

TERRESTRIAL ENERGY USA

August 25th, 2020

Project Number: 99902076
TEUSA Letter: #L200825

US Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

Subject: Terrestrial Energy USA, Inc. Report 200825: Examination of Regulatory Requirements to Determine Exemption Needs for the IMSR® Core-unit

Terrestrial Energy USA, Inc. (TEUSA) requests NRC review and comment on the enclosed white paper entitled "*Examination of Regulatory Requirements to Determine Exemption Needs for the IMSR® Core-unit.*" This white paper contains TEUSA's determinations related to the potential need for exemptions for the IMSR® Core-unit from applicable technical requirements of the Nuclear Regulatory Commission (NRC) contained in Parts 50 and 52 of Title 10 of the Code of Federal Regulations (10 CFR).

TEUSA respectfully requests that NRC review the subject white paper and provide written comments on the TEUSA's determinations of (1) the applicability of requirements, and (2) the potential exemption topic areas for a Standard Design Approval (SDA) application for the IMSR® Core-unit. Written comments should be limited to areas where additional information is needed to support TEUSA's determinations of applicability or the potential need for regulatory exemptions to support a future SDA application for the Core-unit. Consistent with our Regulatory Engagement Plan, TEUSA will update this white paper to resolve the staff's comments and provide the revised white paper within 60 days of receipt of the staff's comments. TEUSA will use this information to develop its subsequent SDA application. As such, TEUSA requests that the NRC document its views supporting TEUSA's determinations on the applicability of requirements for the SDA for the Core-unit and on areas where regulatory exemptions may be needed in a letter at the completion of its review. TEUSA is prepared to make reference materials available upon request to expedite the review.

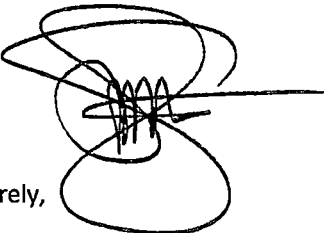
This review is not intended to be a technical review of exemptions. The technical merits of any exemption requests will be formally evaluated as part of the SDA application review. Further, TEUSA is aware that NRC licensing staff has performed similar reviews as part of other licensing activities. For the reasons stated above, TEUSA does not believe a lengthy multi-disciplinary review is needed at this time. Therefore, TEUSA requests that NRC licensing staff perform a regulatory review and, based upon its lessons-learned from previous efforts, that the NRC complete its initial review in no more than 30 staff hours. In addition, TEUSA requests that NRC complete its initial review and provide its written comments on the subject document within 60 days of receipt of this letter. If TEUSA's schedule and resource requests cannot be met, TEUSA requests that the NRC notify TEUSA within 3 working days of receipt of this letter and establish a time in which NRC and TEUSA can discuss the outcomes sought, the staff resource requirements, and the schedule for completing the review.

Portions of the enclosed white paper are proprietary, and TEUSA requests that it be withheld from public disclosure in accordance with the provisions of 10 CFR 2.390. Enclosure 1 provides the proprietary version of the white paper and Enclosure 2 provides the non-proprietary white paper. An affidavit supporting the withholding request is provided in Enclosure 3.

If you have any questions or need any additional information, please contact Robin Rickman by email at rickman@terrestrialusa.com or by phone at 646-687-8212 ext. 531.

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NRR



Sincerely,

Simon Irish, Chief Executive Officer

Enclosures:

Enclosure 1: *"Examination of Regulatory Requirements to Determine Exemption Needs for the IMSR® Core-unit"* (Proprietary)

Enclosure 2: *"Examination of Regulatory Requirements to Determine Exemption Needs for the IMSR® Core-unit"* (Non-proprietary)

Enclosure 3: Affidavit Supporting Request for Withholding from Public Disclosure

CC:

Mohammed Shams, Director - Division of Advanced Reactors and Non-Power Utilization Facilities (DANU)—Office of Nuclear Reactor Regulation (NRR)

Brian Smith, Deputy Director – DANU-NRR

John Segala, Branch Chief - Advanced Reactors Policy Branch – DANU-NRR

Benjamin Beasley, Branch Chief - Advanced Reactors Licensing Branch - DANU-NRR

Adrian Muniz, Project Manager - Advanced Reactor Licensing Branch – DANU-NRR

Michelle Hayes, Branch Chief, Advanced Reactors Technical Branch – DANU-NRR

Enclosure 3 to TEUSA Letter L200825

Terrestrial Energy USA Affidavit and Request for Withholding from Public Disclosure
(10 CFR 2.390)

