



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 18, 2020

Ms. Haley Cochran
Attorney, Office of General Counsel
Railroad Commission of Texas
P.O. Box 12967
Austin, Texas 78711-2967

OR2020-23600

Dear Ms. Cochran:

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# 845421.

The Railroad Commission of Texas (the "commission") received a request for information regarding certain pipeline incidents.¹ You state the commission will release some information to the requestor. 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 Magellan Pipeline Company, L.P. ("Magellan"). Accordingly, you state, and provide documentation showing, the commission notified Magellan of the request for information and of the 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 reviewed the submitted information.

We note 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 information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments

¹ We note the commission did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b). Nonetheless, because the interests of third parties can provide a compelling reason to overcome the presumption of openness, we will consider whether any of the submitted information may be withheld under the Act. *See id.* §§ 552.007, .302, .352.

from Magellan explaining why the submitted information should not be released. Therefore, we have no basis to conclude Magellan has a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, the commission may not withhold the submitted information on the basis of any proprietary interest Magellan may have in the information. As no exceptions to disclosure have been raised, the commission 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,

Deborah Southerland
Assistant Attorney General
Open Records Division

DS/jm

Ref: ID# 845421

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)