

2-2-2017

To the Office of Engineering and Technology:

Re: Request for confidential treatment for information within Experimental License Application, File. No. 0029-EX-CN-2017

Ericsson respectfully requests that, pursuant to Sections 0.457 and 0.459 of the Commission's rules, 47 C.F.R. §§ 0.457 and 0.459, the Commission withhold from public inspection and accord confidential treatment to the details of what we will be studying and antenna parameters from our application exhibit in File Number 0029-EX-CN-2017. This information qualifies as trade secrets and commercial information that falls within Exemption 4 of the Freedom of Information Act ("FOIA").¹ Ericsson has previously requested, and been granted, confidential treatment for this information.²

Exemption 4 of FOIA provides that the public disclosure requirement of the statute "does not apply to matters that are . . . (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential."³ Ericsson is providing the trade secrets and commercial information "of a kind that would not customarily be released to the public" because such disclosure is necessary to obtain an experimental license. Therefore, this information is "confidential" under Exemption 4 of FOIA.⁴ Moreover, Ericsson would suffer substantial competitive harm if the identified information in our research program were disclosed.⁵

In support of this request and pursuant to Section 0.459(b) of the Commission's rules,⁶ Ericsson hereby states as follows:

1. IDENTIFICATION OF THE SPECIFIC INFORMATION FOR WHICH CONFIDENTIAL TREATMENT IS SOUGHT⁷

Ericsson seeks confidential treatment of antenna parameters and testing details, which are contained in Exhibits to the application. We have provided a public version of the narrative Exhibit in which we have redacted this information.

¹ 5 U.S.C. § 552(b)(4).

² See, e.g., File Number 0801-EX-PL-2015.

³ *Id.*

⁴ See *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

⁵ See *National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

⁶ 47 C.F.R. § 0.459(b).

⁷ 47 C.F.R. § 0.459(b)(1).



2. DESCRIPTION OF CIRCUMSTANCES GIVING RISE TO THE SUBMISSION⁸

Ericsson is submitting an application for authorization for an experimental license to conduct 5G trials.

3. EXPLANATION OF THE DEGREE TO WHICH THE INFORMATION IS COMMERCIAL OR FINANCIAL, OR CONTAINS A TRADE SECRET OR IS PRIVILEGED⁹

The information for which Ericsson seeks confidential treatment contains sensitive trade secrets and commercial information “which would customarily be guarded from competitors.”¹⁰ Ericsson has invested finances, planning and expertise into developing the “secret commercially valuable plan” that is the program of research into 5G, and we will use this research to develop 5G products. The antenna parameters and testing details are part of this plan and that is not information we would disclose except for the need to obtain the experimental license.

4. EXPLANATION OF THE DEGREE TO WHICH THE INFORMATION CONCERNS A SERVICE THAT IS SUBJECT TO COMPETITION¹¹

Developing network products is the core of Ericsson’s business and 5G is the next generation of network technology, which is still in the research and development stage. Ericsson faces competition in the US and globally to develop the best 5G products.

5. EXPLANATION OF HOW DISCLOSURE OF THE INFORMATION COULD RESULT IN SUBSTANTIAL COMPETITIVE HARM¹²

The release of the plan we are using to research and develop 5G products could result in competitive harm to Ericsson to the extent it became available to competitors. Disclosing the information would enable competitors to use and benefit from the investment Ericsson has made to develop the current program of research, to shortcut their own research processes and to undermine our position with customers. It would unjustly benefit our competitors to gain this insight into our research.

⁸ 47 C.F.R. § 0.459(b)(2).

⁹ 47 C.F.R. § 0.459(b)(3).

¹⁰ 47 C.F.R. § 0.457.

¹¹ 47 C.F.R. § 0.459(b)(4).

¹² 47 C.F.R. § 0.459(b)(5).



6. IDENTIFICATION OF ANY MEASURES TAKEN BY THE SUBMITTING PARTY TO PREVENT UNAUTHORIZED DISCLOSURE¹³

The information has been disclosed only to Ericsson personnel as needed, and when it has been necessary to disclose any of this information for joint customer research, that has been done under a Nondisclosure Agreement. We have provided a redacted narrative to the application to keep the information confidential.

7. IDENTIFICATION OF WHETHER THE INFORMATION IS AVAILABLE TO THE PUBLIC AND THE EXTENT OF ANY PREVIOUS DISCLOSURE OF THE INFORMATION TO THIRD PARTIES¹⁴

The information is not available to the public. Ericsson has shared some of the information with a limited number of customer personnel for joint research pursuant to a Nondisclosure Agreement. Per the NDA, all the information will remain confidential.

Ericsson has previously disclosed some of the information in this application to the FCC and NTIA because we have filed for experimental licenses and STAs based on the technical information.¹⁵ We have always requested confidentiality in these filings, and the FCC has granted all our previous requests for confidentiality.

These are the only disclosures that have been made outside of Ericsson. Accordingly, Ericsson requests that the Commission accord the information covered by this Request for Confidential Treatment under Sections 0.457 and 0.459 of the Commission's rules.

8. JUSTIFICATION OF THE PERIOD DURING WHICH THE SUBMITTING PARTY ASSERTS THAT MATERIAL SHOULD NOT BE AVAILABLE FOR PUBLIC DISCLOSURE¹⁶

Ericsson requests that the requested information be treated as confidential for a period of 5 years. We request this time period so that competitors cannot benefit from our research as the industry develops 5G technology. By the end of 5 years, research into 5G should have

¹³ 47 C.F.R. § 0.459(b)(6).

¹⁴ 47 C.F.R. § 0.459(b)(7).

¹⁵ See File Numbers 0765-EX-PL-2014, 0801-EX-PL-2015, 0806-EX-ST-2015, and 0808-EX-ST-2015.

¹⁶ 47 C.F.R. § 0.459(b)(8).



developed to an extent where disclosing this information to the public would not be a competitive risk.

9. OTHER INFORMATION THAT ERICSSON BELIEVES MAY BE USEFUL IN ASSESSING WHETHER ITS REQUEST FOR CONFIDENTIALITY SHOULD BE GRANTED¹⁷

Granting this request for confidentiality is consistent with a policy of supporting innovation and the investment necessary to conduct research.

Respectfully submitted,

/s/ Kelley A Shields

Kelley A. Shields
Director, Government Affairs and Public Policy

¹⁷ 47 C.F.R. § 0.459(b)(9).