



As required by 10 CFR 2.323(c), C Smith has 10 days to respond to the filing of a **WRITTEN** motion. The document submitted by the NRC staff dated July 26, 2013 is titled the NRC's response to the board's order. The document is not titled as a motion. C Smith did not have any objections on the submittal of the boards exhibit BRD – 013 . Therefore C Smith did not respond to the NRC staff's document identifying that they would like to request submitting a motion on August 16, 2013. This document did not provide any information, with regard to the expected details of the document to be submitted on August 16, 2013. This document did not provide any information that could be responded to. The document submitted on August 16, 2013 is titled "the NRC staff's motion...." In accordance with 10 CFR 2.323, C Smith is within the time requirements to respond to this document. In response to the motion C. Smith objects to the admittance of NRC 060, NRC-061 and NRC 062.

A. Response to the Testimony of Malcolm Widmann and Mark Franke (NRC-060)

C Smith objects to the admittance of exhibit NRC – 060 and NRC - 062 into evidence. Mark Frankie's connection to this entire appeal process was that his staff helped respond to information and FOIA request. The details of this case do not dispute any information provided via the FOIA process. He also mentions that his duties involved making sure that Mr. Lea was available to respond to the board or the office of General Counsel to request information and participate in the hearing. Mr. Frankie does not respond to any of the statements made by Mr. Lea that involved Mr. Frankie during the hearing. The information included in this affidavit provides no compelling information to support that the statements made by Mr. Lea lack credibility.

Both Branch Chiefs identify that no metrics exist in their organization that depend on denying applications or failing an applicant for an operator license. No credible organization would write a metric consistent with this statement. If this condition exists it would not be

disclosed or written in a formal manner that would be recognizable outside of the organization. The Branch Chiefs further identify that “region II has never given a performance award to an employee because of an exam failure”. Again no credible organization would disclose that an award was due to an exam failure.

The organization did provide awards to individuals for actions that are not supported by their process. The exam team members put together binders in a short period of time for the review team’s visit although the binders were not authorized in accordance with OLMC – 500 (CCS-030, page 8). OLMC – 500 specifically identifies the information the review team is required to look at based on the type of review. OLMC 500 page 8, identifies the information that is acceptable to be reviewed. The binders are not included in that list. The examination team was provided awards for an action that was contradictory to the instructions provided in the procedure identifying that the review team was to remain impartial. Mr. Frankie or Mr. Widmann fail to provide any information that identifies if C Smith’s test was accurately graded, consistent, or fair.

B. Response to Janet Vincents testimony: NRC-061

C Smith objects to the admittance of exhibit NRC – 061 into evidence. The information provided by Ms. Vincent does not prove that she is the OLA referred to in Mr. Lea’s testimony. Ms. Vincent’s testimony identifies that there are two OLA’s in region II (NRC-061). Mr. Lea’s testimony identifies that he spoke with the OLA. His testimony does not include the name of the OLA referenced in his testimony. Ms. Vincent’s affidavit provides no confirmation that she is the OLA referenced. Identifying that she prepared the Vogtle document’s does not confirm that she was the OLA discussed in Lea’s testimony.

Ms. Vincent's work history provides descriptions of clerical and secretarial experience prior to becoming an OLA in 2009. Ms. Vincent's affidavit provides testimony identifying that the examination or applicants in the examination were not treated differently. Ms. Vincent provides no basis for this testimony. Ms. Vincent's only observation was based on the compilation of data at the end of the exam. No female representatives from the NRC were present during the administration of the 2011 or 2012 exam. Ms. Vincent cannot validate the accuracy of any comments generated during the administration of either exam, to make the determination that no one was treated differently.

As the OLA, Ms. Vincent identified that she processed all of the Vogtle licensing documents. Yet she does not find it peculiar that an applicant received 17 comments in 2011 and another applicant received 18 comments in 2012. In referencing NRC – 008, this is not consistent with past results, to include comparison to simulator failures. The NRC Exam team concluded that 4 comments are the normal amount of comments in an exam. No other applicants since 2005 accumulated 17-18 comments, to include failures of the simulator portion.

