

6-9-2017

To the Office of Engineering and Technology:

Re: Request for confidential treatment for information within Experimental License Application, File. No. 0759-EX-ST-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 our LAA trials outlined in our Exhibits to File Number 0759-EX-ST-2017. This information qualifies as trade secrets and commercial information that falls within Exemption 4 of the Freedom of Information Act ("FOIA").¹

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."² 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 STA. Therefore, this information is "confidential" under Exemption 4 of FOIA.³ Moreover, Ericsson would suffer substantial competitive harm if the identified information in our research program were disclosed.⁴

In support of this request and pursuant to Section 0.459(b) of the Commission's rules,⁵ Ericsson hereby states as follows:

1. IDENTIFICATION OF THE SPECIFIC INFORMATION FOR WHICH CONFIDENTIAL TREATMENT IS SOUGHT⁶

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

¹ 5 U.S.C. § 552(b)(4).

² *Id.*

³ *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

⁴ *See National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

⁵ 47 C.F.R. § 0.459(b).

⁶ 47 C.F.R. § 0.459(b)(1).



2. DESCRIPTION OF CIRCUMSTANCES GIVING RISE TO THE SUBMISSION⁷

Ericsson is submitting an application for authorization for special temporary authority to conduct LAA trials.

3. EXPLANATION OF THE DEGREE TO WHICH THE INFORMATION IS COMMERCIAL OR FINANCIAL, OR CONTAINS A TRADE SECRET OR IS PRIVILEGED⁸

The information for which Ericsson seeks confidential treatment contains sensitive trade secrets and commercial information “which would customarily be guarded from competitors.”⁹ Ericsson has invested finances, planning and expertise into developing the “secret commercially valuable plan” that is the program of research into LAA, and we will use this research to develop our LAA products. The testing details are part of this plan and that is not information we would disclose except for the need to obtain the STA.

4. EXPLANATION OF THE DEGREE TO WHICH THE INFORMATION CONCERNS A SERVICE THAT IS SUBJECT TO COMPETITION¹⁰

Developing network products is the core of Ericsson’s business and LAA is highly competitive product offering. There is competition between us and our direct competitors, as well as competition between major operators seeking to launch LAA.

5. EXPLANATION OF HOW DISCLOSURE OF THE INFORMATION COULD RESULT IN SUBSTANTIAL COMPETITIVE HARM¹¹

The release of the plan we are using to research and develop LAA 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. The information could also cause substantial competitive harm our customers, as their competitors would get unfair competitive insight into our technology and investment.

⁷ 47 C.F.R. § 0.459(b)(2).

⁸ 47 C.F.R. § 0.459(b)(3).

⁹ 47 C.F.R. § 0.457.

¹⁰ 47 C.F.R. § 0.459(b)(4).

¹¹ 47 C.F.R. § 0.459(b)(5).



6. IDENTIFICATION OF ANY MEASURES TAKEN BY THE SUBMITTING PARTY TO PREVENT UNAUTHORIZED DISCLOSURE¹²

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 PARTIES¹³

The information is not available to the public. Ericsson has shared some of the technical 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. 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 DISCLOSURE¹⁴

Ericsson requests that the requested information be treated as confidential for a period of 1 year. The next 6 months are a highly competitive time for LAA, and we anticipate most of the competitive risk will be during the next 6 months to 1 year.

9. OTHER INFORMATION THAT ERICSSON BELIEVES MAY BE USEFUL IN ASSESSING WHETHER ITS REQUEST FOR CONFIDENTIALITY SHOULD BE GRANTED¹⁵

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

¹² 47 C.F.R. § 0.459(b)(6).

¹³ 47 C.F.R. § 0.459(b)(7).

¹⁴ 47 C.F.R. § 0.459(b)(8).

¹⁵ 47 C.F.R. § 0.459(b)(9).