



March 27, 2017

**CONFIDENTIAL MATERIALS ATTACHED
BY ELECTRONIC FILING**

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: REQUEST FOR CONFIDENTIAL TREATMENT

Dear Ms. Dortch:

Pursuant to Section 0.459 of the Federal Communications Commission's ("Commission") Rules, 47 C.F.R. § 0.459, General Motors Research Corporation ("GM") respectfully requests that Exhibit 1, Narrative Statement, to the enclosed application be withheld from public inspection and afforded confidential treatment in accordance with Section 552(b)(4) of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), and Sections 0.457(d)(2) and 0.459(b) of the Commission's Rules, 47 C.F.R. §§ 0.457(d)(2), 0.459(b).

Section 552(b)(4) of the Freedom of Information Act permits an agency to withhold from public disclosure any information that qualifies as "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b)(4). Section 0.457(d)(2) of the Commission's Rules allows persons submitting materials that they wish withheld from public inspection in accordance with Section 552(b)(4) to file a request for non-disclosure. 47 C.F.R. § 0.457(d)(2). The requirements governing such requests are set forth in Section 0.459(b) of the Commission's rules. In accordance with Section 0.459(b) of the Commission's Rules, this request is supported by the following showing:

(1) Identification of Specific Information for Which Confidential Treatment is Sought (Section 0.459(b)(1)).

GM seeks to maintain confidentiality of the Narrative Statement to the enclosed application, describing the complete program of research and experimentation proposed, including description of equipment, number of units,¹ and theory of operation.

(2) Description of Circumstances Giving Rise to Submission (Section 0.459(b)(2)).

The confidential information is being filed voluntarily as part of an FCC Form 442 application for experimental authorization.

(3) Explanation of the Degree to Which the Information is Commercial or Financial, or Contains a Trade Secret or is Privileged (Section 0.459(b)(3)).

The confidential information includes proprietary business information detailing GM's future plans to compete, including its product development strategies,² technical data for new products in development, and specific steps to test new services and technologies. Such information is plainly sensitive commercial information that companies would normally keep confidential and that GM, in fact, keeps confidential. *See* 5 U.S.C. § 552(b)(4). Disclosure of the confidential information could have a significant impact on GM's commercial operations by enabling competitors to have a better understanding of GM's future business plans and product development strategies, enabling such competitors to better compete against GM.

The confidential information includes information about GM that is clearly "commercial" in nature. *See Board of Trade v. Commodity Futures Trading Comm'n*, 627 F.2d 392, 403 & n.78 (D.C. Cir. 1980) (courts have given the term "commercial," as used in Section 552(b)(4), its ordinary meanings). In addition, the information voluntarily provided is "confidential." Under well-settled case law, such material "is 'confidential' . . . if disclosure of the information is likely to have either of the following effects: (1) to impair the government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained." *National Parks and Conservation Ass'n v. Morton*, 498 F.2d 764, 770 (D.C. Cir. 1974) (footnote omitted); *see also Critical Mass Energy Project v. NRC*, 975 F.2d 871 (D.C. Cir. 1992), *cert. denied*, 113 S. Ct. 1579 (1993) (holding that voluntarily provided information is confidential for the purpose of FOIA Exemption 4 if it is a kind that would customarily not be released to the public by the person from whom it was obtained).

¹ Because GM seeks to maintain the confidentiality of the number of units involved in this experiment, it has withheld that information from the Form 442 application. GM provided a placeholder value in response to Item 10, which requires the applicant to enter a numerical value for the number of units involved in the experiment. Specifically, GM's response to Item 10 is "0," and the actual number of units is stated in Exhibit 1. GM is not otherwise seeking confidential treatment for the information in the Form 442 application.

² The number of units involved in the experiment can convey business sensitive information to competitors regarding future plans for services and technologies that have not yet been fully developed but that are expected to lead to material developments in markets subject to competition from multiple U.S. and non-U.S. third parties.

(4) Explanation of the Degree to Which the Information Concerns a Service that is Subject to Competition (Section 0.459(b)(4)).

Substantial competition exists in the automotive industry from both U.S. and non-U.S. manufacturers. Competitors include Toyota, Volkswagen AG, Hyundai, Ford, Nissan, Fiat Chrysler Automobiles, Honda, and Suzuki, and Renault, to name a few.

(5) Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5)).

The commercially sensitive information for which GM seeks confidential treatment includes GM's future plans to compete, including its product development strategies, technical data for new products in development, and specific steps to test new services and technologies. Such information is plainly sensitive commercial information that companies would normally keep confidential and that GM, in fact, keeps confidential. *See* 5 U.S.C. § 552(b)(4). Disclosure of the confidential information could have a significant impact on GM's commercial operations by enabling competitors to have a better understanding of GM's future business plans and product development strategies, enabling such competitors to better compete against GM. Under these circumstances, it is "virtually axiomatic" that the information qualifies for withholding under Exemption 4 of the Freedom of Information Act, *see National Parks and Conservation Ass'n v. Kleppe*, 547 F.2d 673, 684 (D.C. Cir. 1976), and under Sections 0.457(d)(2) and 0.459(b).

(6) Identification of Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6)).

GM keeps this kind of sensitive commercial information confidential and does not make it publicly available.

(7) Identification of Whether the Information is Available to the Public and the Extent of Any Previous Disclosure of Information to Third Parties (Section 0.459(b)(7)).

None of the information for which GM seeks confidential treatment has been provided to the public.

(8) Justification of Period During Which the Submitting Party Asserts that the Material Should Not be Available for Public Disclosure (Section 0.459(b)(8)).

GM respectfully requests that the Commission withhold the information from public inspection indefinitely. GM would not, in the normal course of business, provide this information to the public.

Please contact the undersigned with any questions. Thank you for your assistance.

Respectfully Submitted,

/s/ Robert Reagan III

Robert Reagan III

Senior Design and Release Engineer

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Enclosure