



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 21, 2016

Ms. Kasey Feldman-Thomason  
General Law Attorney  
Public Utility Commission of Texas  
P.O. Box 13326  
Austin, Texas 78711

OR2016-06406

Dear Ms. Feldman-Thomason:

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# 602468 (PUC ID No. 2015-12-017).

The Public Utility Commission of Texas (the "commission") received a request for information pertaining to two specified companies. You state you have released some information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Penstar Power L.L.C. and Oncor Electric Delivery Company. Accordingly, you state you notified these parties of the request for information and of their rights to submit arguments to this office as to why the information at issue 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) of the Government Code 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 any notified third party explaining why the submitted information should not be released. Therefore, we have no basis to conclude any of the notified third parties have 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, the commission may not withhold the submitted information on the basis of any proprietary interest a notified third party 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 [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,



Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/bhf

Ref: ID# 602468

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Jesus Sifuentes  
Penstar Power  
816 Congress Avenue, Suite 1250  
Austin, Texas 78701  
(w/o enclosures)

Mr. J. Michael Sherburne  
Oncor Electric Delivery Company  
1616 Woodall Rodgers Freeway  
Dallas, Texas 75202  
(w/o enclosures)