

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Alan S. Rosenthal, Chair  
Ronald M. Spritzer  
Brian K. Hajek

In the Matter of

CHARLISSA C. SMITH

(Denial of Senior Reactor Operator License)

Docket No. 55-23694-SP

ASLBP No. 13-925-01-SP-BD01

January 15, 2013

ORDER  
(Regarding Scheduled January 23, 2013, Oral Argument)

This order is in supplementation of this Board's January 9, 2013, order (unpublished) in which the Board scheduled for 10:00 a.m. (EST) on January 23, 2013, an oral argument on the issues before it in this proceeding.<sup>1</sup> The proceeding was instituted on a demand by Ms. Smith for a hearing on her challenge to the denial by the NRC Staff of her application for a Senior Reactor Operator's (SRO) license. The demand is opposed on multiple grounds by the NRC Staff. The purpose of this order is to provide the parties to the proceeding with (1) guidance regarding the manner in which the oral argument will be conducted; and (2) the questions that the Board will be principally interested in exploring during the argument.

To begin with, the Board wishes to stress that it will have closely read, and thus will be entirely familiar with, the content of the pleadings filed by the parties. That being so, the purpose of the oral argument is NOT to provide the parties with an opportunity to rehearse what is (or should have been) presented to the Board in the pleadings. Rather, its sole purpose is to

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<sup>1</sup> The oral argument is being held in the Atomic Safety and Licensing Board Panel's hearing room in Rockville, Maryland, with Ms. Smith participating by telephone from a Georgia location, an option provided to her by the Board.

enable the Board to endeavor to obtain the answers to questions that have occurred to its members in the course of their examination of the pleadings.

To that end, the Board is not establishing time limits for the presentation of the arguments of the parties. Ms. Smith and NRC Staff counsel will be heard for such period of time as is needed for the Board to explore with them the questions that the Board might wish to address to them. Once the end of that period has been reached, the argument will be terminated.

Now to the questions.

1. What is the significance, if any, of the fact that, in providing Ms. Smith with an opportunity to challenge the denial of her application for an SRO license, the November 15, 2012, letter sent to her made no reference to the contention admissibility requirements set forth in 10 C.F.R. § 2.309? Apart from that consideration, are there reasons why Section 2.309 might not apply in proceedings presenting solely personnel issues impacting the career of the hearing demander?

2. If 10 C.F.R. § 2.309 does not apply here, what are the governing criteria in determining the admissibility of Ms. Smith's various contentions undergirding the ultimate assertion that she is entitled to a hearing on her claim that the SRO license was improperly denied? In this connection, what significance, if any, attaches to the use of "demand," rather than "request," for hearing in 10 C.F.R. § 2.103(b)(2) insofar as concerns the standards governing the admissibility of Ms. Smith's contentions?

3. What, if any, of the actions taken by NRC Staff members in connection with the processing of Ms. Smith's SRO licensing application are reviewable by this Board, and what standard applies to such review? In that connection, does Ms. Smith present an admissible claim of bias on the part of one or more of the staff members relevant to the denial of her application?

4. In evaluating the significance of the fact that Ms. Smith's employer did not seek a waiver of the need to take the operating portion of the SRO licensing examination, what effect, if any, should be given to the response given by the NRC Staff to the employer's prior inquiry regarding the grant of a waiver?

As previously noted, the parties should be particularly well prepared to address the above questions, but the Board expects that both parties will be equipped to discuss all issues addressed in the pleadings.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

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Alan S. Rosenthal  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
January 15, 2013

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
 )  
CHARLISSA C. SMITH ) Docket No. 55-23694-SP  
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 )  
(Reactor Operator License for Vogtle )  
Electric Generating Plant) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (REGARDING SCHEDULED JANUARY 23, 2013 ORAL ARGUMENT)** have been served upon the following persons by Electronic Information Exchange.

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Docket No. 55-23694-SP

**ORDER (REGARDING SCHEDULED JANUARY 23, 2013 ORAL ARGUMENT)**

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[Original signed by Clara Sola]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 15<sup>th</sup> day of January 2013.