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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION 97 JUN 30 P3:51

BEFORE THE PRESIDING OFFICER OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Before Administrative Judge:
G. Paul Bollwerk, III
(Thomas D. Murphy, Special Assistant)

In the Matter of)	
)	
FRANK J. CALABRESE, JR.)	Docket No. 55-614-25-SP
)	
(Denial of Senior Reactor)	ASLBP No. 97-725-02-SP
Operator's License))	
)	

NRC STAFF PRESENTATION IN SUPPORT
OF DENIAL OF SENIOR REACTOR OPERATOR
LICENSE FOR FRANK J. CALABRESE JR.

INTRODUCTION

This proceeding is a reactor operator licensing proceeding governed by the informal hearing procedures set forth in 10 C.F.R. Part 2, Subpart L. See 10 C.F.R. § 2.1201(a)(2). Mr. Calabrese applied for and took the examination for a Senior Reactor Operator (SRO) license. The examination was administered during the week of October 21, 1996. The NRC in a letter dated December 2, 1996, informed Mr. Calabrese that his application for an SRO license was denied. Mr. Calabrese appealed that denial using the NRC's informal procedures cited above.

The Presiding Officer's "Memorandum and Order (Revised Written Filing Schedule)" dated June 9, 1997, directed the Staff to file its Presentation by June 30, 1997. The Staff's

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Presentation is set forth in the attached Affidavit of Siegfried Guenther, John G. Caruso, Tracy E. Walker, and Carl E. Sisco.

APPLICABLE LAW

Section 107 of the Atomic Energy Act, 42 U.S.C. § 2137, requires the NRC to determine the qualifications of individuals applying for a reactor operator license, and authorizes the NRC to promulgate such regulations as are necessary to establish uniform conditions for licensing such individuals. Part 55 of Title 10 of the Code of Federal Regulations (10 C.F.R. Part 55) contains the NRC regulations implementing Section 107 of the Atomic Energy Act. Pursuant to 10 C.F.R. § 55.4, a reactor "operator" is defined as "any individual licensed under this part to manipulate a control of a facility." A "senior operator," in turn, is defined by § 55.4 as "any individual licensed under this part to manipulate the controls of a facility and to direct the licensed activities of licensed operators" (emphasis added).

The Commission's regulations in 10 C.F.R. § 55.33 require that applicants for Senior Reactor Operator (SRO) licenses pass both a written examination¹ and an operating test. 10 C.F.R. § 55.45(b) requires the operating test to be administered in a plant walk-through and a simulation facility.² The content of the operating test taken by applicants for SRO licenses is governed by 10 C.F.R. § 55.45(a), and "will be identified, in part, from learning objectives derived from a systematic analysis of licensed operator and senior operator duties performed by

¹ Although Mr. Calabrese originally failed the written examination, it was regraded during an informal appeal and is no longer at issue.

² Mr. Calabrese was determined to have passed the walk-through portion of his operating test; only the simulator portion of the operating test is at issue.

each facility licensee and contained in its training program and from information in the Final Safety Analysis Report, system description manuals and operating procedures, facility license and license amendments, Licensee Event Reports, and other materials requested from the facility licensee by the Commission." The operating test, to the extent applicable, requires the applicant to demonstrate an understanding of and the ability to perform the actions necessary to accomplish a representative sample from among the 13 items specified in 10 C.F.R. § 55.45(a).

To promote uniformity in the content and grading of operator licensing examinations taken at different nuclear facilities, the Staff has previously published Revision 7 (Supplement 1) of NUREG-1021, "Operator Licensing Examiner Standards," which contains specific instructions and guidelines for developing, administering, and grading every aspect of the licensing examination. As set forth therein, the simulator portion of the operating test (Category C, "Integrated Plant Operations") implements items (1) through (8), (11), (12) and (13) identified in 10 C.F.R. § 55.45(a). It is the most performance-based category of the operating test and is used to evaluate the applicant's ability to safely operate the plant's systems under dynamic, integrated conditions.

