



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

November 15, 2022

Ms. Carrie A. Fosaaen
Director, Regulatory Affairs
NuScale Power, LLC
1100 Circle Boulevard, Suite 200
Corvallis, OR 97330

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
FOR NUSCALE POWER, LLC

Dear Ms. Fosaaen:

By letter dated October 28, 2022, you submitted an affidavit dated October 28, 2022, requesting that the information contained in the following document be withheld from public disclosure pursuant to Section 2.390 of Title 10 of the *Code of Federal Regulations* (10 CFR):

“NuScale Power, LLC Submittal of Presentation Materials Entitled “SDA
Pre-Application Presentation: Steam Generator DWO Testing Observation,”
PM-128090-P, Revision 0 (Closed Session)”

A nonproprietary copy of this document has been placed in the U.S. Nuclear Regulatory Commission’s (NRC’s) Public Document Room and added to the NRC Library in the Agencywide Documents Access and Management System (ADAMS) Accession No. ML22301A093.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure as set forth in affidavit paragraphs (2), (3) and (6) shown below:

- (2)(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 accompanying presentation reveals distinguishing aspects about the process by which NuScale develops its steam generator DWO testing.

NuScale has performed significant research and evaluation to develop a basis for this process 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.

- (6)(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.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-8013.

Sincerely,

/RA/

Getachew Tesfaye, Senior Project Manager
New Reactor Licensing Branch
Division of New and Renewed Licenses
Office of Nuclear Reactor Regulation

Docket No: 99902078

cc: NuScale DC ListServ

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FOR NUSCALE POWER, LLC.
DATED: NOVEMBER 15, 2022

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ADAMS Accession No.: ML22319A163 ***via email** **NRR-106**

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