

ONE HUNDRED SEVENTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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January 13, 2022

Mr. Jeffrey J. Lyash
President and Chief Executive Officer
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, Tennessee 37902

Dear Mr. Lyash:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee on Energy and Commerce requests information regarding the Tennessee Valley Authority's (TVA) business practices and adherence to the Tennessee Valley Authority Act.

TVA was created by statute to pursue "the physical, social, and economic development" of the Tennessee Valley,¹ including through the sale of surplus power not used in its operations. As part of that mission, TVA is required to "give preference to States, counties, municipalities, and cooperative organizations of citizens or farmers, not organized or doing business for profit" and to maintain "national leader[ship] in technological innovation, low-cost power, and environmental stewardship."²

Congress has safeguarded TVA ratepayers from predatory practices by requiring the federal electric utility to engage in "least-cost planning" that accounts for "the full range of existing and incremental resources" including energy conservation and efficiency and renewable energy resources.³ In performing that planning, TVA must "take into account the ability to verify energy savings achieved through energy conservation and efficiency" and "treat demand and supply resources on a consistent and integrated basis."⁴

The Committee is concerned that TVA's business practices are inconsistent with these statutory requirements to the disadvantage of TVA's ratepayers and the environment.

¹ 16 U.S.C. § 831n-4(h).

² 16 U.S.C. § 831a(b)(5).

³ 16 U.S.C. § 831m-1(b)(1).

⁴ 16 U.S.C. § 831m-1(b)(2).

Specifically, we are concerned that Tennessee Valley residents pay too much for electricity, which particularly impacts low-income households in Tennessee. The Committee is also concerned that TVA is interfering with the adoption of renewable energy by its commercial and residential customers and, while it is making progress on decarbonization, it must do more this decade.

Tennessee Valley Residents Pay Too Much for Electricity

TVA lauds its commitment to low rates, but as of 2020, ratepayers in much of TVA's service territory have electric utility bills that exceed the national average.⁵ According to at least one analysis, hundreds of thousands of low-income households in Tennessee face an elevated energy burden, with some spending as much as 27 percent of their annual income on energy,⁶ while low-income residents of cities such as Memphis historically face some of the highest energy burdens in the nation.⁷ The Committee seeks to understand the extent to which the disparity between TVA's low rates and its high customer bills is driven by the organization's decision to deprioritize energy efficiency and impose fixed fees that keep rates low but cost ratepayers money.

TVA has significantly curtailed its energy efficiency programs during the last decade.⁸ Despite TVA's acknowledgements that energy efficiency is critical to achieving a least-cost energy mix,⁹ public reports indicate the federal utility reduced funding for its energy efficiency

⁵ US Energy Information Administration, *2020 Average Monthly Electric Bills-Residential* (www.eia.gov/electricity/sales_revenue_price/pdf/table5_a.pdf); US Energy Information Administration, *TVA is the largest government-owned electricity provider in the United States* (Aug. 13, 2021) (www.eia.gov/todayinenergy/detail.php?id=49136) (According to the Energy Information Administration (EIA) TVA provides more than 90 percent of the electricity to the state of Tennessee and it also services parts of states, including Alabama and Mississippi, that have disproportionately high electricity usage and bills).

⁶ Home Energy Affordability Gap, *2020 Affordability Gap Data* (Apr. 2021) (www.homeenergyaffordabilitygap.com/03a_affordabilityData.html) (Click on Tennessee and it will take you to the PDF containing the data, which shows that there are 910,971 low-income households in Tennessee with incomes of 50-200 percent of the federal poverty level, many of which face an energy burden of 6-27 percent of their income).

⁷ American Council for an Energy-Efficient Economy, *How energy efficiency can help low-income households in Tennessee* (www.aceee.org/sites/default/files/pdf/fact-sheet/ses-tennessee-100917.pdf).

⁸ *Homes in the Tennessee Valley are among the worst in the country for residential energy efficiency*, Chattanooga Times Free Press (Oct. 12, 2021) (www.timesfreepress.com/news/business/aroundregion/story/2021/oct/12/states-least-home-energy-efficiency/555899/).