The simulator test is administered in a team format with up to three applicants filling the RO and SRO license positions on an operating crew. This format enables the Staff to evaluate the applicant's ability to function within the control room team as appropriate to their assigned positions, in such a way that the facility licensee's procedures are adhered to and the limitations in its license and amendments are not violated. 10 C.F.R. § 55.45(a)(13). Each crew of applicants is administered a set of scenarios designed so that the examiners can individually

evaluate each applicant on a range of competencies applicable to the applicant's license level. The competencies applicable to SRO license applicants are described on pages 19 and 20 of Section ES-301, "Preparing Operating Tests for License Applicants at Power Reactor Facilities," of NUREG-1021. Form ES-303-4, "SRO Competency Grading Worksheets for Integrated Plant Operations," breaks down each competency into a number of specific rating factors to be considered during the grading process (HF Item 21). Each applicant must demonstrate proficiency on every competency applicable to the applicant's license level, except for SRO Competency Number 5, "Control Board Operations," which is optional for SRO-upgrade applicants. In accordance with Section ES-303, "Documenting and Grading Operating Tests Administered at Power Reactors," of NUREG-1021, SRO applicants must normally achieve a grade greater than 1.8 in all eight competencies.

Mr. Calabrese's test for a Senior Reactor Operator license was conducted within the regulatory framework set forth above.

CONCLUSION

As set forth in the attached Affidavit, the Staff conducted Mr. Calabrese's SRO test within the established regulatory framework. Mr. Calabrese's errors on the simulator portion of the test were significant with potential serious adverse safety consequences, and therefore the Staff's decision to fail him on the simulator portion of the examination was clearly justified. Mr. Calabrese's after-the-fact explanation for failing to locate and follow the appropriate procedures is not supported by the contemporaneous notes of the Examiners or their recollection

and was raised for the first time in his presentation in this proceeding. The Staff's denial of Mr. Calabrese's SRO license should be sustained by the Presiding Officer.

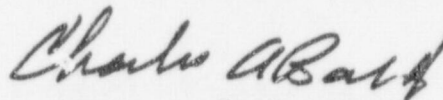
PRESIDING OFFICER'S REQUESTS

The Presiding Officer requested the Staff to address Mr. Gutterman's request for Mr. Sisco's notes and to provide all relevant documents missing from the Hearing File. Mr. Sisco has no notes. See Affidavit paragraph 50 (a). This was the subject of an exchange between counsel. That exchange is attached. The Staff is not cognizant of any relevant documents not included in the Hearing File.

The Presiding Officer requested a complete copy of NUREG-1021, Rev 7 and Supplement 1. They are attached.

As is stated in the Hearing File, documents numbers 16 through 20, which are vital to an understanding and resolution of this dispute, were requested of the facility licensee. As of this date, the licensee has not provided those documents to the Staff. The copies in the Hearing File are from NRC's records and may not be the correct revisions.

Respectfully submitted,



Charles A. Barth
Counsel for NRC Staff

Dated at Rockville, Maryland
this 30th day of June 1997

From: Alvin Gutterman <GUTT7468@mlb.com>
To: WND1.WNP2(cab)
Date: 5/28/97 8:14am
Subject: Hearing Files in Calabrese case

Charles;

I tried to hpone you last week, and left a message. My question is this:
I only see notes from two NRC examiners in the Hearing Files. Shouldn't I have three?
Please let me know if I am missing something. Thanks for your cooperation.

Al

From: Charles Barth
To: Internet:gutt7468@mlb.com
Date: 5/28/97 9:33am
Subject: Calabrese

From: Charles Barth
To: Internet:gutt468@mlb.com
Date: 5/27/97 7:33am
Subject: Calabrese

In reply to your inquiry, there were three examiners at the simulator test that Mr. Calabrese attended. The third examiner had nothing to do with Calabrese's test.

Charles A Barth
5-27-97

CC: DCD.SXG