

July 25, 2023

Docket No. 99902052

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

SUBJECT: Submittal of CFPP LLC Carbon Free Power Project (CFPP) Application for Limited Work Authorization

- REFERENCES:**
1. NuScale Power, LLC Submittal on Behalf of CFPP LLC Carbon Free Power Project (CFPP) Combined License Application (COLA) Entitled "Request for Exemption to Authorize Early Construction of CFPP Excavation Wall Treatments" LO-145324
 2. NuScale Power, LLC Submittal on Behalf of CFPP LLC Carbon Free Power Project (CFPP) Combined License Application (COLA) Entitled "Carbon Free Power Project Nuclear Quality Assurance Program Description," Revision 006, Topical Report TR-121172-NP, Revision 4 (Nonproprietary) LO-142002

CFPP LLC hereby submits an application for a limited work authorization (LWA), in accordance with 10 CFR 50.10(d), for early construction activities at the CFPP site. CFPP LLC is requesting an LWA to facilitate the commencement of certain construction activities prior to issuance of the CFPP combined licenses (COLs). In the attached application, the term "early construction" refers to pre-COL site construction-related activities prior to issuance of the CFPP COLs. A request for exemption to authorize early construction of CFPP excavation wall treatments is submitted separately from this LWA application (Reference 1).

The primary impetus for early construction activities is maintaining the end-of-year 2029 first NuScale Power Module (NPM) commercial operation date (COD) and the CODs in year 2030 for NPM-2 through NPM-6. CFPP LLC understands pursuant to 10 CFR 50.10(f), LWA activities undertaken are at the risk of CFPP LLC.

LWA activities will be conducted under the CFPP Quality Assurance Program Description (Reference 2).

Proprietary and nonproprietary versions of portions of the LWA application are submitted as separate attachments to this letter. CFPP requests the proprietary attachments be withheld from public disclosure under 10 CFR 2.390(a)(4) and in accordance with the requirements of 10 CFR 2.390(b). The enclosed affidavits to this letter (Enclosures 1 and 2) supports this request.

Enclosure 3, Environmental Report, of the attached LWA application contains information that CFPP LLC has identified as likely exempt from public disclosure under 10 CFR 2.390(a)(3). CFPP LLC has indicated such information with brackets “{ }” to assist NRC in determining whether withholding from public disclosure is required.

Enclosure 2, Safety Analysis Report, of the attached LWA application, Section 3.1.3, contains a regulatory commitment for excavation mapping and inspection.

If you have any questions, please contact John Volkoff at 541-452-7117 or at jvolkoff@nuscalepower.com.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 25, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Mason Baker", written in a cursive style.

Mason Baker
President, CFPP LLC

Distribution: Michael Dudek, NRC
Kenneth Erwin, NRC
Omid Tabatabai, NRC
Daniel Barnhurst, NRC
Thomas Hayden, NRC

Attachments:

- Carbon Free Power Project Application for Limited Work Authorization (nonproprietary)
- Carbon Free Power Project Application for Limited Work Authorization Enclosure 1: Applicant Corporate and Financial Information (proprietary version)
- Carbon Free Power Project Application for Limited Work Authorization Enclosure 1: Applicant Corporate and Financial Information (nonproprietary version)
- Carbon Free Power Project Application for Limited Work Authorization Enclosure 2: Safety Analysis Report (proprietary version)
- Carbon Free Power Project Application for Limited Work Authorization Enclosure 2: Safety Analysis Report (nonproprietary version)
- Carbon Free Power Project Application for Limited Work Authorization Enclosure 3: Environmental Report (nonproprietary)
- Carbon Free Power Project Application for Limited Work Authorization Enclosure 4: Site Redress Plan (nonproprietary)
- Carbon Free Power Project Application for Limited Work Authorization Enclosure 5: Inspections, Tests, Analyses, and Acceptance Criteria (nonproprietary)

Enclosure 1: Affidavit of Mason Baker, AF-147852

Enclosure 2: Affidavit of John Volkoff, AF-145810

Enclosure 1:

Affidavit of Mason Baker, AF-147852

CFPP LLC

AFFIDAVIT of Mason Baker

I, Mason Baker, state as follows:

- (1) I am the President of CFPP LLC and as such have the authority to review and apply for the withholding from public disclosure of the information described in this Affidavit.
- (2) The basis for proposing that the information be withheld is that CFPP LLC treats the information as a trade secret, privileged, or as confidential commercial or financial information pursuant to the exemption from public disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC § 552(b)(4) and NRC regulations 10 CFR §§ 2.390(a)(4) and 9.17(a)(4). I am knowledgeable of the criteria used by CFPP LLC in designating information as a trade secret, privileged, or as confidential commercial or financial information.
- (3) The information sought to be withheld consists of confidential or proprietary information concerning estimated construction costs for the Carbon Free Power Project. The information sought to be withheld is in the document entitled "Carbon Free Power Project Application for Limited Work Authorization Enclosure 1: Applicant Corporate and Financial Information" in the accompanied attachments of LO-145808, to which this affidavit is Enclosure 1. The information considered by CFPP LLC to be confidential or proprietary is identified in the document within double braces "{{ }}" accompanied by "CFPP LLC."
- (4) Pursuant to the provisions set forth in 10 CFR § 2.390(b)(4):
 - (a) The information sought to be withheld is owned and has been held in confidence by CFPP LLC.
 - (b) The information is of a sort customarily held in confidence by CFPP LLC, on the basis that it was provided to CFPP LLC in confidence and that it could negatively affect the bargaining position of CFPP LLC in negotiating contracts related thereto.
 - (c) The information is being transmitted to and received by the NRC in confidence.
 - (d) To the best of my knowledge no public disclosure of the information has been made, and it is not available in public sources. 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 CFPP LLC, taking into account the value of the information to CFPP LLC, the amount of effort and money expended by CFPP LLC in developing the information, and the difficulty others would have in acquiring or duplicating the information. The information consists of confidential or proprietary information concerning estimated construction costs for the Carbon Free Power Project. Public disclosure of this information would allow potential suppliers to understand CFPP LLC's financial assumptions prior to contracting with CFPP LLC, thereby negatively affecting bargaining position of CFPP LLC in negotiations. The precise financial value of the information is difficult to quantify, but the information provides key insights in contract negotiations and therefore has substantial value to CFPP LLC. CFPP LLC has invested significant resources in acquiring the information and CFPP LLC believes it would be difficult for others to acquire the information.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 25, 2023.



Mason Baker

Enclosure 2:

Affidavit of John Volkoff, AF-145810

NuScale Power, LLC

AFFIDAVIT of John Volkoff

I, John Volkoff, state as follows:

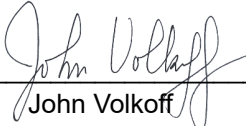
- (1) I am the Manager, Combined License Applications of NuScale Power, LLC (NuScale), and as such, I have been specifically delegated the function of reviewing the information described in this Affidavit that NuScale seeks to have withheld from public disclosure, and am authorized to apply for its withholding 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, method, component, or structure, 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 licensing 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 application reveals distinguishing aspects about the NuScale design.

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 in the document entitled "Carbon Free Power Project Application for Limited Work Authorization Enclosure 2: Safety Analysis Report" in the accompanied attachments of LO-145808, to which this affidavit is Enclosure 2. The information considered by NuScale to be proprietary is identified in the document within double braces "{ { }" accompanied by "NuScale 2(xx)." The parenthetical letters indicate the specific reason(s) for withholding under paragraph (2) of this affidavit.
- (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 July 25, 2023.



John Volkoff