



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 17, 2019

Ms. Stacy Cormican
Attorney
CPS Energy
P.O. Box 1771
San Antonio, Texas 78296-1771

OR2019-35633

Dear Ms. Cormican:

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# 802010.

The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS Energy") received a request for information pertaining to a specified collective. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of EADS Distribution and Ingersoll-Rand Company ("IR"). Accordingly, you state, and provide documentation showing, you notified these interested third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *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 received comments from IR. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note IR seeks to withhold information not submitted to this office by CPS Energy. By statute, this office may only rule on the public availability of information submitted by the governmental body requesting the ruling. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested). Because this information was not submitted by CPS Energy, this ruling does not address this information and is limited to the information submitted as responsive by CPS Energy.¹

¹As we are able to make this determination, we need not address IR's arguments against disclosure of this information.

Next, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have only received comments from IR. Thus, we have no basis to conclude the remaining interested third party has a protected proprietary interest in the submitted information. *See id.* § 552.110(a)-(b); 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. Accordingly, CPS Energy may not withhold any of the submitted information on the basis of any proprietary interest the remaining interested third party may have in the information. As no other exceptions to disclosure have been raised, CPS Energy 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PL/mo

Ref: ID# 802010

Enc. Submitted documents

c: Requestor
(w/o enclosures)