

PDR

1/14/74

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)
TENNESSEE VALLEY AUTHORITY)
(Belleville Nuclear Plant,)
Units 1 and 2))

Docket Nos. 50-438 ✓
50-439

ANSWER OF AEC REGULATORY STAFF
TO AMENDED PETITION FOR LEAVE TO
INTERVENE FILED BY DANIEL PAYNE HALE

1. On August 3, 1973, a "Notice of Hearing on Application for Construction Permits" (38 F.R. 20932), regarding the above-captioned proceeding, was published by the Commission. The Notice provided, inter alia, that any person whose interest may be affected by the proceeding could file a petition for leave to intervene not later than September 4, 1973. The Notice also summarized the provisions of 10 CFR § 2.714, the Commission rule which prescribes the required form and content of petitions for leave to intervene.
2. On September 6, 1973, a document signed by Daniel Payne Hale and Lyle A. Taylor captioned "Affirmation Relevant to Request to Intervene in the Belleville Nuclear Hearing" was docketed with the Commission. The document was not submitted under oath or affirmation,

D.P.H.

did not set forth adequately the individuals' interests, nor did it identify with any particularity contentions for consideration.

3. On November 9, 1973, the presiding Atomic Safety and Licensing Board (Board) issued an Order which contained the following:

"2. Petitioners to intervene, Daniel Payne Hale and Lyle A. Taylor, did not appear at the prehearing conference [held on November 1, 1973]. The regulatory staff reported that it was their understanding from their conversations with Mssrs. Hale and Taylor that petitioners did not intend to proceed with intervention since their interests would be forwarded by the petition of William E. Garner, et al. While the Board would prefer a letter from the petitioners withdrawing the petition, if this is their desire, it will be assumed by the Board that the petition has been withdrawn unless notified otherwise within twenty (20) days from the date of this Order. If Mssrs. Hale and Taylor do not proceed with the petition to intervene (which would be considered on its merits only if good cause was shown for the failure to appear) the Board assumes that they may request to make 'limited appearances'. Their requests will be granted."

4. In a letter dated November 14, 1973, counsel for the AEC regulatory staff (staff) corresponded with Daniel Payne Hale. This letter contained, among other things, mention of the twenty days permitted by the Board to notify the Board concerning his intent to proceed with his petition to intervene.
5. Subsequently, the staff received a copy of a four page letter dated January 1, 1974, from Daniel Payne Hale to Mrs. Elizabeth Bowers,

Chairman of the presiding Atomic Safety and Licensing Board. The staff construes this document as Mr. Hale's amended petition for leave to intervene. It is noted that Mr. Hale did not notify the Board within twenty days of the date of the Order referred to in paragraph 3 above whether he intended to proceed with his petition to intervene.

6. Mr. Hale's January 1, 1974 letter does not attempt to establish the "good cause ... for failure to appear" required in the Board's Order of November 9, 1973; nor does it make any other attempt to establish good cause for late filing of the petition as amended. Further, the letter does not comply with 10 CFR § 2.714 in that it does not set forth adequately Mr. Hale's interests nor does it identify with any particularity contentions for consideration.
7. For the reasons noted above the petition should be denied. We would, however, urge that if the petition for leave to intervene is denied, petitioner be given an opportunity to make a limited appearance pursuant to the provisions of 10 CFR § 2.715 of the Commission's Rules of Practice.

Respectfully submitted,



William D. Paton
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland,
this 14th day of January, 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 copies of "Answer of AEC Regulatory Staff to Amended Petition for Leave to Intervene Filed by Daniel Payne Hale," dated January 14, 1974, in the captioned matter, have been served on the following by deposit in the United States mail, first class or air mail, this 14th day of January, 1974:

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