

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

LBP-19-01

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

William J. Froehlich, Chairman
Ronald M. Spritzer
Dr. Anthony J. Baratta

In the Matter of

ANDRES PAEZ

(Denial of Senior Reactor Operator License)

Docket No. 55-63784-SP

ASLBP No. 19-961-01-SP-BD01

February 8, 2019

ORDER

(Granting Joint Motion and Terminating Proceeding)

On January 29, 2019, the U.S. Nuclear Regulatory Commission staff (NRC Staff) and Mr. Andres Paez filed a joint motion with this Atomic Safety and Licensing Board (Board) to terminate this appeal of the denial of a senior reactor operator (SRO) license. The joint motion indicates the matters at issue in this proceeding have been resolved.

Mr. Paez took the license examination to become a SRO at Florida Power & Light Company's St. Lucie Nuclear Plant, located near Jensen Beach, Florida. The SRO license examination consists of a written test and a simulator test.¹ To be granted a SRO license by the NRC, an applicant must pass both the requisite written examination and the operating (simulator) examination.² When Mr. Paez received the preliminary results of his SRO examination, he was informed that he had passed the written portion of the examination but did

¹ See Office of New Reactors, Office of Nuclear Reactor Regulation, NRC, "Operator Licensing Examination Standards for Power Reactors," Final Report, NUREG-1021 (Rev. 11, Feb. 2017) (ADAMS Accession No. ML17038A432) [hereinafter NUREG-1021].

² See 10 C.F.R. § 55.33(a)(2).

not pass the simulator test portion.³ Mr. Paez then requested an informal NRC Staff review of the preliminary results of his SRO license examination. By letter dated November 20, 2018, Mr. Paez was informed that the preliminary results of his operating test were finalized.⁴ Mr. Paez was informed of his right to demand a hearing under 10 C.F.R. § 2.103(b)(2).

On December 5, 2018, Mr. Paez filed for a hearing to challenge a performance deficiency that had been assessed against him during the simulator portion of his SRO examination.⁵ He alleged that the NRC Staff review “reassigned a critical performance deficiency” and that the reassigned performance deficiency “was assessed without consideration of objective criteria.”⁶ He further alleged that the NRC Staff’s review did not conform to NUREG-1021 Examiner Standard (ES) 502, which requires that “in the unlikely event a new error is identified as a direct result of the contested item review, the uncontested error and its effect, if any, on the applicant’s pass/fail result should be determined and documented.”⁷ On December 14, 2018, the Atomic Safety and Licensing Board Panel Chief Administrative Judge established this Board to preside over the requested proceeding.⁸

On December 20, 2018, the NRC Staff filed a response to Mr. Paez’s hearing demand.⁹ The NRC Staff’s response indicated that after reviewing the information in the hearing demand, the NRC Staff “determined that the operating test performance deficiency disputed by Mr. Paez [was], in fact, not a performance deficiency. With the deletion of this performance deficiency, Mr.

³ Joint Motion to Terminate Proceeding at 1 (Jan. 29, 2019) (ADAMS Accession No. ML19029B330) [hereinafter Joint Motion].

⁴ Andres Paez Request for Hearing at 1 (Dec. 6, 2018) (ADAMS Accession No. ML18340A058).

⁵ Id.

⁶ Id. at 1–2.

⁷ Id. at 1, 4 (quoting NUREG-1021 at ES-502, Page 3 of 4).

⁸ Establishment of Atomic Safety and Licensing Board: Andres Paez, 83 Fed. Reg. 65,369 (Dec. 20, 2018).

⁹ NRC Staff’s Response to Mr. Paez’s Hearing Demand (Dec. 20, 2018) (ADAMS Accession No. ML18354B154).

Paez has achieved a passing grade on the operating test.”¹⁰ The NRC Staff stated that it would approve Mr. Paez’s application for a SRO license and that it had informed Mr. Paez of this determination on December 20, 2018.¹¹ The NRC Staff’s response further indicated that the NRC Staff would notify the Board when the license was issued and requested that, upon notification, the Board terminate this proceeding.¹²

On January 29, 2019, the NRC Staff and Andres Paez filed a joint motion requesting that this Board terminate the proceeding because the matters at issue in the proceeding have been resolved.¹³ The joint motion stated that in response to the hearing demand, “[T]he Staff determined that the challenged performance deficiency was not a performance deficiency and, therefore, should be deleted. With the deletion of the performance deficiency, Mr. Paez achieved a passing grade on the operating test.”¹⁴ The joint motion further stated, “Pursuant to 10 C.F.R. § 55.33, since Mr. Paez also passed the requisite written examination and satisfies the health requirement, the Staff approved his application for a senior reactor operator license and issued this license effective January 2, 2019.”¹⁵

Because the NRC Staff has concluded that the challenged performance deficiency is not a performance deficiency, and, with the deletion of this performance deficiency Mr. Paez

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Joint Motion at 1.

¹⁴ Id. at 2.

¹⁵ Id.

achieved a passing score on the SRO examination, and because the NRC Staff has issued a SRO license to Mr. Paez, we GRANT the joint motion and TERMINATE this proceeding.

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

William J. Froehlich, Chairman
ADMINISTRATIVE JUDGE

/RA/

Ronald M. Spritzer
ADMINISTRATIVE JUDGE

/RA/

Dr. Anthony J. Baratta
ADMINISTRATIVE JUDGE

Rockville, Maryland
February 8, 2019

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
ANDRES PAEZ)	Docket No. 55-63784-SP
)	
(Reactor Operator License for)	
St. Lucie Plant, Units 1 and 2))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Granting Joint Motion and Terminating Proceeding) LBP-19-01** have been served upon the following persons by Electronic Information Exchange.

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop: O-16B33
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop: O-16B33
Washington, DC 20555-0001
E-mail: hearingdocket@nrc.gov

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3F23
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop - O-14A44
Washington, DC 20555-0001
Tison Campbell, Esq.

William J. Froehlich, Chair
Administrative Judge

Brian Harris, Esq.
David Roth, Esq.
Jeremy Wachutka, Esq.

Ronald M. Spritzer
Administrative Judge

Brian Newell, Paralegal
E-mail: brian.harris@nrc.gov
tison.campbell@nrc.gov
david.roth@nrc.gov
jeremy.wachutka@nrc.gov
brian.newell@nrc.gov

Dr. Anthony J. Baratta
Administrative Judge

Joseph McManus, Law Clerk
Taylor Mayhall, Law Clerk

E-mail: william.froehlich@nrc.gov
ronald.spritzer@nrc.gov
anthony.baratta@nrc.gov
joseph.mcmanus@nrc.gov
taylor.mayhall@nrc.gov

Andres Paez
3364 SW Newberry Ct.
Palm City, FL 34990
E-mail: andresapaez@gmail.com

[Original signed by Herald M. Speiser]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 8th day of February, 2019