competitive matter as defined by section 552.133(a-1). Thus, we conclude CPS Energy must withhold Exhibit C under section 552.133 of the Government Code.<sup>1</sup> CPS Energy must release the remaining information.

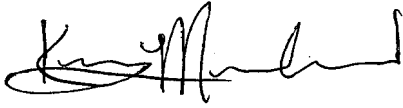
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<sup>1</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

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,



Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/nmd

Ref: ID# 658518

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

5 Third Parties  
(w/o enclosures)