TERRESTRIAL ENERGY USA

AFFIDAVIT

I, **Simon Irish**, state as follows:

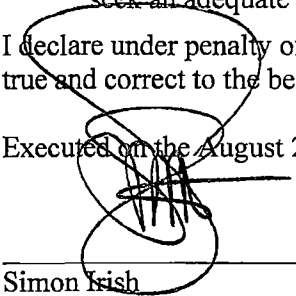
- (1) I am the Chief Executive Officer of Terrestrial Energy USA ("TEUSA") and have reviewed the information described in paragraph (2) which is sought to be withheld, and I am the authorizing official for TEUSA to apply for its withholding.
- (2) The information sought to be withheld, in its entirety, is contained in Enclosure 1 of TEUSA Letter L200825, "*Examination of Regulatory Requirements to Determine Exemption Needs for the IMSR® Core-unit.*"
- (3) I am making this request for withholding, and executing this affidavit in support thereof, pursuant to the provisions of 10 CFR 2.390(b)(1).
- (4) In making this application for withholding of proprietary and commercially sensitive information of which it is the owner or licensee, TEUSA relies upon the exemption from disclosure set forth in the *Freedom of Information Act* ("FOIA"), 5 U.S.C. Sec. 552(b)(4), and the *Trade Secrets Act*, 18 U.S.C. Sec. 1905, and NRC regulations 10 CFR 9.17(a)(4), and 2.390(a)(4) for trade secrets (Exemption 4). The material for which exemption from disclosure is here sought also qualifies under the narrower definition of trade secret, within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, *Critical Mass Energy Project v. Nuclear Regulatory Commission*, 975 F.2d 871 (D.C. Cir. 1992), and *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280 (D.C. Cir. 1983).
- (5) The information sought to be withheld is considered proprietary and/or commercially sensitive for the reasons set forth in paragraphs (4)b and (4)c shown below. Some examples of categories of information that fit into the definition of commercially sensitive information are:
 - a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by TEUSA's competitors without license from TEUSA constitutes a competitive economic advantage over other companies;
 - b. Information that, if used by a competitor, would reduce their expenditure of resources or improve their competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product;
 - c. Information that reveals aspects of past, present, or future TEUSA development plans and programs, resulting in potential products to TEUSA;
 - d. Information that discloses trade secrets or potentially patentable subject matter, or both, for which it may be desirable to obtain patent protection.
- (6) To address 10 CFR 2.390(b)(4), the information sought to be withheld is being submitted to NRC in confidence. The information is of a sort customarily held in confidence by TEUSA, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by TEUSA, not been disclosed publicly, and not been made 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 to proprietary or confidentiality agreements

that provide for maintaining the information in confidence. The initial designation of this information as proprietary and/or commercially sensitive, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in the following paragraphs 6 & 7.

- (7) Initial approval of proprietary and commercially sensitive treatment of a document is made by the manager of the originating component, who is the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge, or who is the person most likely to be subject to the terms under which it was licensed to TEUSA. Access to such documents within TEUSA is limited to a "need to know" basis.
- (8) The procedure for approval of external release of such a document typically requires review by a vice president for technical content, competitive effect, and determination of the accuracy of the proprietary and/or commercially sensitive designation. Disclosures outside TEUSA 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 or confidentiality agreements, or both.
- (9) The information identified in paragraph (2), above, is classified as proprietary and/or commercially sensitive because it contains detailed information regarding TEUSA's licensing plans and technical details about the Integral Molten Salt Reactor (IMSR®) which TEUSA is developing for US deployment.
- (10) Public disclosure of the information sought to be withheld is likely to cause substantial harm to TEUSA's competitive position and foreclose or reduce the availability of profitmaking opportunities. The information contains proprietary technical details of the IMSR® design and details regarding TEUSA's licensing strategy. The development of TEUSA's chosen licensing path comprises a substantial investment of time and money by TEUSA. The precise value of the expertise to use in devising this licensing path is difficult to quantify, but it clearly is substantial. TEUSA's competitive advantage will be lost if its competitors are able to use the results of the TEUSA's experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions. The value of this information to TEUSA would be lost if the information were disclosed to the public. Making such information available to competitors without them having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive TEUSA of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing its licensing strategy.

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.

Executed on the August 25th, 2020



Simon Irish
Chief Executive Officer
Terrestrial Energy USA, Inc.