

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

May 01, 2013

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

SUBJECT: STATEMENTS OF POSITION

This document is constructed to illustrate the disagreement with the waiver process, examination process, and independent review in association with the denial of a Senior Reactor Operator License application for Charlissa Smith. Several issues were encountered during the process that resulted in the denial of due process at different phases of the 2012 examination period. The denial of Due Process occurred prior to, during and after the 2012 exam. These issues will be outlined in separate statements of position. The waiver process has one statement of position, the examination process has ten statements of position and the independent review has one statement of position associated with it. A total of twelve statements of position will be presented.

The first statement of position is related to the submittal of the waiver. The issues associated with the waiver are as follows:

1. Grade comparison between the students and the pass criteria contradict the decision to deny the waiver if submitted.
2. The NRC contacted the facility to question the submittal of the waiver versus processing it according to their procedure. The NRC does not provide a valid justification as to why C. Smith was singled out and the facility was contacted to determine if the submittal was intentional.

The second statement of position is the conflict of interest not addressed as identified in the testing procedure NUREG 1021. This is important because the simulator portion is very subjective. If the judgments of the examiners are flawed prior to the exam, it is unlikely for them to give the applicant a fair and equal exam. The disagreement is with the NRC's knowledge of:

1. The strong opinions formed about C. Smith by the 2011 exam team. Two of those previous exam team members were returned to evaluate C. Smith in 2012.
2. The original exam team for 2012 was to include one previous examiner from 2011. Changes in the exam team resulted in two previous examiners returning in 2012.
3. Examiner (Bates) was assigned to C. Smith for the simulator portion and was included/present in discussions about C. Smith and her 2011 performance. This was an opportunity for Mark Bates to form an opinion prior to the 2012 exam.

The third statement of position is the disagreement with the handling of the administrative review. This statement of position is pertinent because the license denial was not considered final and the NRC provides an opportunity to appeal these results before finalized. This was a separate opportunity for C. Smith to appeal the denial and utilize due process to determine if the denial was warranted. The items of disagreement are as follow:

1. The review initially concluded that C. Smith passed the exam.
2. There was influence on the final outcome concluding that the review team serves no purpose. The review was unreasonable in the completion time. An administrative review typically takes 75 days. This review took over 160 days.
3. Several revisions continued until a denial was sustained.
4. Review panel included a re-grade of non-contested items. Non-contested items are not discussed in their procedure.
5. The final letter sent to C. Smith did not provide information on all the contested items submitted. Their procedure provides guidance to report the results to the applicant.
6. A final grade sheet was not provided to C. Smith with the second denial letter. C. Smith basically had no documentation of how the review panel assessed the information.

The fourth statement of position is the disagreement with the assessment of the comment on page 18 of the individual exam report for C. Smith. The disagreement with this comment is as follows:

1. The examiner does not reflect that C. Smith attempted to correct the temperature deviation twice and each time the manipulation was interrupted by a failure under the control of the examiners.
2. A manipulation was in progress when the next failure was put in place by the exam team.

The fifth statement of position is the disagreement with the assessment of the comment on page 10 of the individual exam report for C. Smith. The disagreement with this comment is as follows

1. Examiners collected their information from the wrong meter. The 2007 psig value came from the RCS Pressure digital meter. The correct value should have been collected from the Pressurizer Pressure digital meter.
2. The error had to be discovered prior to reporting on the final exam report because the final report used the words "Pressurizer Pressure". The examiners notes and simulator data show that the 2007 psig value came from the "RCS Pressure".

The sixth statement of position is the disagreement with the assessment of the comment on page 20 of the individual exam report for C. Smith. The disagreement with this comment is as follows:

1. This comment was not justified because it was not consistent with the Required Operator Actions identified in the ES-D-1 and ES-D-2. The Examiners went outside of the Simulator Testing guide to obtain this comment.
2. This comment can only be justified if the unevaluated position received a comment similar to this for all events.
3. The examiners did not ask any follow-up questions nor did he write any notes about this event for C. Smith

The seventh statement of position is the disagreement with the assessment of the comment on page 8 of the individual exam report for C. Smith. The disagreement with this comment is as follows:

1. The testing outline (ES-D-1 and ES-D-2) objectives and actions to be evaluated are based on starting the standby ECH pump prior to 1100 psig before it causes a turbine trip (which causes a reactor trip). This criteria was met.
2. The examiner stated that the correct actions were performed for the wrong reason. The examiners justification for this comment has no supporting data in his notes to support this.

3. The examiners could not assess the pressure that the EHC standby pump was started because the gauge cannot be seen from a distance. Their locations were too far to make this assessment.

