

**REQUEST FOR WITHHOLDING INFORMATION
FROM ROUTINE PUBLIC DISCLOSURE**
File No. 0775-EX-ST-2012

Northrop Grumman Systems Corporation (“Northrop Grumman”) requests pursuant to Section 0.459 of the Commission’s Rules that certain materials included within the above-referenced application for special temporary authority be withheld from routine public disclosure. In support of that request, Northrop Grumman provides the following information:

Identification of materials to be withheld from routine public disclosure (§0.459(b)(1)): Northrop Grumman requests that all of the information contained in Attachment 1 to the application be withheld from routine public disclosure. Northrop Grumman does not seek to withhold from public inspection any information necessary for interference mitigation, including the applicant name, contact information, locations, frequencies and power levels.

Identification of the Commission proceeding in which the information was submitted (§0.459(b)(2)): The material has been submitted in connection with the Northrop Grumman application for special temporary authority that has been assigned File No. 0775-EX-ST-2012.

Explanation of the degree to which the information is commercial or financial, or contains a trade secret, or is privileged (§0.459(b)(3)): The market that is the subject of the request for special temporary authority is a highly competitive one, with numerous vendors battling for business through, among other things, the development of innovative products, services and features that meet the critical needs of the target users. Were Northrop Grumman’s competitors to learn at this time the facts set forth in Attachment 1 to the application regarding developmental effort that Northrop Grumman is undertaking, it could deprive Northrop Grumman of the marketplace benefits it otherwise will achieve by virtue of having innovative products, services and features available before other competitors. That, in turn, would have an adverse impact on Northrop Grumman’s competitive standing with the prospective customer base. Northrop Grumman closely guards the information in Attachment 1 against disclosure to competitors and the public. The information for which confidential treatment is sought concerns Northrop Grumman’s private business and operations and “would customarily be guarded from competitors.” See 47 C.F.R. §§ 0.459(a)(4), 0.457(d)(2). Such proprietary and confidential information may be withheld from public disclosure under FOIA Exemption 4.

Explanation of the degree to which the information concerns a service that is subject to competition (§0.459(b)(4)): As discussed above, the market for the products, services and features that are the subject of the request for special temporary authority is a highly competitive one. The information for which confidential treatment is sought concerns Northrop Grumman’s private business and operations and “would customarily be guarded from competitors.” See 47 C.F.R. §§ 0.459(a)(4), 0.457(d)(2).

Explanation of how disclosure of the information could result in substantial competitive harm (§0.459(b)(5)): Public disclosure of the commercially-sensitive, proprietary, and confidential operational and technical information set forth in the Attachment 1 would cause competitive harm to Northrop Grumman. The industry is highly competitive, and thus competitors always are interested in learning information about developmental and testing schedules of others in order to gain a competitive advantage. As noted above, were Northrop Grumman's competitors to become aware of the facts set forth in the Attachment 1 to the application at this time, it could deprive Northrop Grumman of the marketplace benefit it otherwise will achieve and thus have an adverse impact on Northrop Grumman's competitive standing. The D.C. Circuit has found that parties do not have to "show actual competitive harm" to justify confidential treatment. Rather, "[a]ctual competition and the likelihood of substantial competitive injury" is sufficient to bring commercial information within the realm of confidentiality." *Public Citizen Health Research Group*, 704 F.2d at 1291, quoting *Gulf & Western Industries v. U.S.*, 615 F.2d 527, 530 (D.C. Cir. 1979).

Identification of any measures taken by the submitting party to prevent unauthorized disclosure (§0.459(b)(6)): Northrop Grumman will not be disclosing to the general public that it is undertaking the trial discussed in Attachment 1 or that it has sought this special temporary authority. Those Northrop Grumman employees involved in the trial will be instructed on the need to maintain confidentiality regarding the nature and source of the device.

Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties (§0.459(b)(7)): Northrop Grumman has not made the information subject to this request available to the public and does not routinely disclose such commercially sensitive information to the public or to third parties, and has established procedures to protect such information internally. Northrop Grumman voluntarily provides the information at this time with the expectation that it will be treated confidentially in accordance with the Commission's rules. See *Critical Mass Energy Project v. Nuclear Regulatory Comm'n*, 975 F.2d 871, 879 (D.C. Cir. 1992) (commercial information provided on a voluntary basis "is 'confidential' for the purpose of Exemption 4 if it is of a kind that would customarily not be released to the public by the person from whom it was obtained.").

Justification of the period during which the submitting party asserts that material should not be available for public disclosure (§0.459(b)(8)): Given the competitive nature of the marketplace, disclosure that Northrop Grumman is about to undertake the efforts referenced in Attachment 1 would harm Northrop Grumman's competitive position. Northrop Grumman requests that the information be held confidential during the period for which special temporary authority for experimental operations is requested.

Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted (§0.459(b)(9)): The information for which confidential treatment is requested falls within Exemption 4 of the Freedom of Information Act ("FOIA"), which provides a statutory basis for withholding from public inspection "matters that are trade secrets and

commercial or financial information obtained from a person and privileged or confidential.” 5 U.S.C. § 552(b)(4).

Consistent with 47 C.F.R. § 0.459(d)(1), Northrop Grumman requests notification if release of the information subject to this request is requested pursuant to the FOIA or otherwise, so that Northrop Grumman may have an opportunity to oppose grant of any such request.