

April 10, 2012

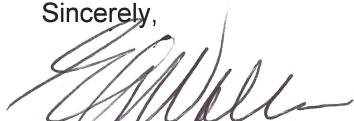
U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

SUBJECT: Confirmation of a closed meeting on April 19, 2012 (NRC Project: 0769)

As discussed, NuScale Power, LLC, will support a meeting with the U.S. Nuclear Regulatory Commission technical staff to describe the instrumentation and control design approach for the NuScale reactor. This letter confirms that a closed meeting between NuScale and the NRC has been scheduled for April 19, 2012. The enclosed affidavit supports the proprietary classification of the information to be presented at the meeting.

Please feel free to contact me at 541-207-3931 or ewallace@nuscalepower.com if you have any questions.

Sincerely,



Edward G. Wallace
Vice President, Regulatory Affairs

Enclosure: Affidavit, NP-AF-0312-019

Distribution:

Michael Mayfield, NRC, TWFN-6 E04
Stuart Magruder, NRC, TWFN-9 F27
Greg Cranston, NRC, TWFN-9 F2

NuScale Power, LLC

AFFIDAVIT of Edward G. Wallace

STATE OF Oregon

CITY OF Corvallis

I, Edward G. Wallace, state as follows:

- (1) I am the Vice President, Regulatory Affairs, of NuScale Power, LLC (NuScale). 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.
- (2) I have personal knowledge of the criteria and procedures used by NuScale in designating confidential commercial information as proprietary and have been delegated the function of reviewing the information described in this affidavit, which NuScale seeks to have withheld from public inspection. I have been authorized to apply for the withholding of this information on behalf of NuScale.
- (3) The following harm would result if the information sought to be withheld is disclosed to the public:
 - (a) The information discloses information about the methods and processes by which NuScale develops design and safety analysis. NuScale has performed significant research and evaluation to develop a basis for its methodology and processes and has invested significant human and financial resources in such development.
 - (b) NuScale's unique methodology and design products provide NuScale with a competitive economic advantage over other companies. Public disclosure of the information would cause substantial harm to NuScale's competitive position and would reduce or foreclose opportunities for NuScale to generate a return on its investment. Although the exact financial value of the information is difficult to quantify, the reactor instrumentation design is a key element of the design basis for a NuScale plant and, therefore, has substantial value to NuScale.
 - (c) If the information were disclosed to the public, NuScale'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's intellectual property, would unfairly provide NuScale's competitors with a windfall, and would deprive NuScale of the opportunity to seek an adequate return on its investment.
- (4) The information sought to be withheld will be discussed in the meeting identified in the NuScale letter from Edward G. Wallace dated April 10, 2012, to the NRC (NP-LO-0312-319), *Confirmation of a closed meeting on April 19, 2012 (NRC Project: 0769)*.
- (5) The basis for proposing that the information be withheld is that NuScale treats the information as trade secrets and commercial information that are privileged and confidential. NuScale 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.
 - (b) the information is of a sort customarily held in confidence by NuScale and, to the best of my knowledge and belief, consistently has been held in confidence by

NuScale. The procedure for approval of external release of such information typically requires review by the staff manager, project manager, chief technology officer, or other equivalent authority, or the manager of the cognizant marketing function (or the manager's delegate), for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside NuScale 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 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 from public sources. All disclosures to third parties, including any required transmittals to the NRC, have been made or must be made pursuant to regulatory provisions or 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, taking into account the value of the information to NuScale, the amount of effort and money expended by NuScale 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's technology that provides NuScale with a competitive advantage over other firms in the industry. NuScale has invested significant human and financial capital in developing this technology, and NuScale believes it would be 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 10th day of April 2012.


Notary Public

My commission expires:

4-06-2015

