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May 1, 2024

VIA U.S. DOT'S SLFTS

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

Re: Request for Confidential Treatment – LG Energy Solution Michigan, Inc.
Response to March 7, 2024 Information Request – EQ22-001

Dear Mr. Raviv:

This letter serves as the request for confidential treatment by LG Energy Solution Michigan, Inc., a U.S. subsidiary of LG Energy Solution, Ltd. (collectively referred to herein as "LGES") with respect to the enclosed documents, which are being submitted in response to the Agency's March 7, 2024 information request in the above referenced investigation.

In accordance with 49 CFR 512.5, LGES is submitting the information with the file name and contents of the file marked "CONFIDENTIAL BUSINESS INFORMATION." The file contains a detailed description of the root cause investigations, technical information related to recall remedies, and specifications related to the battery cells manufactured by LGES. 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 LGES is submitting this information via the U.S. Department of Transportation's "Secure Large File Transfer Solution" (SLFTS), the request includes a single copy of the confidential file.

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 is closely held by LGES and would likely subject LGES to substantial competitive harm if disclosed. *See* 49 CFR 512.3(c)(1) and (2); *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2364 (2019) (FOIA Exemption 4 protects information that "is customarily kept private, or at least closely held, by the person imparting it"); *National Parks & Conservation Ass'n v.* [redacted] 498 F.2d 765, 770 (D.C. Cir. 1974) ("commercial or financial

[redacted]

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); see also *Renewable Fuels Ass'n v. U.S. Envtl. Prot. Agency*, 519 F. Supp. 3d 1 (D.D.C. 2021) and [redacted] *v. Dep't of the Army*, No. 21-1670, 2022 WL 17752206 (D.D.C. Dec. 19, 2022).

The enclosed material contains detailed information related to LGES's root cause analyses and the development of the remedies for Recall Nos. 20V-630, 20V-701, 21V-127, 21V-560, 21V-650, 23V-369, 23V-626, 23V-840, 23V-867, 24V-183, 24V-215, 24V-217, 24V-228, and 24V-229, as well as detailed specifications related to the battery cells manufactured by LGES for use in the vehicles subject to these recalls. LGES closely guards against public disclosure of such information, and it is "customarily kept private" and "closely held" by LGES. *See Food Marketing Institute v. Argus Leader Media, supra*. Disclosure of this information would provide a treasure trove of closely held information regarding LGES's high-voltage batteries and software, as well as investigative and design techniques, that would permit its competitors to their own competing product programs without incurring the substantial investment that would otherwise be required. Thus, substantial competitive harm to LGES is a reasonably foreseeable consequence of public disclosure. Accordingly, LGES requests that this information be granted confidential treatment indefinitely.

Please contact me if you have any questions.

Sincerely,

[redacted]

Christopher H. Grigorian

Enclosures

cc: Alexander Ansley (NHTSA ODI)
Matthew Brisson (NHTSA ODI)
Thomas Healy (NHTSA NCC)
Nick Englund (Foley & Lardner)

[redacted]

Certificate in Support of Request for Confidentiality

I, Namil Jo, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

(1) I am Professional at LG Energy Solution, Ltd. ("LGES") and I am authorized to execute this certificate on behalf of 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 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.

(5) Based upon that information, to the best of my knowledge, information and belief, LGES does 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, 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 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 30th day of April, 2024.

[redacted]

Professional
LG Energy Solution, Ltd.

[redacted]

Confidential
LGESMI\yangmoonpark