

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 of 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 harm that would result if the information sought to be withheld is disclosed to the public is as follows:
  - (a) The information discloses information about the methods by which NuScale develops integral system scaling analyses. NuScale has performed significant research and evaluation to develop a basis for these methods and has invested significant human and financial resources in such development.
  - (b) NuScale's unique methodology for scaling transients and accidents in nuclear plants provides 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 methods are a key element 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.
- (4) The information sought to be withheld is contained in the enclosure to NuScale letter NP-LO-0712-1542 from Edward G. Wallace, dated August 20, 2012, to the NRC, *NuScale Power, LLC Submittal of the "Dynamical System Scaling (DSS) Methodology," Revision 2 (NRC Project No. 0769)*. Enclosure 1, NP-TR-1010-867-P, contains the designation "NuScale Proprietary Class 2" at the top of each page. The information considered by NuScale to be proprietary is identified within double brackets, "[[ ]]" in the document, and discloses a scaling analysis methodology and technology basis.
- (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.

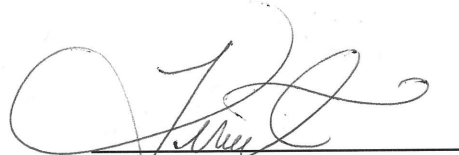
- (b) The information is of a sort customarily held in confidence by NuScale and, to the best of my knowledge and belief, consistently has been held in confidence by NuScale. Access to the information within NuScale is limited to a "need to know" basis. The procedure for approval of external release 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 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. The information is being transmitted to and received by the NRC in confidence.
- (c) 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 the NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements that provide for maintenance of the information in confidence.
- (d) 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 difficult for others to duplicate the technology without access to the information sought to be withheld.

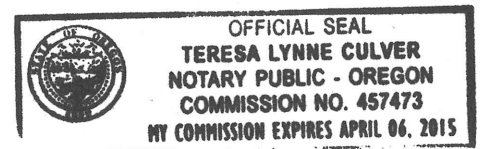
I declare under penalty of perjury that the foregoing affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief.

  
 Edward G. Wallace

State of Oregon, County of Benton.

Subscribed and sworn to before me this 20<sup>th</sup> day of August 2012.

  
 Notary Public



My commission expires: April 6 - 2015