

October 10, 2019

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Western Maritime Broadband LLC – Request for Confidential Treatment
OET File No. 0243-EX-CM-2019

Dear Ms. Dortch:

Western Maritime Broadband LLC (“Western Maritime”) pursuant to 5 U.S.C. § 552 and 47 C.F.R. §§ 0.457, 0.459, hereby requests that certain information in and attachments to the above-referenced modification application for an experimental license be treated as confidential and not subject to public inspection.¹ The information contained in the attached narrative (the “Application Narrative”) contains confidential and commercially sensitive information that would cause significant economic and competitive harm if publicly disclosed.

Exemption 4 of the Freedom of Information Act allows entities to withhold from public information “trade secrets and commercial or financial information obtained from a person and privileged or confidential.”² Section 0.457(d)(2) of the Commission’s rules allows persons submitting materials that they wish to be withheld from public inspection in accordance with Section 552(b)(4) to file a request for non-disclosure, pursuant to Section 0.459.³ As demonstrated herein, the information contained in the Application Narrative contains confidential and commercially sensitive information that falls within Exemption 4 of the Freedom of Information Act.⁴

In accordance with the requirements contained in Section 0.459(b) for such requests, Western Maritime submits the following information in support of its request for confidential treatment:

¹ To be clear, Western Maritime does not seek confidential treatment of frequency information contained in the Form 442 or the Stop Buzzer contact information.

² 5 U.S.C. §552(b)(4).

³ 47 C.F.R. § 0.459.

⁴ 5 U.S.C. §552(b)(4); 47 C.F.R. § 0.457(d).

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

Western Maritime seeks confidential treatment of the information contained in the Application Narrative (Attachment 1 to OET File No. 0243-EX-CM-2019) and certain antenna information included on Form 442 (the “Confidential Information”).

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

Western Maritime is submitting this information as part of an application for a modification of its experimental license to build upon the experimental operations originally proposed in its license application, OET File No. 0885-EX-CN-2018.

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

The Confidential Information contains information of significant commercial value and the tests and experimental operations described therein include trade secrets.⁵ The innovative equipment, services and technologies described by Western Maritime in the Application Narrative and Form 442 could be used by its competitors to its disadvantage.

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

The equipment, services, and technologies that are the subject of the instant application are in the early stages of their development. Western Maritime anticipates that the continued development of these equipment, services, and technologies will result in innovative offerings that will become an integral part of a highly competitive market for antenna technologies and wireless connectivity.

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

Information concerning Western Maritime’s equipment, services, and technologies is proprietary and commercially sensitive. If the Confidential Information were publicly disclosed, Western Maritime’s competitors could use the information to undermine Western Maritime’s market position. Public release of this information would jeopardize Western Maritime’s long-term

⁵ See, e.g., *In the Matter of Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, Report and Order, 13 FCC Rcd 24816, 24818, ¶ 3 (1998) (explaining that “[i]n the context of the FOIA, a trade secret is defined as ‘a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort.’”).

business plans and enable its competitors to unfairly appropriate Western Maritime's innovative network architecture to develop its own wireless technologies and network architectures.

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

Western Maritime closely guards access to ensure the Confidential Information is not publicly disclosed. The Confidential Information is not distributed, circulated, or provided to any party outside of Western Maritime without executing a Non-Disclosure Agreement with Western Maritime. The company treats this data as sensitive information; thus only specialized personnel within the company have access to it and only on a need to know basis.

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

Western Maritime has not publicly disclosed the Confidential Information. All parties outside of Western Maritime that have access to this information obtained such information only after executing a Non-Disclosure Agreement with Western Maritime.

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

Western Maritime respectfully requests that the entire contents of the Application Narrative and antenna information contained on the Form 442 should remain subject to confidential treatment permanently. Even historical information could be used by Western Maritime's competitors to track business decisions, business plans and business relationships. This information could be used by Western Maritime's competitors to its detriment.

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 public interest would not be served by making the Confidential Information publicly available. The nature of the experimentation being conducted by Western Maritime is highly innovative and of significant value to other companies. Public disclosure would put Western Maritime at a significant competitive disadvantage if it were made public.

Please contact the undersigned should you have any questions concerning this filing.

Very truly yours,

/s/ Douglas Svor

Douglas A. Svor
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP