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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

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COMMISSIONERS:

Shirley Ann Jackson, Chairman  
Kenneth C. Rogers  
Greta J. Dicus  
Nils J. Diaz  
Edward McGaffigan, Jr.

OFFICE OF GENERAL COUNSEL  
DOCKETED  
BRANCH

SERVED NOV 13 1996

In the Matter of )  
 )  
EMERICK S. McDANIEL )  
 )  
(Denial of Application for )  
Reactor Operator License) )

Docket No. 55-21849-OT

CLI-96- 11

ORDER

On September 11, 1996, Mr. Emerick S. McDaniel filed a Petition for Review of the Presiding Officer's Initial Decision in this case, LBP-96-17 (Sept. 3, 1996), in which the Presiding Officer rejected Mr. McDaniel's challenge to the NRC staff's rejection of his claim that he had passed his written examination to become a reactor operator at the Vogtle Electric Generating Plant. The Presiding Officer ruled that Mr. McDaniel had correctly answered less than 80 percent of the questions and had therefore failed the exam.

We deny the Petition for Review because it fails to raise any substantial question justifying Commission review as provided under 10 C.F.R. § 2.786(b)(4), incorporated into Subpart L in 10 C.F.R. § 2.1253. We see no basis to question the Presiding Officer's factual finding that Mr. McDaniel had failed the

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written exam. See generally Kenneth G. Pierce (Shorewood, Illinois), CLI-95-6, 41 NRC 381 (1995).

Mr. McDaniel's Petition for Review is therefore DENIED.

For the Commission



William M. Hill  
WILLIAM M. HILL  
Acting Secretary of the Commission

Dated at Rockville, Maryland,  
this 13th day of November, 1996.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

EMERICK S. MCDANIEL

Docket No.(s) 55-21849-0T

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMISSION ORDER (CLI-96-11) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
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Dated at Rockville, Md. this  
13 day of November 1996

  
Office of the Secretary of the Commission