



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 29, 2022

Ms. Stacy Cormican  
Attorney  
CPS Energy  
500 McCullough  
San Antonio, Texas 78215

OR2022-36809

Dear Mr. 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# 982563.

The City Public Service Board of San Antonio d/b/a/ CPS Energy ("CPS Energy") received a request for information pertaining to named individuals and specified addresses. CPS Energy states it will withhold information pursuant to Open Records Letter No. 2012-10903 (2012).<sup>1</sup> CPS Energy claims the submitted information is excepted from disclosure under section 552.133 of the Government Code.<sup>2</sup> We have considered the claimed exception and reviewed the submitted representative sample of information.<sup>3</sup>

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<sup>1</sup> Open Records Letter No. 2012-10903 authorizes CPS Energy to withhold customer names, billing addresses, service addresses, and bill amounts under section 552.133(b) of the Government Code without requesting a ruling from this office. *See* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

<sup>2</sup> CPS Energy acknowledges it did not comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b), (e). Nevertheless, section 552.133 of the Government Code can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301.

<sup>3</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records

Section 552.133 of the Government Code excepts from disclosure a public power utility's information that is "reasonably related to a competitive matter." *Id.* § 552.133(b). Section 552.133 provides in relevant part:

(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:

...

(F) customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies[.]

*Id.* § 552.133(a), (a-1)(1)(F). Section 552.133(a-1)(2) provides fifteen categories of information that are not competitive matters. *Id.* § 552.133(a-1)(2). Upon review, we find CPS Energy has demonstrated the information at issue reasonably relates to customer usage information as provided by section 552.133(a-1)(1)(F). Further, CPS Energy states the submitted information is not among the fifteen categories of information expressly excluded from the definition of "competitive matter" by section 552.133(a-1)(2). *See id.* Thus, CPS Energy must withhold the submitted information under section 552.133 of the Government Code.

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

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letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/pt

Ref: ID# 982563

c: Requestor