

August 12, 2009

U.S. Nuclear Regulatory Commission  
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Rockville, MD 20852-2738

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

NuScale Power Inc. will meet with NRC staff on September 2, 2009, in a closed session, to discuss NuScale's approach for conducting probabilistic risk assessments, severe accident analysis, and dose consequence analysis in support of submitting a NuScale plant design certification application.

In preparation for this meeting, NuScale is submitting draft copies of presentation slides for Level I Internal Events PRA (NP-DEM-PM-0907-007), Severe Accidents (NP-DEM-PM-0907-008), Internal Fire and Low Power/Shutdown PRAs (NP-DEM-PM-0907-010), Level II PRA and Multi-Module Risk (NP-DEM-PM-0907-009), and Application of Alternative Source Term (NP-DEM-PM-0907-011). These presentations are considered proprietary by NuScale. An affidavit is attached which describes the bases for withholding the proprietary information contained within the slides from public release. Redacted versions of both refueling documents are also included in this submittal with the identification, "-NP", at the end of the document identification number or file name.

Questions concerning this submittal may be directed to:

NuScale Power, Inc.  
Chief Operating Officer  
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201 NW 3<sup>rd</sup> Street  
Corvallis, OR 97330

Sincerely,



Thomas F. Marcille

cc: Thomas J. Kenyon, NRC, TWFN-6 C34  
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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 August 12, 2009, to the NRC, *NuScale Power Submittal of Proprietary and Non-Proprietary Draft Slides for Pre-Application Review Meeting on September 2, 2009 (NRC Project No. 0769)*, NP- LO-0907-068. The proprietary information in attachments, NP-DEM-PM-0907-007 (Level I Internal Events PRA), NP-DEM-PM-0907-008 (Severe Accidents), NP-DEM-PM-0907-010 (Internal Fire and Low Power / Shutdown PRAs), NP-DEM-PM-0907-009 (Level II PRA and Multi-Module Risk), and NP-DEM-PM-0907-011 (Application of Alternative Source Term) 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 fits 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 identified with 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 12<sup>th</sup> day of August, 2009.



Thomas F. Marcille  
Chief Operating Officer  
NuScale Power, Incorporated