



September 12, 2023

Docket No. 52-050

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

99902078

SUBJECT: NuScale Power, LLC Submittal of Supplemental Information in Support of NRC Review of Topical Report TR-124587-P, "Extended Passive Cooling and Reactivity Control Methodology," Revision 0 (Item A-XPC.LTR-4)

- REFERENCES:**
1. NuScale letter to NRC, "NuScale Power, LLC Submittal of Topical Report 'Extended Passive Cooling and Reactivity Control Methodology,' TR-124587, Revision 0," Dated January 5, 2023. (ML23005A308)
 2. NRC letter to NuScale, "Audit Plan for the Staff Review of the NuScale Power, LLC Standard Design Approval Application – NuScale US460," Dated March 22, 2023. (ML23067A300)

NuScale Power, LLC (NuScale) submitted topical report TR-124587-P, "Extended Passive Cooling and Reactivity Control Methodology," Revision 0 for NRC review and approval in Reference 1. To support review of the topical report, the NRC opened an audit (Reference 2). This letter provides a set of digital versatile discs (DVDs) of supplemental information to support NRC review of the topical report submitted in Reference 1. The DVDs are labeled (Enclosure 1) and a file included on the DVDs provides a description of the supplemental content.

The DVDs contain information for NRC Staff during technical review of Reference 1. The information on these DVDs is highly sensitive and considered NuScale Confidential, Proprietary Class 2, Export Controlled. This information includes third party information which NuScale is obligated to keep confidential. Accordingly, NuScale requests that the DVDs be withheld in their entirety from public disclosure in accordance with the requirements of 10 CFR § 2.390 and 10 CFR § 810. The enclosed affidavits (Enclosures 2 and 3) support this request.

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

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If you have any questions, please contact Wren Fowler at 541-452-7183 or at sfowler@nuscalepower.com.

Sincerely,



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

Distribution: Matthew Mitchell, NRC
Getachew Tesfaye, NRC

Enclosure 1: Supplemental Data Disk for A-XPC.LTR-4
Enclosure 2: Affidavit of Carrie Fosaaen, AF-149927
Enclosure 3: Affidavit of Morris Byram



LO-149924

Enclosure 1:

Supplemental Data Disk for A-XPC.LTR-4



NuScale Power, LLC Submittal of Supplemental Information in Support of
NRC Review of Topical Report TR-124587-P, "Extended Passive Cooling
and Reactivity Control Methodology," Revision 0 (Item A-XPC.LTR-4)
NuScale Confidential, Proprietary Class 2, Export Controlled
This disk contains third party information

NuScale Power, LLC
1100 NE Circle Blvd.
Suite 200
Corvallis, OR 97330
541-360-0500

Nuclear Regulatory Commission Copy



LO-149924

Enclosure 1:

Supplemental Data Disk for A-XPC.LTR-4



LO-149924

Enclosure 2:

Affidavit of Carrie Fosaaen, AF-149927

NuScale Power, LLC

AFFIDAVIT of Carrie Fosaaen

I, Carrie Fosaaen, state as follows:

- (1) I am the Vice President of Regulatory Affairs 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 accompanying information contained on the digital versatile discs (DVDs) reveals distinguishing aspects about the method by which NuScale analyzes extended passive cooling and reactivity control.

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.

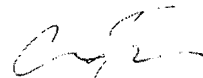
The precise financial value of the information is difficult to quantify, but it is a key element of the design basis for a NuScale plant and, therefore, has substantial value to NuScale.

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 contained on the subject DVDs transmitted with letter entitled "NuScale Power, LLC Submittal of Supplemental Information in Support of NRC Review of Topical Report TR-124587-P, "Extended Passive Cooling and Reactivity Control Methodology," Revision 0 (Item A-XPC.LTR-4)." The DVDs bear the designation "Proprietary" since the information they contain is considered by NuScale to be 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 9/12/2023.



Carrie Fosaaen



LO-149924

Enclosure 3:

Affidavit of Morris Byram

AFFIDAVIT

1. My name is Morris Byram. I am Manager, Licensing & Regulatory Affairs for Framatome Inc. (Framatome) and as such I am authorized to execute this Affidavit.

2. I am familiar with the criteria applied by Framatome to determine whether certain Framatome information is proprietary. I am familiar with the policies established by Framatome to ensure the proper application of these criteria.

3. I am familiar with the Framatome information contained in Enclosure 1 to NuScale letter LO-149924 with subject "NuScale Power, LLC Submittal of Supplemental Information in Support of NRC Review of Topical Report TR-124587-P, "Extended Passive Cooling and Reactivity Control Methodology," Revision 0 (Item A-XPC.LTR-4)," dated September 12, 2023, and referred to herein as "Document." Information contained in this Document has been classified by Framatome as proprietary in accordance with the policies established by Framatome for the control and protection of proprietary and confidential information.

4. This Document contains information of a proprietary and confidential nature and is of the type customarily held in confidence by Framatome and not made available to the public. Based on my experience, I am aware that other companies regard information of the kind contained in this Document as proprietary and confidential.

5. This Document has been made available to the U.S. Nuclear Regulatory Commission in confidence with the request that the information contained in this Document be withheld from public disclosure. The request for withholding of proprietary information is made in accordance with 10 CFR 2.390. The information for which withholding from disclosure is

requested qualifies under 10 CFR 2.390(a)(4) "Trade secrets and commercial or financial information."

6. The following criteria are customarily applied by Framatome to determine whether information should be classified as proprietary:

- (a) The information reveals details of Framatome's research and development plans and programs or their results.
- (b) Use of the information by a competitor would permit the competitor to significantly reduce its expenditures, in time or resources, to design, produce, or market a similar product or service.
- (c) The information includes test data or analytical techniques concerning a process, methodology, or component, the application of which results in a competitive advantage for Framatome.
- (d) The information reveals certain distinguishing aspects of a process, methodology, or component, the exclusive use of which provides a competitive advantage for Framatome in product optimization or marketability.
- (e) The information is vital to a competitive advantage held by Framatome, would be helpful to competitors to Framatome, and would likely cause substantial harm to the competitive position of Framatome.

The information in this Document is considered proprietary for the reasons set forth in paragraph 6(b) and 6(d) above.

7. In accordance with Framatome's policies governing the protection and control of information, proprietary information contained in this Document has been made available, on a limited basis, to others outside Framatome only as required and under suitable agreement providing for nondisclosure and limited use of the information.

8. Framatome policy requires that proprietary information be kept in a secured file or area and distributed on a need-to-know basis.

9. The foregoing statements are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: (9/12/2023)

BYRAM Morris Digitally signed by BYRAM Morris
Date: 2023.09.12 08:00:18 -07'00'

(NAME)

morris.byram@framatome.com