Ms. Vincent also testifies that the exam team's performance was thorough and fair. Ms. Vincent's background does not support the ability to recognize the relevance of a fair versus unfair examination. The information that she provides to support this testimony is based on her observations of the exam team having discussions as a group and working through technical issues,

Ms. Vincent provides very little factual information. The majority of her testimony is opinion-based statements that have no sustenance. Ms. Vincent testimony disputes any knowledge of the conclusion of the headquarters review. Yet Mr. Leea's information is

consistent with the emails generated during the review and consistent with the generation of the letter indicating that C Smith passed the exam. In addition Don Jackson testified during the hearing on January 17, 2013 “there were periods of time in the September timeframe of 2012 that I believed that we were going to make a recommendation to Headquarters that Ms. Smith passed the operating exam”.

Ms. Vincent’s statements in reference to her impression of the exam team, is unsupported and irrelevant to the information in question during this hearing. The exam team’s actions during this hearing have already identified instances that adherence to the procedure was inconsistent.

C. Response to the Exam Teams Testimony: NRC – 059

C Smith does not object to the admittance of NRC-059 into evidence but she is in disagreement with the content. The NRC Exam Team disputes Mr. Lea’s testimony, but his comments are supported by the guidance in NUREG 1021. The NRC exam team (from 2012) discusses:

- **Scenario 3, Event 5 (EHC pumped trip)**. The exam team identified that C Smith “incorrectly believe” that the standby EHC pumped had failed to automatically start when it was designed to automatically start (emphasis on “incorrectly believed”). Their explanation of “incorrectly believed” was referring to their assessment during follow-up questioning. To establish this new criteria and justify the comment, it will require (at a minimum) that the exam team provide some form of documentation to establish at what point the pump was started. The exam team has not provided any factual data to support that C

Smith's belief was incorrect. In fact the exam team has no data identified in their rough notes or simulator data to support the claim that the EHC pressure was above 1400 PSIG.

(1) Exam team identifies that "Mr. Lea is incorrect in implying that the expected operator actions for this event are somehow miswritten or that Ms. Smith's compliance with the expected operator actions somehow excuses for a demonstration of a performance deficiency". This statement alone can be addressed by reference to NUREG 1021, ES – D – 1 and ES – D – 2. The verifiable actions in the testing outline read "UO – starts the EHC Pump B prior to the main turbine /reactor tripping on a low EHC pressure of 1100 psig"(CCS-048, page 5). The testing outline clearly outlines the expected response. Compliance with the step can be addressed in NUREG 1021 statement: the examiner is expected to administer the planned operating test in accordance with the prepared and approved walkthrough test outlines (NUREG 1021- CCS-005A, page 131). The expected operator response provided by the exam team was written based on judgment versus the approved criteria in the testing outline.

(2) The exam team additionally discusses that Mr. Lea argues that "there was no reason for the examiner to ask Ms. Smith the follow-up question". Mr. Lea's statement is supported by NUREG 1021. NUREG 1021 identifies that if an applicant performs an incorrect action, examiner should note the applicants actions and follow up with the appropriate question (CCS-005A, page 138).

(3) The NRC exam team argues that C Smith did not collect the correct information that would indicate that there may have been a problem with the auto start feature. In contrast the exam team did not collect the correct information to prove that there was a problem and that the auto start feature had reached the auto start set point. The exam team identifies that C Smith's actions were incorrect, this entire comment centers around the fact that the NRC exam team failed to collect the data required to show that C Smith did not perform the correct actions. *C Smith has already identified issues with the exam team's rough notes. The possibility does exist that their rough notes could have been re-written to adjust the time frame (CCS-093, page 6-8).* This entire argument provided by the exam team fails when there is no data provided to show when the pump was started. This is another issue that would be addressed if NUREG 1021 were followed. NUREG 1021 requires if the applicant did not perform as expected, the examiners shall ask the simulator operator to provide copies of the logs, chart, and other materials.....to evaluate and document the applicants performance (CCS-005A, page 139)

