

January 9, 2014

Dr. José N. Reyes, Jr.
Vice President, Regulatory Affairs (Acting)
1100 Circle Boulevard, Suite 200
Corvallis, OR 97330

SUBJECT: WITHHOLDING PROPRIETARY INFORMATION FROM PUBLIC DISCLOSURE
OF "NUSCALE POWER, LLC SUBMITTAL OF THE HUMAN FACTORS
ENGINEERING (HFE) OPERATING EXPERIENCE REVIEW TECHNICAL
REPORT" (NP-RP-0813-4249).

Dear Dr. Reyes:

By letter dated December 13, 2013, NuScale Power, LLC. (NSP) submitted an affidavit (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13352A298), in which Dr. Jose N. Reyes, Chief Technology Officer, requested that the subject report be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390.

NuScale Power, LLC Submittal of the Human Factors Engineering (HFE) Operating
Experience Review Technical Report (ADAMS Accession No. ML13352A299)

A nonproprietary copy of this document has been placed in the U.S. Nuclear Regulatory Commission (NRC) Public Document Room and added to the NRC Library in ADAMS, Accession No. ML13352A301.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

(a) The report discloses information about the processes, methods, or other trade secrets by which NuScale develops the methodology for HFE Operating Experience Review. NuScale has performed significant research and evaluation to develop a basis for these processes, methods, or other trade secrets and has invested significant human and financial resources in such development.

(b) NuScale's unique processes, methods, or other trade secrets provide NuScale with a competitive economic advantage over other companies. Public disclosure of the information would cause substantial harm to NuScale's competitive position and 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 processes, methods, or other trade secrets are a key element 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.

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(s) 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 301-415-0546.

Sincerely,

/RA/

Gregory V. Cranston, Senior Project Manager
Small Modular Reactor Licensing Branch 2
Division of Advanced Reactors and Rulemaking
Office of New Reactors

Project No.: 0769

cc: NuScale Power LLC ListServ

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