

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
CHARLISSA C. SMITH) Docket No. 55-23694-SP
)
(Denial of Senior)
Reactor Operator License))

NRC STAFF MOTION TO ADMIT
IN EVIDENCE EXHIBITS NRC-059, NRC-060, NRC-061, AND NRC-062

On July 17 and 18, 2013, an evidentiary hearing was conducted in the above-captioned proceeding. During the July 18, 2013 hearing session, the Board called Edwin Lea (Mr. Lea) to testify at 3:41 pm, which was shortly before the hearing facilities would no longer be available to the parties and the Board.¹ At this time, Mr. Lea provided to the Board, on his own initiative, a three-page document on his personal grading of Ms. Smith's senior reactor operator (SRO) simulator test, developed by him during the previous month, but not previously shared with the parties.² The Board marked this document for identification as Board Exhibit BRD-013, but did not, at that time, share it with the parties.³ The Board recognized that the parties had not had an opportunity to review or respond to either this document or Mr. Lea's testimony in support of this document.⁴ Accordingly, the Board stated that the hearing record remained open, providing the parties with an opportunity to respond to BRD-013 and Mr. Lea's testimony.⁵

¹ See Transcript of Evidentiary Hearing in the matter of CharliSSa C. Smith at 663 (July 17-18, 2013) ("Tr.").

² See *id.* at 693-94, 703.

³ See *id.* at 699-700.

⁴ See *id.* at 699-700, 712.

⁵ See *id.*

On July 24, 2013, the Board issued an order that noted the Board's intent to admit BRD-013 as a Board exhibit and requested that the parties provide their objections to this admission of BRD-013 by July 30, 2013.⁶ On July 26, 2013, the U.S. Nuclear Regulatory Commission (NRC) staff (Staff) responded to this Board Order indicating that, consistent with the record remaining open, the Staff did not object to the admission of BRD-013 provided that the Staff would be afforded the opportunity to respond to BRD-013 and Mr. Lea's testimony by August 16, 2013.⁷ The attached exhibits, NRC-059, NRC-060, NRC-061, and NRC-062, constitute the Staff response to BRD-013 and Mr. Lea's testimony that the Staff was unable to provide at the hearing.

Since the record remains open and the Staff did not have an opportunity at the hearing to provide responsive testimony related to BRD-013 or Mr. Lea's testimony in support of that exhibit, the Staff requests that the attached testimony be marked for identification as NRC Exhibits NRC-059, NCR-060, NRC-061, and NRC-062 and admitted into the evidentiary record.

Respectfully submitted,

/Signed (electronically) by/

Jeremy L. Wachutka
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Dated at Rockville, Maryland
this 16th day of August, 2013

⁶ Order (Admitting Board Exhibit BRD-013) (July 24, 2013).

⁷ NRC Staff Response to the Board Order of July 24, 2013 (July 26, 2013).

Prior to filing its July 26, 2013 response and request to the Board, the Staff consulted with Ms. Smith and she indicated that she planned to oppose the Staff's request to provide a response to BRD-013 and Mr. Lea's testimony; however, Ms. Smith has not timely filed such a response.

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CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R § 2.305, I hereby certify that copies of the foregoing NRC STAFF MOTION TO ADMIT IN EVIDENCE EXHIBITS NRC-059, NRC-060, NRC-061, AND NRC-062 dated August 16, 2013 have been served upon the Electronic Information Exchange, the NRC's E-Filing System, in the above-captioned proceeding, this 16th day of August, 2013.

/Signed (electronically) by/
Jeremy L. Wachutka
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Dated at Rockville, Maryland
this 16th day of August, 2013