

February 4, 2022

Docket No. 99902078

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

SUBJECT: NuScale Power, LLC Submittal of Supplemental Information in Support of NRC Acceptance Review of Topical Report Entitled "Statistical Subchannel Analysis Methodology, Supplement 1 to TR-0915-17564-P-A, Revision 2," TR-108601, Revision 0

REFERENCE:

1. NuScale Power, LLC Submittal of "NuScale Power, LLC Submittal of Supplemental Topical Report 'Statistical Subchannel Analysis Methodology, Supplement 1 to TR-0915-17564-P-A, Revision 2,' TR-108601, Revision 0," dated December 30, 2022 (ML21364A133)
2. NRC Conference Call Regarding Subchannel and Rod Ejection Accident Topical Reports Acceptance Review, January 20, 2022

In Reference 1 NuScale Power, LLC (NuScale) provided the Subchannel Analysis Methodology Topical Report. Subsequently in a conference call (Reference 2), NuScale agreed to provide basemodel and input files that support the analyses and methodologies described in Reference 1. Attached to this letter are a set of Digital Versatile Disks (DVDs) containing the information requested by the NRC for review.

The DVDs contain information for NRC Staff review during the conduct of the acceptance review and during the technical review of the topical report. The DVDs contain multiple files that are listed and described in the Excel spreadsheet contained on the DVDs. All files on these DVDs are considered proprietary. Accordingly, NuScale requests that the DVDs be withheld in their entirety from public disclosure in accordance with the requirements of 10 CFR § 2.390. The enclosed affidavit supports this request. The DVDs also contain Export Controlled Information. This information must be protected from disclosure per the requirements of 10 CFR § 810.

This letter makes no regulatory commitments and no revisions to any existing regulatory commitments.

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If you have questions, please contact Rebecca Norris at 541-452-7539 or
at RNorris@nuscalepower.com.

Sincerely,



Mark W. Shaver
Director, Regulatory Affairs
NuScale Power, LLC

Distribution: Michael Dudek, NRC
Getachew Tesfaye, NRC
Bruce Baval, NRC

Enclosure: Affidavit of Mark W. Shaver, AF-113384



Enclosure:

Affidavit of Mark W. Shaver, AF-113384

NuScale Power, LLC

AFFIDAVIT of Mark W. Shaver

I, Mark W. Shaver, state as follows:

- (1) I am the Licensing Manager of NuScale Power, LLC (NuScale), and as such, I have been specifically delegated the function of reviewing the information described in this Affidavit that NuScale seeks to have withheld from public disclosure, and am authorized to apply for its withholding on behalf of NuScale
- (2) I am knowledgeable of the criteria and procedures used by NuScale in designating information as a trade secret, privileged, or as confidential commercial or financial information. This request to withhold information from public disclosure is driven by one or more of the following:
 - (a) The information requested to be withheld reveals distinguishing aspects of a process (or component, structure, tool, method, etc.) whose use by NuScale competitors, without a license from NuScale, would constitute a competitive economic disadvantage to NuScale.
 - (b) The information requested to be withheld consists of supporting data, including test data, relative to a process (or component, structure, tool, method, etc.), and the application of the data secures a competitive economic advantage, as described more fully in paragraph 3 of this Affidavit.
 - (c) Use by a competitor of the information requested to be withheld would reduce the competitor's expenditure of resources, or improve its competitive position, in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.
 - (d) The information requested to be withheld reveals cost or price information, production capabilities, budget levels, or commercial strategies of NuScale.
 - (e) The information requested to be withheld consists of patentable ideas.
- (3) Public disclosure of the information sought to be withheld is likely to cause substantial harm to NuScale's competitive position and foreclose or reduce the availability of profit-making opportunities. The subject basemodel and input files reveal distinguishing aspects about the method by which NuScale develops its Subchannel Analysis Methodology Supplemental Topical Report.

NuScale has performed significant research and evaluation to develop a basis for this method and has invested significant resources, including the expenditure of a considerable sum of money.

The precise financial value of the information is difficult to quantify, but it is a key element of the design basis for a NuScale plant and, therefore, has substantial value to NuScale.

If the information were disclosed to the public, NuScale's competitors would have access to the information without purchasing the right to use it or having been required to undertake a similar expenditure of resources. Such disclosure would constitute a misappropriation of NuScale's intellectual property, and would deprive NuScale of the opportunity to exercise its competitive advantage to seek an adequate return on its investment.

- (4) The information sought to be withheld is listed in the attachment to NuScale letter to the NRC entitled "NuScale Power, LLC Submittal or Supplemental Information in Support of NRC Acceptance Review of Topical Report Entitled 'Statistical Subchannel Analysis Methodology, Supplement 1 to TR-0915-17564-P-A, Revision 2,' TR-108601, Revision 0." The DVDs containing the listed files contain the designation "Proprietary."

- (5) The basis for proposing that the information be withheld is that NuScale treats the information as a trade secret, privileged, or as confidential commercial or financial information. 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) Pursuant to the provisions set forth in 10 CFR § 2.390(b)(4), the following is provided for consideration by the Commission in determining whether the information sought to be withheld from public disclosure should be withheld:
- (a) The information sought to be withheld is owned and 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 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 is true and correct. Executed on February 4, 2022.



Mark W. Shaver