



**Enclosure 9:**

Affidavit, AF-0415-13827

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**Report Affidavit**

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AFFIDAVIT of Dale Atkinson

STATE OF OREGON

CITY OF CORVALLIS

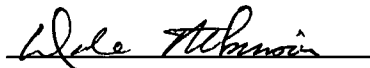
I, Dale Atkinson, state as follows:

- (1) I am the Chief Operating Officer/Chief Nuclear Officer of NuScale Power, LLC (NuScale), and as such I am authorized to apply for withholding of information transmitted with this letter from public disclosure and to execute this affidavit on behalf of NuScale.
- (2) I am knowledgeable of the criteria and procedures used by NuScale in designating confidential commercial information as proprietary and have been specifically delegated the function of reviewing the information described in this affidavit that NuScale seeks to have withheld from public inspection.
- (3) The harm that would result if the information sought to be withheld is disclosed to the public is as follows:
  - (a) The reports disclose information about the NuScale Human Factors Engineering (HFE) program processes, tools, methods, or other trade secrets by which NuScale develops and implements elements of its HFE program. NuScale has performed significant research and evaluation to develop a basis for these processes, tools, methods, or other trade secrets and has invested significant human and financial resources in such development.
  - (b) NuScale's unique processes, tools, methods, or other trade secrets 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, it 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 is contained in the enclosure to NuScale letter from Zackary Rad, dated May 6, 2015, to the NRC, "NuScale Power, LLC Submittal of Human Factors Engineering Implementation Plans". The enclosure(s), RP-0914-8536, RP-0914-8540, RP-0914-8535, and RP-0914-8537 contain the designation "NuScale Confidential - Proprietary Class 2" at the top of each page containing proprietary information. The information considered by NuScale to be proprietary is identified within double braces, "{{ }}" in the document.
- (5) The basis for proposing that the information be withheld is that NuScale treats the information as trade secrets and commercial or financial 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).

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- (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, licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or contractual 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 contractual 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 difficult for others to duplicate the technology without access to the information sought to be withheld.

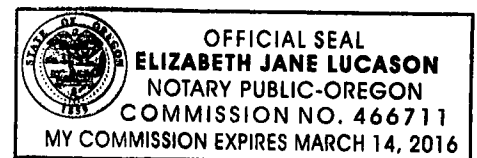
I declare under penalty of perjury that the foregoing affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief.



Dale Atkinson

State of Oregon, County of Benton

Subscribed and sworn to before me this 17<sup>th</sup> day of May 2015



  
Notary Public

My commission expires: March 14, 2016