

Revised Request for Confidentiality (47 C.F.R. 0.459(b)):

(1) Identification of the specific information for which confidential treatment is sought:

Hewlett-Packard Company ("HP") herein seeks confidential treatment under its pending application for new experimental authority (File No. 0318-EX-PL-2005) for the exhibit identified as:

-- Plan of Study (Attachment 1)

(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission:

HP filed the above-referenced application on November 8, 2005, to commence a research program using various materials toward the objective of developing a new technology. As part of that application the Plan of Study ("Plan") was submitted in which HP outlines the proprietary methods it is employing in the research program, for which it is seeking confidential treatment.

(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged:

HP requests that the attached Plan be given confidential treatment pursuant to Section 552(b)(4) of the United States Code and Sections 0.457(d) and 0.459 of the Commission's rules. HP seeks confidentiality because the request includes commercial information that "would customarily be guarded from competitors" regardless of whether such materials are protected from disclosure by privilege.¹

(4) Explanation of the degree to which the information concerns a service that is subject to competition:

HP has expended a significant amount of its capital and technical resources toward the implementation of its Plan and the initial development of its proprietary production methods. The particular technology that would result

¹ See 47 C.F.R. § 0.457(d); see also *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992) ("we conclude that financial or commercial information provided to the Government on a voluntary basis is "confidential" for the purpose of Exemption 4 [to the FOIA] if it is of a kind that would customarily not be released to the public by the person from whom it was obtained.").

from the program, if successful, would be applicable to a wide array of residential and commercial devices and thus would not be limited to a particular communications service.

(5) Explanation of how disclosure of the information could result in substantial competitive harm:

HP notes that its competitors might be given unfair advantage were the specifics of the Plan to be made public prior to HP's ability to bring the technology that it is developing to market. If such information were disclosed, HP would be placed at a competitive disadvantage, and the value of its proposed products could be damaged.

(6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure:

Only HP personnel working directly on the research program are fully apprised of the technical details of the Plan and are intimately involved in its development. HP intends to pursue its research at its own testing facilities at the locations identified in the Application and that research will involve only HP personnel and HP's immediate authorized contacts. Additionally, HP is preventing unauthorized disclosure by implementing non-disclosure agreements with those contacts and with its suppliers.

(7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties:

Information pertaining to this new technology is not available for public disclosure; third parties are limited to immediate authorized contacts and contracted equipment and materials suppliers who are legally bound by applicable non-disclosure agreements.

(8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure:

Given the sensitive nature of the information provided, HP requests herein that its Plan be held in confidentiality by the Commission until the end of HP's proposed research program (i.e., 24 months) when its experimental license will expire. At the end of that research program, HP feels that it will have made sufficient progress that the Plan can be made public, as the technology it

concerns will likely be utilized in components that will be ready for market. Accordingly, HP is not seeking permanent blanket confidentiality of the information contained in its application, but merely confidentiality covering the period during which it continues to develop the technology and bring it to market as a viable commercial option.

(9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted:

The technology that HP plans to develop is intended for use in a highly competitive residential and commercial market, where protection of confidential and proprietary information is crucial to HP's success for its development and implementation.