

Space Data Corporation
Request for Special Temporary Authority

Request For Confidential Treatment

Pursuant to Section 0.459 of the Commission's rules¹ and Section 552(b)(4) of the Freedom of Information Act ("FOIA"),² Space Data Corporation ("Space Data") requests confidential treatment for its application for Special Temporary Authority ("STA") to conduct research trials to determine whether the iDEN wireless protocol can operate effectively on Space Data's wireless network. As further discussed below, the STA application includes proprietary and highly competitively sensitive information, the release of which would cause significant harm to Space Data.

The STA application includes sensitive information regarding the operation of Space Data's network and step-by-step procedures that will be undertaken for the proposed research trials. This information is highly competitively sensitive and of a nature that is not made public by Space Data or other industry members, and include trade secrets. The wireless industry is subject to intense competition and any release of sensitive commercial or trade information regarding Space Data's systems, operations, and services would result in substantial customer harm and thus substantial competitive harm to Space Data.

The information in the STA constitutes trade secrets or sensitive commercial information that "would customarily be guarded from competitors."³ Such competitively sensitive information is exempted from mandatory disclosure under "Exemption 4" of the FOIA,⁴ and Section 0.457(d) of the Commission's rules.⁵ Exemption 4 allows the withholding of commercial or financial information that is privileged or confidential.⁶ The confidentiality requirement is satisfied if substantial competitive injury would likely result from disclosure.⁷ Space Data has taken steps to safeguard from disclosure all of the enclosed documents for which confidential treatment is sought, and public disclosure of the information identified herein would cause substantial customer and competitive harm to Space Data,⁸ more than satisfying the Exemption 4 standard for nondisclosure⁹ as well as the criteria set forth in Section 0.459(b) of the Commission's rules.¹⁰ Space Data accordingly requests confidential treatment of the STA application in its entirety and all of the supporting documents.

¹ 47 C.F.R. § 0.459.

² 5 U.S.C. § 552(b)(4) (exemption 4 of the FOIA provides that an agency need not disclose "trade secrets and commercial or financial information obtained from a person which is privileged or confidential").

³ 47 C.F.R. § 0.457(d)(2).

⁴ 5 U.S.C. § 552(b)(4).

⁵ 47 C.F.R. § 0.457(d). See *National Parks and Conservation Ass'n. v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) ("National Parks"); *Southern Company*, 14 FCC Rcd 1851, 1860 (WTB 1998) ("Southern Company").

⁶ 5 U.S.C. § 552(b)(4).

⁷ *Public Citizen Research Group v. FDA*, 704 F.2d 1280, 1290-91 (D.C. Cir. 1983) ("Public Citizen").

⁸ See *National Parks*, 498 F.2d at 770; *Southern Company*, 14 FCC Rcd at 1860.

⁹ See *Public Citizen*, 704 F.2d at 1290-91.

¹⁰ 47 C.F.R. § 0.459(b).