

August 1, 2013

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

**SUBJECT:** Submittal of Presentation Materials for NuScale's August 21 and 22, 2013 Meetings  
(NRC Project No. 0769)

NuScale Power, LLC (NuScale) has requested meetings with the NRC technical staff on August 21 and 22, 2013 to discuss topics related to development of a design-specific review standard for Chapters 9 and 10 of NUREG-0800, Standard Review Plan. NuScale requests that these meetings be closed due to the proprietary nature of the information that will be presented and discussed.

Enclosure 1 is the proprietary version of "Auxiliary Systems Chapter 9" and "Steam and Power Conversion Chapter 10." Enclosure 2 is the nonproprietary version of these presentations. NuScale requests that the proprietary versions be withheld from public disclosure in accordance with the requirements of 10 CFR 2.390. The enclosed affidavit (Enclosure 3) supports this request.

Please feel free to contact me at 541-207-3931 or at [ewallace@nuscalepower.com](mailto:ewallace@nuscalepower.com) if you have any questions.

Sincerely,



Edward G. Wallace  
Vice President, Regulatory Affairs

Enclosure 1: "Auxiliary Systems Chapter 9," proprietary version  
"Steam and Power Conversion Chapter 10," proprietary version  
Enclosure 2: "Auxiliary Systems Chapter 9," nonproprietary version  
"Steam and Power Conversion Chapter 10, nonproprietary version  
Enclosure 3: Affidavit, NP-AF-0713-4219

Distribution: Michael Mayfield, NRC, TWFN-6 E04  
Anna Bradford, NRC, TWFN-9 F27  
Greg Cranston, NRC, TWFN-9 F27

D079  
MRO

NuScale Power, LLC

AFFIDAVIT of Carl Markert

STATE OF OREGON

CITY OF CORVALLIS

I, Carl Markert, state as follows:

- (1) I am the Vice President of Operations and Engineering 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 presentations disclose information about the methods and processes by which NuScale has designed its auxiliary and steam and power conversion structures, systems, and components. NuScale has performed significant research and evaluation to develop a basis for these designs and has invested significant human and financial resources in such development.
  - (b) NuScale's unique auxiliary and steam and power conversion systems designs and schedule 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 auxiliary and steam and power conversion designs 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.
- (4) The information sought to be withheld is contained in the presentations scheduled for August 21 and 22, 2013 entitled "Auxiliary Systems Chapter 9" and "Steam and Power Conversion Chapter 10" and bears the designation "Proprietary Class 2" at the bottom of each page. The information considered by NuScale to be proprietary is identified within double braces "{{ }}" in the slides.
- (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 his 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. 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 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.

Carl Markert  
Carl Markert



State of Oregon, County of Benton.

Subscribed and sworn to before me this 1<sup>st</sup> day of August, 2013

Elizabeth J. Lucason  
Notary Public

My commission expires:

March 14, 2016