

August 16, 2013

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 TESTIMONY OF MALCOLM T. WIDMANN AND MARK E. FRANKE  
IN RESPONSE TO BOARD EXHIBIT BRD-013 AND MR. LEA'S TESTIMONY

Q.1. Please state your name, occupation, and by whom you are employed.

A.1. (MTW) My name is Malcolm T. Widmann. Please see my full answer to this question on page 1 of Exhibit NRC-027. A statement of my professional qualifications is available as Exhibit NRC-011.

A.1. (MEF) My name is Mark E. Franke. I work for the U.S. Nuclear Regulatory Commission (NRC) as Branch Chief, Operations Branch 2, Division of Reactor Safety, Region II. A statement of my professional qualifications is available as Exhibit NRC-062.

Q.2. Please describe the nature of your current responsibilities on behalf of the NRC staff (Staff).

A.2. (MTW) As Branch Chief of Operations Branch 1, I am responsible for supervising operator licensing staff in order to successfully implement the operator licensing program in Region II. I coordinate with the Branch Chief of Operations Branch 2 to ensure program completion and to manage staff work assignments.

In my role as branch chief, I currently supervise four Senior Operations Engineers, three Operations Engineers, and one Operator Licensing Assistant, Janet Vincent, in the performance of their duties in implementing the operator licensing program for Region II.

A.2. (MEF) As Branch Chief of Operations Branch 2, I am responsible for supervising operator licensing staff in order to successfully implement the operator licensing program in Region II. I coordinate with the Branch Chief of Operations Branch 1 to ensure program completion and to manage staff work assignments.

In my role as branch chief, I currently supervise three Senior Operations Engineers, including Edwin Lea (Mr. Lea), five Operations Engineers, and one Operator Licensing Assistant in the performance of their duties in implementing the operator licensing program for Region II.

Q.3. Please explain what your overall duties have been in connection with the denial of the Senior Reactor Operator (SRO) license application of Charlissa C. Smith (Ms. Smith).

A.3. (MTW) Please see my full answer to this question on pages 1-2 of Exhibit NRC-027.

A.3. (MEF) My duties in connection with the denial of the SRO license application for Ms. Smith have been limited. Members of my staff did not participate in the examinations of Ms. Smith in 2011 or 2012. During that time frame, all but three of my staff were in training and were not yet certified as examiners. Furthermore, my three certified examiners, including Mr. Lea, had scheduled examination assignments associated with other facilities. Therefore, none of the examiners under my supervision could have participated in either of Ms. Smith's examinations.

In connection with Ms. Smith's appeal process, my duties have involved ensuring that my staff is available to help respond to Headquarters information requests and to FOIA requests.

Mr. Lea became involved in the above-captioned proceeding on his own initiative and not at my direction. Following this involvement, my duties have also involved ensuring his

availability to respond to Atomic Safety and Licensing Board or Office of the General Counsel requests for information and to participate in the hearing process.

Q.4. Please explain the history of your professional relationship with Mr. Lea.

A.4. (MTW) I was Mr. Lea's direct supervisor from September 2007 to April 2011.

A.4. (MEF) I have been Mr. Lea's direct supervisor since April 2011.

Q.5. Were you present at the evidentiary hearing in the above-captioned proceeding on July 17-18, 2013?

A.5. (MTW), (MEF) Yes, I was present for both days of testimony.

Q.6. Did you hear the testimony offered by Mr. Lea during that proceeding?

A.6. (MTW), (MEF) Yes, I did.

Q.7. Have you had the opportunity to review the transcript of the evidentiary hearing?

A.7. (MTW), (MEF) Yes, and in particular I have reviewed pages 663-712 of the transcript, which contain the testimony offered by Mr. Lea.

Q.8. Is there any portion of Mr. Lea's testimony to which you wish to respond?

A.8. (MTW), (MEF) Yes, there is. Mr. Lea made a number of inaccurate statements regarding the overall examiner culture at Region II. For example, Mr. Lea stated that failing an operator license applicant or denying an operator license application "makes [examiners] look good in the eyes of management" and is "probably a status symbol."<sup>1</sup> In addition, Mr. Lea stated that "as far as . . . certain Operating Licensing Branch Chiefs are concerned," failing an operator license applicant or denying an operator license application is "a feather in their cap."<sup>2</sup> These statements are inaccurate and unfounded. Region II has no performance metrics that depend on denying applications for an operator license. Region II has no performance metrics that depend on failing an applicant for an operator license, either on the written examination or

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<sup>1</sup> See Transcript of Evidentiary Hearing in the matter of Charliissa C. Smith at 701-02 (July 17-18, 2013) ("Tr.").

<sup>2</sup> *Id.* at 703.

the operating test. To my knowledge and in my experience, Region II has never given a performance award to any employee because of an exam failure. My management has never communicated to me, during my tenure as Branch Chief, or at any other time, either explicitly or implicitly, that failing operator license applicants or denying operator license applications is desirable or looked upon positively. Furthermore, during my tenure as Branch Chief, no examiners under my supervision have communicated to me, either explicitly or implicitly, that they believe that failing operator license applicants or denying operator license applications is desirable or looked upon positively. To the contrary, the culture in Region II does not favor either passing or failing an applicant; rather, it promotes the accurate grading of written examinations and operating tests and the critical, but consistent and fair, evaluation of all operator license applicants, in order to carry out the NRC's mission of protecting the public health and safety.

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AFFIDAVIT OF MALCOLM T. WIDMANN

I, Malcolm T. Widmann, do hereby declare under penalty of perjury that my statements in the foregoing testimony are true and correct to the best of my knowledge and belief.

**Executed in Accord with 10 C.F.R. § 2.304(d)**

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Executed in Rockville, Maryland  
this 16th day of August, 2013

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AFFIDAVIT OF MARK E. FRANKE

I, Mark E. Franke, do hereby declare under penalty of perjury that my statements in the foregoing testimony are true and correct to the best of my knowledge and belief.

**Executed in Accord with 10 C.F.R. § 2.304(d)**

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Executed in Rockville, Maryland  
this 16th day of August, 2013