



NP-LO-0909-091

PROJ 769

September 30, 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 OSU-MASLWR RELAP5 Computational Notebook**

NuScale Power Inc. is submitting the *RELAP5/MOD3.3 Model Development of the OSU-MASLWR Facility*, NP-ST-0000-001, in response to an NRC request for information to support development of infrastructure for reviewing small, integrated pressurized water reactor design certification applications.

The attached report has been prepared in accordance with the NuScale Corporate Quality Program, but is not related to any current or planned NuScale licensing activities and is for informational purposes only.

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 "Tom Marcille".

Thomas F. Marcille

cc: Thomas J. Kenyon, NRC, TWFN-6 C34  
Peter Lien, NRC, C-3 A7M

Document components: NP-AF-0909-004.pdf, 280,022 bytes

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NRO

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 September 30, 2009, to the NRC, *NuScale Power Submittal of Proprietary OSU-MASLWR RELAP5 Calculational Notebook*, NP-LO-0909-091. The attachment, *RELAP5/MOD3.3 Model Development of the OSU-MASLWR Facility*, NP-ST-0000-001, contains the designation "NuScale Proprietary Information" on the top of each page and contains 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 constitutes a competitive economic advantage over other companies.
- (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) 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 (5) and (6) following.
- (5) 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.
- (6) 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.
- (7) The information identified in paragraph (2), above, is classified as proprietary because it discloses information about the methods by which input models for safety analysis are developed. NSP and its contractors performed significant research and evaluation to develop a basis for these methods.
- (8) 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 analyzing postulated transients and accidents in the NuScale plant represents a competitive economic advantage over other companies. Although the exact financial value of this information is difficult

to quantify, NuScale-specific safety analysis methods have a significant financial value as they are a key element of the design basis for a NuScale plant.

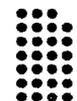
The value of this information to NSP would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive NSP of 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 30 day of September, 2009.



Thomas F. Marcille  
Chief Operating Officer  
NuScale Power, Incorporated



<b>ACKNOWLEDGEMENT REQUIRED</b>	<b>Transmittal Date</b>	10-05-09	<b>Transmittal DID</b>	NP-DT-0910-049
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PROJECT INFORMATION			
<b>Contract DID</b>	N/A	<b>Project Lead</b>	Kent Welter
<b>Contract Name</b>	N/A		

Recipient Information		NuScale Power Information	
<b>To</b>	Document Control Desk	<b>From</b>	Kent Welter
<b>Title</b>	N/A	<b>Title</b>	Safety Analyst Manager
<b>Company</b>	U.S. Nuclear Regulatory Commission	<b>Email</b>	kwelter@nuscalepower.com
<b>Address</b>	11555 Rockville Pike Rockville, MD 20852	<b>Phone</b>	541-207-3931
<b>Email Address</b>	N/A	<b>Discipline</b>	Safety

RECIPIENT TYPE			
<input type="checkbox"/>	Customer	<input type="checkbox"/>	Supplier
<input checked="" type="checkbox"/>	Agency	<input type="checkbox"/>	Other
If other, describe			

DOCUMENT TYPE(S)							
<input type="checkbox"/>	Calculation	<input type="checkbox"/>	Drawing	<input type="checkbox"/>	Specification	<input type="checkbox"/>	Standard
	Quantity		Quantity		Quantity		Quantity
<input type="checkbox"/>	Plan	<input type="checkbox"/>	Manual	<input type="checkbox"/>	Process	<input type="checkbox"/>	Procedure
	Quantity		Quantity		Quantity		Quantity
<input type="checkbox"/>	Contract	<input type="checkbox"/>	Purchase Order	<input type="checkbox"/>	Agreement	<input type="checkbox"/>	
	Quantity		Quantity		Quantity		
<input checked="" type="checkbox"/>	Other	Describe	Cover Letter, Affidavit, Study				
3	Quantity						

Item	NP Document #	Status	Status Explanation
1	NP-LO-0909-091	N/A	Cover letter
2	NP-AF-0909-004	Controlled	Affidavit
3	NP-ST-0000-001	Incomplete	RELAP5 MOD3.3 Model Development of the OSU-MASLWR Facility

NUSCALE INSTRUCTIONS	

RECEIPT ACKNOWLEDGEMENT			
<b>Receipt Acknowledgement</b>	The person signing the following acknowledgement takes responsibility for receiving and processing the attached documents in accordance with internal document control procedures or instructions provided above by NuScale Power, Inc.		
<b>Receipt Acknowledgement to be returned to NuScale Power Document Control within four (4) business days.</b>			
Received By		Position	Date
Returned By		Contact Information	
Return Method	<input type="checkbox"/> email PDF	<input type="checkbox"/> FAX	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivered
<b>Return To Document Control</b>	E: <a href="mailto:dcc@nuscalepower.com">dcc@nuscalepower.com</a> F: 541-207-3928 A: 201 NW 3 <sup>rd</sup> Street, Corvallis, Oregon 97330		