The eighth statement of position is the disagreement with the assessment of the comment on page 16 of the individual exam report for C. Smith. There is no disagreement that an error occurred. The disagreement with this comment is:

1. The examiner incorrectly categorized this comment as a “Diagnose” error under 1.d. Diagnose on the individual exam report.

The ninth statement of position is the disagreement with the assessment of the comment on page 21 of the individual exam report for C. Smith. There is no disagreement that an error occurred. The disagreement with this comment is:

1. C. Smith was not assigned to address the failure, it was identified that she failed to take manual control when she was assigned to a different task. As a result the examiner categorized this comment as a failure to take “manual control”
2. The testing outline identified that C. Smith’s position was expected to address the failure. The assignment by the SS changed the expected response and the change in assignment was outside of the control of the C. Smith because she was not the supervisor.

3. C. Smith did make the error of manipulating the TE 130 in the wrong direction. This was equivalent to the error made with the comment on page 19, taking a hand switch to the wrong direction. Although equivalent the categorization was different.
4. The independent panel wrote a new comment that the individual “did not understand”.

The tenth statement of position is the disagreement with the assessment of the comment on page 14 of the individual exam report for C. Smith. The disagreement with this comment is as follows:

1. The actions required by the testing outline were performed. This includes when the FIC 121 controller did not maintain at the end of the event. The testing outlines shows that the RNO (response not obtained) was the expected operator response.
2. The examiners also placed another failure in place before the current event was complete. The previous event should be complete before moving to the next event.

The eleventh statement of position is the disagreement with the assessment of the comment on page 12 of the individual exam report for C. Smith. The same standard was not applied between comments. The disagreement with this comment is:

1. The examiners identified that the applicant thought that the heaters were not operating properly. This is not a true statement.
2. In the FIC 121 comment (statement of opinion 10), C. Smith was penalized for not understanding the expected response of FIC 121 when returning it to automatic. In this comment the expected response of the heaters was taken into consideration (prior to returning to automatic) and a penalty was imposed.
3. Another applicant (operator V) was expected to take a hand switch back to its normal position in another scenario based on the testing outline (ES-D-1 and ES-D-2). Operator V was the SRO for scenario 7, event 3. ES-D-2 says “when letdown temperature is restored, return TV 129 to the demin position. He decided to leave the hand switch in the manual position and was not penalized.

The twelfth statement of position is the disagreement with the assessment of the comment on page 19 of the individual exam report for C. Smith. The disagreement with this comment is:

1. This comment was not originally contested to the NRC when a request for a review was performed. When the review team could not generate enough points/comments to sustain the failure they turned to changing the testing outline for a non-contested comment. Their procedure only addresses the review of contested items. The team went outside of the requirements of their procedure to change this to a critical task.
2. The applicant did not contest the comment because an error was made by initially taking the hand switch to the wrong direction. Keep in mind that the applicant was withdrawing control rods at the time of the failure requiring the manipulation of the hand switch. When the failure did occur the applicant had to stop the rod withdrawal and now refocus on a new issue. Consider that C. Smith has presented more than one example of her crew being in the middle of one action when another failure was put in place by the exam team.

The review team identifies that the error was associated with a critical task in accordance with NUREG 1021, Appendix D, item D1a. The team fails to illuminate that the same Appendix (D), identifies that *“Every required operator action should be included on Form ES-D-2, this is particularly important for critical task and other verifiable actions and behaviors that will provide a useful bases for evaluating the operators competence. All CT (critical task) shall be flagged in a manner that makes them apparent to the individual who will be administering the operating test.”* **This was not listed as a critical task on the original test outline utilized in March 2012.** This

change in criteria (to a critical task) is identified 6 months after the completion of the examination and applicant actions are already known. The entire reason for developing a test outline prior to the test is to ensure that an applicant is treated fairly. Consider again that this change occurred when the review team could not generate enough points to sustain the failure. Recall that a follow-up email was sent out identifying that the PORV comment was “now a missed critical task”. Changes to non-contested items are not discussed in their procedure.

3. NUREG 1021 Appendix D also discusses that a critical task must have the following to be a critical task: safety significance, cueing, measurable performance indicator and performance feedback. Measurable performance indicator will identify what actions are acceptable to meet the critical task. No additional information was identified to meet this criteria. The appendix also states to avoid assigning the critical task designation to generic tasks that have safety significance but do not meet all the criteria required to identify a critical task. Critical task are also expected to be identified. The review team essential changed the criteria of an objective to critical and did not consider if it fully met all the requirements

Respectfully,

[Original signed by Charlissa Smith]

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Statements of Position** was provided to the NRC's Electronic Information Exchange for service to those individuals on the service list for this proceeding.

[Original signed by Charlissa Smith]

1

Dated at Grovetown, Ga
this 1st day of May 2013