

NuScale Power, LLC

AFFIDAVIT of José N. Reyes, Jr.

STATE OF Oregon

CITY OF Corvallis

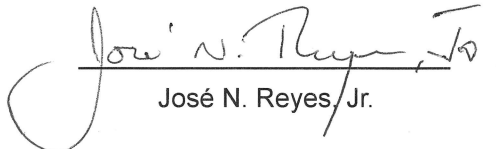
I, José N. Reyes ,Jr., state as follows:

- (1) I am the Chief Technical Officer of NuScale Power, LLC (NuScale). I have personal knowledge of the facts set forth in this affidavit, and if called and sworn as a witness in a deposition or before any court, I could and would testify competently under oath to these facts. I am authorized to execute this affidavit on behalf of NuScale.
- (2) I have personal knowledge of the criteria and procedures used by NuScale in designating confidential commercial information as proprietary and have been delegated the function of reviewing the information described in this affidavit, which NuScale seeks to have withheld from public inspection. I have been authorized to apply for the withholding of this information on behalf of NuScale.
- (3) The following harm would result if the information sought to be withheld is disclosed to the public:
  - (a) The information discloses information about the methods and processes by which NuScale develops design performance and safety analysis. NuScale has performed significant research and evaluation to develop a basis for methodology and processes and has invested significant human and financial resources in such development.
  - (b) NuScale's unique methodology and design performance provides NuScale with a competitive economic advantage over other companies. Public disclosure of the information would cause substantial harm to NuScale's competitive position and would reduce or foreclose opportunities for NuScale to generate a return on its investment in research and development. Although the exact financial value of the information is difficult to quantify, the LOCA PIRT, dynamical system scaling methodology, and test program are key elements of the design basis for a NuScale plant and, therefore, have substantial value to NuScale.
  - (c) If the information were disclosed to the public, NuScale's competitors would have access to the information without having been required to undertake a similar expenditure of resources. Such disclosure would constitute a misappropriation of NuScale's intellectual property, would unfairly provide NuScale's competitors with a windfall, and would deprive NuScale of the opportunity to seek an adequate return on its investment.
- (4) The information sought to be withheld is contained in Enclosure 3 to the NuScale letter from Edward G. Wallace, dated January 30, 2012, to the NRC, *Submittal of Draft Slides for Presentation and Tentative Agenda for a Closed Meeting on February 29 and March 1, 2012 (NRC Project: 0769)*. The Enclosure 3, *Draft slides on LOCA PIRT and Dynamical System Scaling – proprietary* and *Draft slides on Testing Programs – proprietary*, contains the designation "NuScale Proprietary Class 2" at the bottom of each page that contains proprietary information. The information considered by NuScale to be proprietary is identified in the document within double brackets "[[ ]]" and discloses a description of the LOCA PIRT methods and results, the dynamical system scaling methodology, and testing programs.
- (5) The basis for proposing that the information be withheld is that NuScale treats the information as trade secrets and commercial information that are privileged and confidential. 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).

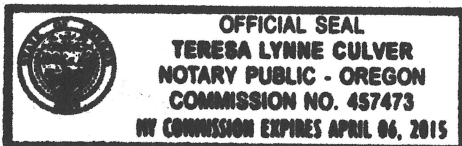
- (6) With respect to the considerations set forth in 10 CFR § 2.390(b)(4),
- (a) the information sought to be withheld has been held in confidence by NuScale.
  - (b) the information is of a sort customarily held in confidence by NuScale and, to the best of my knowledge and belief, consistently has 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, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or 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 from 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 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 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 affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief.

  
José N. Reyes, Jr.

State of Oregon, County of Benton.

Subscribed and sworn to before me this 30<sup>th</sup> day of January 2012.



  
Notary Public

My commission expires:

4-06-2016