TENNESSEE VALLEY AUTHORITY
KNOXVILLE, TENNESSEE
37902

TVA 40TH ANNIVERSARY OF PEOPLE IN PARTNERSHIP

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U.S. ATOMIC ENERGY COMMISSION
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Secretary
U.S. Atomic Energy Commission
Washington, D.C. 20545

Re: In the Matter of
Tennessee Valley Authority
(Bellefonte Nuclear Plant Units 1 and 2)
Docket Nos. 50-438 and 50-439

Dear Sir: Attention: Chief, Public Proceedings Branch

Enclosed for filing in the above proceeding are the original and 20 conformed copies of the following document, together with the Certificate of Service:

Applicant's Answer to Amended Petition of
Daniel Payne Hale and Lyle A. Taylor for
Leave to Intervene

Sincerely yours,

Robert H. Marquis

Robert H. Marquis
General Counsel

Enclosures
CC (Enclosures):
Mr. John F. O'Leary, Director
Directorate of Licensing
U.S. Atomic Energy Commission
Washington, D.C. 20545

Mr. Sam Gant
Chairman of the Board of County Commissioners
Jackson County Courthouse
Scottsboro, Alabama 35768

Hearing

UNITED STATES OF AMERICA

ATOMIC ENERGY COMMISSION

In the Matter of	)	
	)	
TENNESSEE VALLEY AUTHORITY	)	Docket Nos. 50-438
	)	50-439
(Bellefonte Nuclear Plant	)	
Units 1 and 2)	)	

APPLICANT'S ANSWER TO AMENDED PETITION OF DANIEL PAYNE HALE AND LYLE A. TAYLOR FOR LEAVE TO INTERVENE

By letter dated January 1, 1974, Dr. Daniel Payne Hale sent to the Chairman of the Atomic Safety and Licensing Board (Board) an "addition to [his] petition to intervene" in this proceeding. Applicant assumes that the document is intended by Dr. Hale and Mr. Taylor to be the "amended petition" which was authorized by the Board's Order Relative to Petition to Intervene of Daniel Payne Hale and Lyle A. Taylor, dated December 3, 1973. TVA respectfully requests that, based on the amended petition, the Board deny intervenor status to petitioners for the reasons set forth below.

The amended petition adds nothing of substance to the original petition for leave to intervene, does not demonstrate a legally cognizable interest, and does not present any contentions within the scope of this proceeding. (See APPLICANT'S ANSWER TO PETITION OF DANIEL PAYNE HALE AND LYLE A. TAYLOR FOR LEAVE TO INTERVENE, Sept. 14, 1973).

Neither the statement that the "Bellefonte project does not coincide with [what] ought to be the proper Government policy toward the development of nuclear energy" nor any other statement about nuclear energy contained in the amended petition for leave to intervene is directed specifically at the Bellefonte project. Petitioners seek to litigate questions of national nuclear energy policy. Such questions may be appropriate for consideration by the Atomic Energy Commission or the Congress, but are entirely inappropriate for consideration by an Atomic Safety and Licensing Board. As the Appeal Board stated in the McGuire proceeding:

> If facts pertaining to the licensing of a particular nuclear power plant are at issue, an adjudicatory proceeding is the right forum. But if someone wants to advance generalizations regarding his particular views of what applicable policies ought to be, a role other than as a party to a trial-type hearing should be chosen [Duke Power Co. (William B. McGuire Nuclear Station, Units 1 and 2) ALAB-128, RAI-73-6, 399, 401 (June 13, 1973)].

The Atomic Safety and Licensing Appeal Board has stated:

> In the final analysis, there must ultimately be strict observance of the requirements governing intervention, in order that the adjudicatory process is invoked only by those persons who have real interests at stake and who seek resolution of concrete issues. Cf. Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 and 2), ALAB-107, RAI-73-3 188, 191 (March 29, 1973). But it is not necessary to the attainment of that goal that interested persons be rebuffed by the inflexible application of procedural requirements with the result that they are not given a reasonable opportunity to cure the defects in their petitions [Virginia Electric and Power Co. (North Anna Power Station, Units 1 and 2) ALAB-146, RAI-73-9, 631, 633-4 (Sept. 14, 1973)].

Petitioners have been provided ample and reasonable opportunity to cure the defects in their petition, but have failed to do so, apparently in part because they are in the wrong forum. Petitioners should therefore be denied leave to intervene.

Conclusion

For the foregoing reasons, the Board should deny petitioners leave to intervene in this proceeding. TVA has no objection to their petition being considered as a request for leave to make a limited appearance.

Respectfully submitted,

Robert H. Marquis
General Counsel
Tennessee Valley Authority
Knoxville, Tennessee

Lewis E. Wallace
Associate General Counsel

David G. Powell

Alvin H. Gutterman

Attorneys for Applicant

Knoxville, Tennessee
January 11, 1974

UNITED STATES OF AMERICA

ATOMIC ENERGY COMMISSION

In the Matter of	)	
	)	
TENNESSEE VALLEY AUTHORITY	)	Docket Nos. 50-438
	)	50-439
(Bellefonte Nuclear Plant	)	
Units 1 and 2)	)	

CERTIFICATE OF SERVICE

I hereby certify that I have served the original and 20 conformed copies of the following document on the Atomic Energy Commission by depositing in the United States mail, postage prepaid and addressed to Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch:

Applicant's Answer to Amended Petition of
Daniel Payne Hale and Lyle A. Taylor for
Leave to Intervene

and that I have served a copy on each of the following persons by depositing a copy thereof in the United States mail, postage prepaid:

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Ira L. Myers, M.D.
State of Alabama
Department of Public Health
Room 314 State Office Building
Montgomery, Alabama 36104

This 11th day of January, 1974.

Alvin H. Gutterman

Alvin H. Gutterman
Attorney for Applicant
Tennessee Valley Authority