

August 28, 2012

Mr. Edward Wallace, Senior Vice President
Regulatory Affairs
NuScale Power, LLC
1100 NE Circle Blvd, Suite 350
Corvallis, OR 97330

SUBJECT: WITHHOLDING PROPRIETARY INFORMATION FROM PUBLIC DISCLOSURE
FOR "INSTRUMENTATION AND CONTROLS DIVERSITY AND DEFENSE-IN-
DEPTH SLIDES (NRC PROJECT NO. 0769)" (NP-AF-0712-1510)

Dear Mr. Wallace:

By letter dated August 13, 2012, NuScale Power, Inc. (NSP) submitted an affidavit (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12228A668), in which Mr. Edward Wallace, Vice President, Regulatory Affairs, requested that the subject slide presentation be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390.

Instrumentation and Controls Diversity and Defense-in-Depth Slides (ADAMS Accession No. ML12228A670)

A nonproprietary copy of this document has been placed in the U.S. Nuclear Regulatory Commission (NRC) Public Document Room and added to the NRC Library in ADAMS, Accession No. ML12228A668.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- 3 (a) The information discloses information about the processes, components, and methods by which NuScale develops a design approach that includes features and processes to eliminate the concern for common-cause failures (CCF) in the Reactor Protection System (RPS). NuScale has performed significant research and evaluation to develop a basis for these processes, components, and methods and has invested significant human and financial resources in such development.
- (b) NuScale's unique processes, components, and methods 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 reduce or foreclose opportunities for NuScale to generate a return on its investment in research and development. Although the exact financial value of the information is difficult to quantify, the processes, components, and methods are key elements of the design basis for a NuScale plant and, therefore, have 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.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version(s) of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-0546.

Sincerely,

/RA/

Gregory V. Cranston, Senior Project Manager
Projects Branch
Division of Advanced Reactors and Rulemaking
Office of New Reactors

Project No.: 0769

cc: DC NuScale Power Mailing List

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(Revised 07/16/2012)

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