



ATTORNEYS AT LAW

WASHINGTON HARBOUR
3000 K STREET, N.W.
SUITE 600
WASHINGTON, D.C. 20007-5109
202.672.5300 TEL
202.672.5399 FAX
WWW.FOLEY.COM

WRITER'S DIRECT LINE

██████████
cgrigorian@foley.com EMAIL

CLIENT/MATTER NUMBER

██████████

November 19, 2021

Via Email

Ann Carlson
Chief Counsel
National Highway Traffic Safety Administration
W41-227
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: LG Energy Solution Michigan, Inc. – Request for Confidential
Treatment for its Partial Response to the September 21, 2021
Information Request – PE20-016

Dear Ms. Carlson:

This letter serves as the request for confidential treatment by LG Energy Solution Michigan, Inc. (“LGES”) with respect to the enclosed documents, which are being submitted in response to the Agency’s September 21, 2021 Information Request in the above-referenced investigation.

In accordance with 49 C.F.R. Part 512.5, LGES is submitting the confidential portions of its response with the file names and content of these files marked “CONFIDENTIAL BUSINESS INFORMATION.” These files contain detailed customer and sales data; production information; descriptions of quality, storage, and validation processes; descriptions of product investigations and root cause analyses; and other confidential and proprietary information. Also enclosed is a Certificate in Support of Confidentiality. To facilitate social distancing due to COVID-19, NHTSA is treating electronic submissions, using email or secure File Transfer Protocol (FTP), as an acceptable method for submitting confidential business information. *See* <https://www.nhtsa.gov/coronavirus/submission-confidential-business-information>. Because the information is being submitted via email, LGES included a single file as the confidential copy of the response.

As set forth below, LGES requests confidential treatment for the enclosed materials on the grounds that they contain trade secrets and/or confidential, proprietary information that would likely subject LGES to substantial harm if disclosed. *See* 49 C.F.R. § 512.3(c)(1) and (2); *National Parks & Conservation Ass’n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) (“commercial or

AUSTIN
BOSTON
CHICAGO
DALLAS
DENVER

DETROIT
HOUSTON
JACKSONVILLE
LOS ANGELES
MADISON

MEXICO CITY
MIAMI
MILWAUKEE
NEW YORK
ORLANDO

SACRAMENTO
SAN DIEGO
SAN FRANCISCO
SILICON VALLEY
TALLAHASSEE

TAMPA
WASHINGTON, D.C.
BRUSSELS
TOKYO

████████████████████



FOLEY & LARDNER LLP

Ann Carlson

National Highway Traffic Safety Administration

November 19, 2021

Page 2

financial matter is ‘confidential’ . . . if disclosure of the information is likely to . . . cause substantial harm to the competitive position of the person from whom the information was obtained.”); *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1288 (D.C. Cir. 1983) (a trade secret is 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”); *Center for Auto Safety v. Nat’l Hwy. Traffic Safety Admin.*, 93 F. Supp. 2d 1, 16 (D.D.C. 2000), *remanded for further proceedings*, 244 F.3d 144 (D.C. Cir. 2001) (air bag specifications representing “years of research and development and enormous financial investment” not subject to FOIA disclosure).

Release of this information would give competitors detailed and commercially valuable information regarding LGES’s customers, sales data, manufacturing processes, quality processes, quality testing, manufacturing capabilities, and analyses of this information. Specifically, LGES requests confidential treatment for the following information:

- **Detailed Customer and Production Information**

- The response to Request No. 1 of the information request contains detailed customer and production information detailing the production volumes by year and broken down by specific customers. The response also includes customer contact information, part numbers, manufacturing locations, and shipping locations for parts. Competitors could use this information to understand LGES’s manufacturing capabilities and to identify valuable customer information (including shipment volumes to individual customers).

- **Detailed Descriptions of Quality, Storage, and Validation Processes**

- The responses to Request Nos. 2 through 7 of the information request contains detailed descriptions of LGES’s quality control processes related to qualifying and monitoring sub-suppliers; validating designs and manufacturing; monitoring manufacturing quality; manufacturing operations; and storing and transporting products. The response also provides detailed illustrations of assembly line stations. Competitors could use this information to develop and improve their manufacturing, quality, storage, and validation processes, without the related expenses of developing these systems.

- **Detailed Descriptions of Product Investigations and Root Cause Analyses**

- The responses to Request Nos. 8, 9, and 12 contain detailed descriptions of LGES’s processes for investigating and evaluating potential issues in





FOLEY & LARDNER LLP

Ann Carlson

National Highway Traffic Safety Administration

November 19, 2021

Page 3

batteries and includes detailed descriptions of its analysis of potential issues in Hyundai Kona EV vehicles and Chevrolet Bolt EV vehicles. Competitors could use this information to develop their own investigation and product development without the associated expense of developing these processes and technical understanding.

The information identified above was a result of LGES's development efforts and involved significant financial investment. As the Agency is aware, the automotive industry is highly competitive and closely guards against public disclosure of such information. Disclosure of this information would provide LGES's competitors valuable information concerning its manufacturing processes, quality control processes, product designs, product testing, customer information, production capabilities, and product improvements. Such disclosure would, in turn, compromise LGES's position by, among other things, reducing or eliminating its competitors' investment of time and resources in designing, manufacturing, and improving their products. Accordingly, LGES requests that this information be granted confidential treatment under *National Parks* for an indefinite period of time.

Please contact me if you have any questions or need additional information.

Sincerely,

A black rectangular box redacting the signature of Christopher H. Grigorian.

Christopher H. Grigorian

CHG:krb

Enclosures

cc: Tanya Topka (NHTSA ODI)
Sharon Yukevich (NHTSA ODI)
Sean A. Hays (NHTSA ODI)
Daniel Rabinovitz (NHTSA NCC)
Hye Jin Lee (LGES)
Julia A. Hatcher (Latham & Watkins)

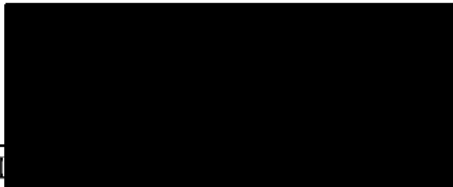
A black rectangular box redacting text at the bottom right of the page.

Certificate in Support of Request for Confidentiality

I, Hye Jin Lee, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

- (1) I am the Legal Manager of LG Energy Solution Michigan, Inc. ("LGES MI") and I am authorized to execute this certificate on behalf of LGES MI and LG Energy Solution, Ltd. ("LGES").
- (2) I certify that the information accompanying this confidential treatment request is confidential and proprietary and is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. § 552(b)(4).
- (3) I hereby request that the information be protected indefinitely.
- (4) This certification is based on the information provided by the responsible LGES and LGES MI personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside LGES or LGES MI.
- (5) Based upon that information, to the best of my knowledge, information and belief, LGES and LGES MI do not customarily release this information to the public. Further, the information for which confidential treatment is being sought has never been released or become available outside LGES or LGES MI, with exception of being shared within the scope of confidential customer-supplier relationships.
- (6) I make no representations beyond those contained in this certificate and, in particular, I make no representations as to whether this information may become available outside LGES or LGES MI because of unauthorized or inadvertent disclosure (except as stated in paragraph 5).
- (7) I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 18th day of November, 2021.



Hye Jin Lee
Legal Manager
LG Energy Solution Michigan, Inc.

