

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

Before Administrative Judges:

Ronald M. Spritzer, Chair  
William J. Froehlich  
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

March 20, 2013

ORDER

(Memorializing March 18, 2013 Teleconference and Establishing Procedures)

On March 18, 2013, the Board held a teleconference with the parties to “refine the issues to be addressed at the hearing and to discuss any other matters bearing upon the hearing that might require consideration.”<sup>1</sup> This order memorializes the issues discussed during that teleconference and provides direction concerning pre-filed testimony and exhibits.

I. Hearing File.

Pursuant to 10 C.F.R. § 2.1203, the hearing file in this case is due to be filed by the NRC Staff on or before Thursday, March 21, 2013. During the teleconference, the NRC Staff orally moved for a two-week extension of time to submit a portion of the hearing file due to privacy-related issues. The NRC Staff stated that some of the documents to be placed in the hearing file may have to be reviewed for privacy act material. The Board orally granted the Staff’s motion. Accordingly, the Staff shall file in the docket, present to the Board, and make available to Ms. Smith by Thursday, March 21, 2013, the hearing file required by 10 C.F.R. § 2.1203. The NRC Staff shall file in the docket, present to the Board, and make available to Ms. Smith the

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<sup>1</sup> LBP-13-03, 77 NRC \_\_, \_\_ (slip op. at 18) (Feb. 19, 2013); see also Order (Scheduling Teleconference) (Mar. 12, 2013).

remainder of the hearing file that is not complete because of privacy act concerns, no later than Thursday, April 4, 2013.

II. Filing dates for Statements of Position, Pre-filed Testimony, and Exhibits

Ms. Smith shall file her written statement of position, pre-filed testimony, and exhibits on or before April 17, 2013. The NRC Staff shall file its statement of position, answering testimony, and exhibits on or before May 17, 2013. Ms. Smith shall then file her rebuttal testimony within thirty days after her receipt of the NRC Staff's statement of position, answering testimony, and exhibits. Should either party need an extension of time for any reason, that party shall promptly request an extension in writing.

III. Statements of Position

Ms. Smith's statement of position should clearly identify each of the issues she wishes to raise at the hearing related to the denial of a waiver for the operating test, the testing procedures employed, the grading of her examination, and the denial of her Senior Reactor Operator application. The list should number each issue and be as succinct and direct as possible. The Staff's statement of position should respond succinctly and directly to each issue that Ms. Smith identifies.

IV. Testimony

a. Testimony in this proceeding shall be pre-filed in conformity with 10 C.F.R. § 2.1207. Testimony shall be presented in numbered paragraphs. When testimony refers to or is based upon a document, the document should be provided to the Board as one of the party's exhibits, and the testimony should include a citation to the exhibit and, whenever possible, the pages of the exhibit on which the testimony is based. Exhibits shall be numbered and identified as set forth in more detail below. The testimony must also include a supporting affidavit as required by 10 C.F.R. § 2.1207.

b. The Board understands that, at the evidentiary hearing, Ms. Smith may offer testimony from witnesses who are not parties to this adjudication. If Ms. Smith is unable to obtain pre-filed testimony from those individuals, she should provide the Board with a document identifying the witnesses and summarizing their expected testimony. Such document should be provided to the Board, and served upon the Staff, together with the filings due April 17, 2013.

c. Should either party require a subpoena in order to secure witness testimony at the evidentiary hearing, that party should promptly request such in writing and should explain the purpose and necessity of that witness's testimony in this case.<sup>2</sup>

V. Submission of Pre-Filed Testimony and Exhibits

All pre-filed testimony and exhibits that the parties intend to use at the evidentiary hearing shall be filed as follows:

a. Individual Files. Per 10 C.F.R. § 2.304(g), each item of pre-filed testimony and each exhibit must be submitted through the agency's electronic filing system. All pre-filed testimony and exhibits will be received into evidence in exhibit form pursuant to 10 C.F.R. § 2.1207(b)(2).

b. Exhibit Numbering and Sequencing. Each party shall number its pre-filed testimony and exhibits in a format that consists of a three-character party designation, followed by a three-character zero-filled number. The three-character designations to be used by the parties are "NRC" for the NRC Staff and "CCS" for Ms. Smith. For example, a typical number sequence for Ms. Smith's exhibits would be: CCS-001, CCS-002, . . . CCS-999, etc. Each party shall attempt to order and number pre-filed testimony and exhibits in the order in which it plans to identify and present them for inclusion in the record.

