

NuScale Power, LLC

AFFIDAVIT of Edward G. Wallace

STATE OF Oregon

CITY OF Corvallis

I, Edward G. Wallace, state as follows:

- (1) I am the Vice President of Regulatory Affairs 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) Public disclosure of the information sought to be withheld would likely cause substantial harm to the competitive position of NuScale due to the sensitive nature of scheduling data, current staffing levels, and plans. The information discloses nonpublic details related to NuScale's planned timetable to apply for design certification. The schedule for design certification is critical in the competitive nuclear reactor market. If the information were disclosed to the public, NuScale's competitors would have access to the information. Such disclosure would impair NuScale's business position and unfairly provide NuScale's competitors with a business advantage.
- (4) The information sought to be withheld is contained in the enclosure to the NuScale letter from Edward G. Wallace, dated February 10, 2012, to the NRC, NuScale Power Response to RIS 2011-02, Revision 1 (NRC Project No. 0769). The enclosure, NuScale Power Responses to NRC's RIS 2011-02 Rev. 1 – Proprietary, contains the designation "NuScale Proprietary Class 2" at the top of each page. The information considered by NuScale to be proprietary is identified within double brackets "[[ ]]" in the document and discloses confidential scheduling data, current staffing levels, and plans.
- (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 business strategy that provides NuScale with a competitive advantage over other firms in the industry. It reveals distinguishing aspects of an approach and schedule developed by NuScale at considerable time and expense. Its use by a competitor would reduce the time and expense to develop a competitive business strategy, and thereby improve the competitor's position in the design and licensing of a similar product that is responsive to regulatory and market needs.

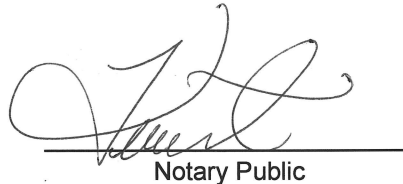
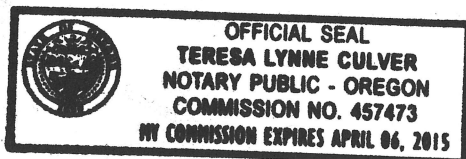
I declare under penalty of perjury that the foregoing affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief.



Edward G. Wallace

State of Oregon, County of Benton.

Subscribed and sworn to before me this 10th day of February 2012.

  
Notary Public

My commission expires:

April 6, 2015