(4) The NRC points out that Lea's statement recognized that the **standby pump** tripped, when the running **pumped** was the one that tripped. They also stated that Mr. Lea has a fundamental misunderstanding of both the design of the scenario event and performance of Ms. Smith during this scenario event. Notice how this exam team evaluates Mr. Lea document as if he is a student. The Exam Team focuses on the wording ----the **standby** versus the **running** pumped that tripped. It is obvious that the exam team cannot find

any comments with sustenance and must rely on comments of an administrative nature. This is obvious that this was a mere typo because in another portion of Mr. Lea's notes he identifies that "it would appear to me that the applicant recognize the standby pump tripped and directed actions to start the pump" (BRD-013). The method used by the exam team to respond to Mr. Lea's document is the same method that the exam team used to write comments for C Smith. They focused on something very small and creatively wrote it to make the individual appear to lack understanding. If this group can write up comments to give the appearance that a seasoned examiner with over twenty years has a misunderstanding, then it is not unreasonable to believe that the same attempt would occur to an initial license candidate (that was not looked at favorably by this group prior to the exam).

- **Scenario 3, Event 7 - SI/SLI Block**. The NRC Exam Team focuses on the fact that the SI/SLI block did not occur on the initial attempt. The NRC exam team's initial argument on this comment was that C Smith attempted the block at 2007 PSIG, and that the applicant thought that pressure was at 1998 PSIG. If the simulator data were reviewed for the time frame identified in the Exam Teams notes, it will clearly find that the exam team "incorrectly believe" that the interlock was not met when the **RCS pressure** was at 2007 PSIG. In actuality, when the RCS pressure was at 2007 PSIG the correct pressure from the **Pressurizer pressure** indication showed that pressure was (1998 PSIG) less than 2000 PSIG. Because the exam team's argument failed, they have now centered their argument around the P-11 status. They also fail to identify at what point the P-11 interlock was met. C. Smith identified that the simulator did not respond as

expected and as a result it did not extinguish until it was less than 1950 PSIG. This is not an expected response. The Exam Team also identifies that the status of P-11 is the most meaningful indication of when pressurizer pressure is less than 2000 PSIG. If the NRC Exam Team supports this theory, the they question remains: Why did they approve a Testing Outline without the P-11 requirement listed? The NRC Exam Team continuously identifies actions that should have been required yet they failed to require the facility to include this on the official document that will be used to test applicants. If C. Smith did not attempt the block when less than 2000 PSIG, then this argument would not be surrounded around the P-11 status lights. The argument would be centered around C. Smith failing to initiate the block when less than 2000 PSIG.

- (1) When responding to Mr Lea's testimony the NRC Exam Team focuses on the wording. They point out words such as actuating versus inhibiting P-11. Again, It is obvious that the Exam Team cannot find comments with sustenance and must rely on comments of an administrative nature.
- (2) Regardless of the NRC Exam Team's explanation of this argument, it was not an appropriate comment for the use of deducting points. The exam team identifies that Mr. Lea has a misunderstanding of this event. It must be noted that when this comment went before the Administrative Review Team that it was removed from the exam. So if Mr. Lea has a misunderstanding then so does the individuals that participated in the review of this exam. Those individuals were representatives from other regions in the nation and agreed that this comment should be removed.

