

NuScale Power, Incorporated  
AFFIDAVIT of Edward G. Wallace

STATE OF Oregon

CITY OF Corvallis

I, Edward G. Wallace, state as follows:

- (1) I am the Senior Vice President of Regulatory Affairs of NuScale Power, Inc. I have personal knowledge of the facts set forth in this affidavit, and if called and sworn as a witness in a deposition or before any court, I could and would testify competently under oath to these facts. I am authorized to execute this affidavit on behalf of NuScale Power.
- (2) I have personal knowledge of the criteria and procedures used by NuScale Power in designating confidential commercial information as proprietary and have been delegated the function of reviewing the information described in this affidavit which NuScale Power seeks to have withheld from public inspection. I have been authorized to apply for the withholding of this information on behalf of NuScale Power.
- (3) The harm that would result if the information sought to be withheld is disclosed to the public is as follows:
  - (a) The information disclosed describes the geometry, design parameters, and/or performance characteristics of the NuScale Power Helical Coil Steam Generator. NuScale Power has expended significant effort in the research and development of this information, and has invested significant human and financial resources in such development.
  - (b) NuScale Power's unique geometry, design parameters, and/or performance characteristics provide NuScale Power with a competitive economic advantage over other companies. Public disclosure of the information would cause substantial harm to NuScale Power's competitive position and reduce or foreclose opportunities for NuScale Power to generate a return on its investment in research and development. Although the exact financial value of the information is difficult to quantify, the geometry, design parameters, and/or performance characteristics are a key element of the design basis for a NuScale Power plant and therefore have substantial value to NuScale Power.
  - (c) If the information were disclosed to the public, NuScale Power's competitors would have access to the information without having been required to undertake a similar expenditure of resources. Such disclosure would constitute a misappropriation of NuScale Power's intellectual property, would unfairly provide NuScale Power's competitors with a windfall, and would deprive NuScale Power of the opportunity to seek an adequate return on its investment.
- (4) The information sought to be withheld is contained in the enclosure to NuScale Power letter from Edward G. Wallace, dated October 10, 2011, to the NRC, NuScale Power Submittal of Proprietary Steam Generator Information (NRC Project No. 0769). The enclosure, NP-ME-1011-189, contains the designation "NuScale Proprietary Class 1" on the top of each page. This information is considered by NuScale Power to be proprietary and discloses a range of values for the parameters that NuScale staff expects will bound the final design.
- (5) The basis for proposing that the information be withheld is that NuScale Power treats the information as trade secrets and commercial information that are privileged and confidential. NuScale Power relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC § 552(b)(4), as well as exemptions applicable to the NRC under 10 CFR §§ 2.390(a)(4) and 9.17(a)(4).

- (6) With respect to the considerations set forth in 10 CFR § 2.390(b)(4):
- (a) The information sought to be withheld has been held in confidence by NuScale Power.
  - (b) The information is of a sort customarily held in confidence by NuScale Power and, to the best of my knowledge and belief, consistently has been held in confidence by NuScale Power. Access to the information within NuScale Power is limited on a "need to know" basis. The procedure for approval of external release of such information 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 NuScale Power 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 to maintain confidentiality.
  - (c) The information is being transmitted to and received by the NRC in confidence.
  - (d) No public disclosure of the information 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 that provide for maintenance of the information in confidence.
  - (e) Public disclosure of the information is likely to cause substantial harm to the competitive position of NuScale Power, taking into account the value of the information to NuScale Power, the amount of effort and money expended by NuScale Power in developing the information, and the difficulty others would have in acquiring or duplicating the information. The information sought to be withheld is part of NuScale Power's technology that provides NuScale Power with a competitive advantage over other firms in the industry. NuScale Power has invested significant human and financial capital in developing this technology and NuScale Power believes it would difficult for others to duplicate the technology without access to the information sought to be withheld.

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.

  
 Edward G. Wallace

State of Oregon, County of Benton.

Subscribed and sworn to before me this 10<sup>th</sup> day of October 2011.

  
 Notary Public

My commission expires:

4-6-2015

