



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 8, 2011

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

OR2011-18108

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# 438437.

The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS") received three requests from different requestors for information pertaining to RQ Number 700013290. 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 Environmental Management Services ("EMS") and Thermo Fluids, Inc. ("Thermo"). Accordingly, you state, and provide documentation showing, you notified EMS and Thermo of the requests for information and of their rights to submit arguments to this office as to why their 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.

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 from EMS or Thermo explaining why their submitted information should not be released. Therefore, we have no basis to conclude either EMS or Thermo has a protected proprietary interest in

the submitted information. *See id.* § 552.110; 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 may not withhold the submitted information on the basis of any proprietary interest EMS or Thermo may have in the information. As no exceptions to disclosure have been raised, the submitted information must be released.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/agn

Ref: ID# 438437

Enc. Submitted documents

c: 3 Requestors  
(w/o enclosures)

Ms. Joni Lawrence  
Thermo Fluids  
8925 East Pima Center Parkway, Suite 105  
Scottsdale, Arizona 85258  
(w/o enclosures)