- **Scenario 7, Event 6 – RWST Leak**. The NRC Exam Team starts off by stating that Ms. Smith did not know where the switches for the sludge mixing isolation valves were located. It is unknown how the exam team is able to make this assessment when C. Smith was not asked any follow-up questions at the end of the scenario. The Exam Team identifies that it was not necessary to ask C. Smith follow-up questions. However the NUREG 1021 does not make that distinction. NUREG 1021 identifies that if an action is not performed correctly the examiner should ask follow-up questions. If the intent of asking follow-up questions is to allow the applicant an opportunity to show competency then the appearance is that the individuals were not interested in if C. Smith had any competency. Their interest was solely related to accumulating enough comments for the purpose of deducting points. The Exam Team also identifies that C. Smith was aware of the information reported to the control room from the field operators that the leak was downstream of the sludge mixing isolation valves. Again how is the NRC Exam Team able to validate what information C. Smith was aware of. Note: C. Smith received no follow-up questioning, no follow-up discussions and no information upon completion of the scenario about the RWST leak. The NRC Exam Team made several assumptions and no attempts to clarify if those assumptions were made. Without follow-up questioning (or at a minimum, a conversation) the NRC Exam Team has no way of validating an applicant's level of knowledge or thought process. The NRC exam team references their notes as a key indicator of what occurred. C. Smith's crew members testified that the information reported in these comments were not a true reflection of what actually occurred. C. Smith has also identified in a previous Exhibit (CCS-093 pg 6-8) that there is reason to question the validity of the notes and possible rewrites occurred. A common trait among some of the

comments is that they originated from information that was not recorded by the simulator. Without this data it requires that we rely heavily on their written notes as no other information exists to deny or confirm this information (to include the amount of time that the RWST leak continued). If the Exam Team followed NUREG 1021 there would have been additional information available to at least validate some of the questionable information (i.e. time it took to close the valve). In comparison to the EHC Pump comment, the NRC Examiners offer an argument that cannot be proven. In the EHC Pumped example, the comment centered around a pressure that was not identified or verifiable. In this comment, the exam team identified that C. Smith or the crew did not know the location of the valves and that she did not speak up. Another piece of information that cannot be proven. C. Smith and the Crews rendition is that the location of the valve was known and that the time accumulated was attributed to locating the SOP for stopping the pump. Due to the fact that crew members had discussions about the location of the valves, it would not make sense for C. Smith to repeat the information already stated. These comments are only supported by the NRC Exam Teams notes.

- (1) The NRC Exam Team argues against Mr. Lea's statement in reference to the RWST leak. Mr. Lea's document asked questions in accordance with NUREG 1021. The NRC Exam Team continues to take the stance that they are not required or limited by the actions identified in the testing outline. In the post-exam activities, no required operator actions were changed on the testing outline to reflect additional requirements. In referencing Mr. Tucker's comment that he expects the applicant to speak up, offer comments and input. C. Smith was involved and provided input. She was not oblivious to the

event in progress. When the crew has engaged in conversations identifying the location of the valves, it makes no sense to restate the same information. Mr. Tucker identifies in his testimony that: *somebody always has full focus on reactivity, or either the operator at control maintains a focus on reactivity, and the other focuses on the event that's going on.* (See Transcript, July 17, 2013 - page 302-303).

- (2) The NRC Exam Team disputes Mr. Lea's professional opinion identifying that he does not have a solid grasp of the events in question. *It should be noted that this is a another comment that was removed by the Administrative Review Team.* So if Mr. Lea does not have a solid grasp then neither does the Administrative Review Team. Each time that a group independent of the exam team reviews these comments, the end result is the same.

The NRC Exam Team argues against Mr. Lea's testimony because it does not follow the level of inconsistency that they have provided throughout this entire exam process. They focused on administrative wording to create the impression that there is misunderstanding. Mr. Lea's comments are supported by NUREG 1021. The NRC Exam Teams comments are based on personal opinion and guidance not identified in NUREG 1021. Mr. Lea's assessment that the comments were not warranted is also supported by the end results of the Review Team's decision to remove some of the same comment. This confirms that some of the comments were not appropriate. NUREG 1021 serves no purpose if it is not expected to be followed.

Conclusion

C. Smith disagrees with the admittance of NRC-060, NRC-061 and NRC-062. An explanation was provided to explain the disagreement with each document. C. Smith will not challenge NRC-059. C. Smith requests that the Board rejects the admittance of the above exhibits. The documents are not related to the issues of this case via Mr. Lea's testimony.

Respectfully

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 C SMITH RESPONSE TO THE NRC'S MOTION TO ADMIT EXHIBITS INTO EVIDENCE 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]

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Dated at Grovetown, Ga  
this 26<sup>th</sup> day of August 2013