



NP-OLM-LO-09-03-033

March 17, 2009

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

SUBJECT: NuScale Power Submittal of Proprietary Refueling Operations Report for NuScale Power Module and Proprietary and Non-Proprietary Draft Slides for Pre-Application Review Meeting on April 2, 2009 (NRC Project No. 0769)

NuScale Power Inc. will meet with NRC staff on April 2, 2009, in a closed session, to discuss the Refueling Operations Report for the NuScale Power Module, (NP-DEM-RP-RFOP-002) and to cover NuScale Power's intent to apply for an exemption to 10CFR 50.54m in accordance with NUREG-1791, "Guidance for Assessing Exemption Requests from the Nuclear Power Plant Licensed Operator Staffing Requirements Specified in 10 CFR 50.54(m)."

In preparation for this meeting NuScale is submitting a report on refueling (NP-DEM-RP-RFOP-002) and draft copies of presentation slides for the design overview (NP-DEM-PM-0000-004), refueling (NP-DEM-PM-RFOP-003), and exemption request presentations (NP-OMM-PM-HFIC-001). The refueling report and presentation are considered proprietary by NuScale. An affidavit is attached which describes the bases for withholding the proprietary information contained within the refueling report and slides from public release. Redacted versions of both refueling documents are also included in this submittal (NP-DEM-RP-RFOP-002-NP and NP-DEM-PM-RFOP-003-NP, respectively).

Questions concerning this submittal may be directed to:
NuScale Power, Inc.
Chief Operating Officer
Attn: Thomas F. Marcille (541-207-3931)
E-mail: tmarcille@nuscalepower.com
201 NW 3rd Street
Corvallis, OR 97330

Sincerely,

A handwritten signature in black ink, appearing to read "T. F. Marcille", written over a horizontal line.

Thomas F. Marcille

cc: Thomas J. Kenyon, NRC, TWFN-6 C34
William D. Reckley, NRC, TWFN-6 C34
Edward T. Baker III, NRC, OWFN-6 F15
James Curtiss, Curtiss Law
David Repka, Winston & Strawn, LLP

Document components: NP-DEM-RP-RFOP-002.pdf, 1,615,508 bytes
NP-DEM-RP-RFOP-002-NP.pdf, 184,669 bytes
NP-OMM-PM-HFIC-001.pdf, 1,355,276 bytes
NP-DEM-PM-RFOP-003.pdf, 9,684,579 bytes
NP-DEM-PM-RFOP-003-NP.pdf, 723,797 bytes
NP-DEM-PM-0000-004.pdf, 2,284,370 bytes
NRC_April2_preapp_mtg_affidavit.pdf, 84,442 bytes

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NuScale Power, Incorporated

AFFIDAVIT

I, Thomas F. Marcille, state as follows:

- (1) I, Chief Operating Officer, NuScale Power, Incorporated ("NSP"), have been delegated the function of reviewing the information described in paragraph (2) which is sought to be withheld, and have been authorized to apply for its withholding.
- (2) The information sought to be withheld is contained in attachments to NSP letter from Thomas F. Marcille dated March 17, 2009, to the NRC, *NuScale Power Submittal of Proprietary Refueling Operations Report for NuScale Power Module and Proprietary and Non-Proprietary Draft Slides for Pre-Application Review Meeting on April 2, 2009 (NRC Project No. 0769)*, NP-OLM-LO-09-03-033. The proprietary information in attachments, NP-DEM-RP-RFOP-002, "Refueling Operations for the NuScale Power Module," and NP-DEM-PM-RFOP-003, "NuScale Refueling Process", contain the designation "NuScale Proprietary Information" on the top of each page. The proprietary information in the report and slides is contained within brackets "[]". The basis for the proprietary determination is Paragraph (3) of this affidavit. The specific category of information that fit into the definition of proprietary information and is the basis of the information being classified proprietary is given in Paragraph (4) of this affidavit and is a superscript in the upper right corner of the proprietary-designated brackets in the report and slides.
- (3) In making this application for withholding of proprietary information of which it is the owner, NSP relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10 CFR 9.17(a)(4), and 2.790(a)(4) for "trade secrets" (Exemption 4). The material for which exemption from disclosure is here sought also qualifies under the narrower definition of "trade secret", within the meanings assigned to those terms for purposes of FOIA Exemption 4.
- (4) Some examples of categories of information which fit into the definition of proprietary information are:
 - a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by NSP's competitors without license from NSP, Incorporated constitutes a competitive economic advantage over other companies;
 - b. Information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product. Information which reveals aspects of past, present, or future NSP, Incorporated customer-funded development plans and programs, resulting in potential products to NSP;
 - c. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs (4)a. and (4)b. above.

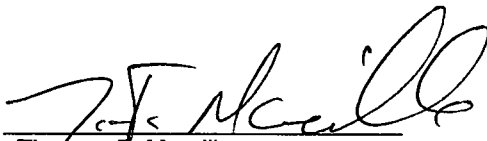
- (5) To address 10 CFR 2.390 (b) (4), the information sought to be withheld is being submitted to NRC in confidence. The information is of a sort customarily held in confidence by NSP, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by NSP, no public disclosure has been made, and it is not available in public sources. All disclosures to third parties including any required transmittals to NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in paragraphs (6) and (7) following.

- (6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge. Access to such documents within NSP is limited on a "need to know" basis.
- (7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist or other equivalent authority, by the manager of the cognizant marketing function (or his delegate), and by the Legal Operation, for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside NSP are limited to regulatory bodies, customers, and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or proprietary agreements.
- (8) The information identified in paragraph (2), above, is classified as proprietary because it discloses detailed refueling processes and design features developed for NuScale power plants implementing multiple NuScale Power Modules. NSP and its contractors performed significant research and evaluation to develop a basis for these processes and design features.
- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to NSP's competitive position and foreclose or reduce the availability of profit-making opportunities. NSP's unique approach to economically and safely refuel multi-module nuclear power plants represents a competitive economic advantage over other companies. Although the exact financial value of this information is difficult to quantify, methods that can reduce refueling outage time have significant financial value. For example, a savings of one day on refueling in a conventional nuclear power plant could amount to more than \$1 million in revenues to a utility. As such, the commercial value of NuScale's refueling process extends beyond the original development costs.

The value of this information to NSP would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive NSP of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing these very valuable analytical tools.

I declare under penalty of perjury that the foregoing affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief.

Executed on this 17th day of March, 2009.



Thomas F. Marcille
Chief Operating Officer
NuScale Power, Incorporated