

January 24, 2025

Mr. Peter Simshauser
Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Request for Confidential Treatment of Response to PE24-028

Dear Mr. Simshauser:

Pursuant to 49 C.F.R. Part 512 and Exemption 4 of the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(4), Juicebox (assignment for the benefit of creditors), LLC in its sole and limited capacity as assignee for the benefit of creditors of Enel X Way USA, LLC (Juicebox ABC), hereby requests confidential treatment of certain information provided to the National Highway Traffic Safety Administration's (NHTSA) Office of Defects Investigation (ODI). Juicebox ABC's January 24, 2025 submission responds to the October 17, 2024 Information Request in PE24-028 regarding allegations of electrical arcing and thermal events in certain JuiceBox residential Level 2 EV chargers manufactured by Enel X Way USA, LLC.

Pursuant to Part 512 and instructions provided by NHTSA, this request is provided to the Office of Chief Counsel, and includes a confidential version of Juicebox ABC's January 24, 2025 submission and a public version of the submission with confidential information redacted. The materials designated as confidential are marked "CONFIDENTIAL BUSINESS INFORMATION" and confidential material is enclosed in brackets in accordance with 49 C.F.R. § 512.6(c).

Juicebox ABC requests that the materials it has designated as confidential be protected from disclosure pursuant to 49 C.F.R. § 512.15(b), as modified by the Supreme Court's decision in *Food Marketing Institute v. Argus Leader Media*, 139 S.Ct. 2,356 (2019) ("*Argus Leader*"). Specifically, the Court held in *Argus Leader* that where information that is customarily kept private and not disclosed to the public is submitted to the government with some assurance of privacy, that information is considered "confidential" within the meaning of FOIA's Exemption 4. *See also Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992) ("*Critical Mass*"); 49 C.F.R. § 512.15(d).

The information for which Juicebox ABC seeks confidential treatment is customarily and actually treated as private and is closely held by Juicebox ABC. The information is not customarily released or otherwise provided to the public. The subject materials relate to proprietary design information; proprietary and confidential information regarding internal systems,

communications, documents, and processes; and internal company analysis and assessments. This information is not routinely disclosed outside the company and is used for internal operations and analysis only. *See Argus Leader* at 2,366; *see also Critical Mass* at 879. Furthermore, disclosure of this information is likely to cause competitive harm to Juicebox ABC. The material reveals confidential information about Juicebox ABC's processes and products, and the capabilities of its proprietary technologies. Disclosure of this information would allow competitors access to internal Juicebox ABC plans, procedures, analyses, and strategies. Disclosure of the information also could reveal strategic strengths and weaknesses of the company and its technology. Therefore, such a disclosure would cause undue competitive harm to Juicebox ABC. Conversely, protection of this information will promote cooperation between NHTSA and industry to identify and investigate potential safety risks and "supply the government with information vital to its work." *Argus Leader* at 2,366; *see also Critical Mass* at 879.

NHTSA's practice of maintaining confidential information of this type constitutes assurance that NHTSA will treat this information as confidential. It is the type of information that the agency has traditionally granted confidential treatment and it is therefore entitled to confidential treatment in this case. Juicebox ABC has taken measures to ensure that the information contained in the January 24, 2025 submission has not otherwise been made available to any persons outside of Juicebox ABC, its affiliates, suppliers and consultants, and its legal counsel. Insofar as is known by Juicebox ABC, this information is not known outside of the company, except for these entities.

In addition to the foregoing, Juicebox ABC's submission includes personally identifiable information which is exempt from disclosure under Exemption 6 of the Freedom of Information Act ("FOIA"), 5 U.S.C § 552(b)(6), and therefore would be entitled to confidential treatment under 49 C.F.R. § 512.15(e). Juicebox ABC believes NHTSA's policy is to protect the privacy of individuals under Exemption 6; therefore, the names, addresses, and other personal information of individuals, including Juicebox ABC personnel, contained in Juicebox ABC's response or any of its attachments should not be made available to the public.

Juicebox ABC requests that these above-described materials be afforded confidential treatment for an indefinite period of time. Please let us know if there are any questions regarding this request.

Sincerely,

Jonathan J. Wernick

JuiceBox (assignment for the benefit of creditors),
LLC, in its sole and limited capacity as assignee for
the benefit of creditors of Enel X Way USA, LLC

By: /s/ Jonathan J. Wernick

JONATHAN J. WERNICK, Manager