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<sup>2</sup> See 10 C.F.R. § 2.319(b).

c. Exhibit Number Location. The exhibit number should be placed in the upper right hand corner of the first page of the pre-filed testimony or exhibit. A party should only use a separate cover sheet if there is no space on the page of the document where the exhibit number can be placed so that it is clear and legible. All pages in the exhibit should be numbered consecutively so that they can be referred to easily and quickly at hearing.

d. Large File Size Exhibits. If pre-filed testimony or an exhibit needs to be separated into multiple segments to ensure that it does not exceed the agency's guidance of recommended file sizes, each segment should be labeled by placing a letter in the last character place of the number. The letter designation should reflect the relationship of each part of the pre-filed testimony or exhibit to the other parts (e.g., CCS-001A, CCS-001B, CCS-001C, etc.).

e. Duplicate Exhibits. Only one copy of each document should be offered into evidence in this proceeding. Therefore, if the NRC Staff offers into evidence a certain document, Ms. Smith should not offer into evidence the same document; she should instead rely on the document already filed by the NRC Staff. Accordingly, the parties should discuss with one another and determine whether any of the exhibits a party intends to offer into evidence would be duplicated by the other party. If duplication will occur, the parties should coordinate to determine who will offer the exhibit into evidence. The party intending to use the material as an exhibit should revise its evidentiary submissions to reference the exhibit number provided by the other party.<sup>3</sup>

f. Exhibit List. At the time that new or revised pre-filed testimony or exhibits are filed, each party should submit an electronic copy of its pre-filed exhibit list (preferably in

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<sup>3</sup> When duplicate pre-filed party exhibits have been identified, and the party that is recognized as the one that will initially offer the document subsequently decides not to offer the document, that party must provide timely notice of its intent to the other party.

Microsoft Word format) to the Board's law clerk, Nicole Picard (Nicole.Picard@nrc.gov), using the exhibit list template included in Attachment A to this Order.

g. Witness background information. For each witness that provides pre-filed testimony, please provide a resume or other detailed statement describing the witness's education and experience that is related to the subject matter of his or her testimony.

VI. Miscellaneous Matters

a. Communications. If either party has a question related to this Order or any other procedural matter, that party may communicate the question to the Board's law clerk, Nicole Picard. The party doing so shall simultaneously serve the other party with a copy of such communication (e.g., that party shall carbon copy the other party onto any e-mails sent to the Board).

b. Appearances. All attorneys who are participating or intend to participate in this case must enter an appearance.

c. Public Filing. The Board understands that some testimony or exhibits may include material that would be protected by the Privacy Act. If such testimony or exhibit has protected information in it, it should be filed in a non-public file. After appropriate redaction, such non-public filings should be moved to a public file in the Electronic Hearing Docket.

d. Evidentiary Hearing. The Board intends to hold the hearing in this case in Augusta, Georgia, in July or August 2013. Formal notice of the date and venue will be provided when plans are finalized.

e. Pre-hearing Conference Call. The Board intends to hold a further pre-hearing conference call with the parties at a later date to discuss additional administrative details concerning the evidentiary hearing, including dates by which parties may submit questions to the Board to ask at the evidentiary hearing.

f. Stipulations. The parties are encouraged to discuss among themselves and submit to the Board stipulations of any relevant fact or the contents or authenticity of any document. The Board expects to review the status of such stipulations during the prehearing conference. See 10 C.F.R. § 2.329(c)(3).

g. Settlement. The Commission encourages the fair and reasonable settlement and resolution of issues proposed for litigation. Parties are encouraged to employ alternative dispute resolution to address the issues without the need for litigation. See 10 C.F.R. § 2.338.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

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Ronald M. Spritzer  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
March 20, 2013



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
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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 (Memorializing March 18, 2013 Teleconference and Establishing Procedures)** have been served upon the following persons by Electronic Information Exchange.

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

Dated at Rockville, Maryland,  
this 20<sup>th</sup> day of March 2013.