⁹ Nuclear Regulatory Commission, *Integrated Resource Plan: TVA's Environmental and Energy Future* (Mar. 2011) (www.nrc.gov/docs/ML1217/ML12171A189.pdf) (pg. 87 "The IRP

programs by nearly two-thirds between 2014 and 2018 and eliminated its energy efficiency customer incentive programs.¹⁰ What remaining energy efficiency programs exist are primarily focused on growing TVA's load.¹¹ As a result, TVA's annual energy savings from energy efficiency dropped from 512,084 megawatt hours (MWh) in 2014 to just 101,138 MWh in 2020.¹² Consequently, Tennessee residential ratepayers on average use the second-most electricity of residents of any state.¹³

TVA has also instituted fixed charges that may disadvantage ratepayers and disincentivize the adoption of energy efficiency measures. In 2018, TVA reduced its wholesale rate by 0.5 cents per kilowatt hour (kWh) while simultaneously imposing a grid access charge (GAC) on local power companies.¹⁴ This maneuver converted \$600 million in TVA's variable revenue to fixed revenue, and several local power companies have indicated that they passed these fixed charges along to their customers.¹⁵ As a result, TVA ratepayers may incur higher bills even if they reduce their energy usage.

The Committee finds it troubling that the foregoing policies appear contrived to maintain TVA's load, often at ratepayers' expense.

reference strategy includes an EEDR program that reduces required energy and capacity needs by approximately 14,000 GWh and 4,700 MW, respectively, by 2029").

¹⁰ Southern Alliance for Clean Energy, *TVA Lost Its Way on Energy Efficiency, Now It's Dragging Southeast Down and Pushing Customer Bills Up* (Mar. 5, 2021) (www.cleanenergy.org/blog/tva-lost-its-way-on-energy-efficiency-now-its-dragging-region-down-and-pushing-customer-bills-up/).

¹¹ *TVA phases out rebates for home energy upgrades that do not build their electric load*, Knox News (June 8, 2018) (www.knoxnews.com/story/news/2018/06/08/tva-phases-out-rebates-home-energy-upgrades-do-not-build-their-electric-load/677359002/) (Electrification has an important role to play in reducing carbon emissions, but the Committee is concerned that TVA is only pursuing energy efficiency measures that benefit TVA's bottom line).

¹² US Energy Information Administration, *Annual Electric Power Industry Report, Form EIA-862 detailed data files* (Oct. 7, 2021) (www.eia.gov/electricity/data/eia861/).

¹³ US Energy Information Administration, *2020 Average Monthly Electric Bills-Residential* (www.eia.gov/electricity/sales_revenue_price/pdf/table5_a.pdf).

¹⁴ See note 11; Tennessee Valley Authority, *Environmental Reviews, 2018 Rate Change* (www.tva.com/Environment/Environmental-Stewardship/Environmental-Reviews/2018-Rate-Change) (accessed Nov. 29, 2021).

¹⁵ See note 11; Nashville Electric Service, *Rates* (www.nespower.com/rates/) (accessed Jan. 8, 2022).

TVA is Hindering the Deployment of Renewable Power

TVA has also interfered with the adoption of renewable energy by its commercial and residential customers. Internal TVA documents identified distributed energy resources as “a threat to our business model” and show that TVA anticipated its GAC would curtail the deployment of solar energy projects by 40 percent.¹⁶ According to internal TVA documents released publicly through a Freedom of Information Act request, TVA has also permitted local power companies to impose new fees on distributed solar generation in order to “lessen the potential decrease in TVA load that may occur through the adoption of [behind the meter] generation.”¹⁷

The Committee is also concerned that TVA’s avoided cost and contract terms under the Public Utility Regulatory Policies Act (PURPA) discourage renewable deployment and are inadequate to finance and construct qualifying facilities.

TVA Is Making Progress on Decarbonization But Must Do More

The Committee applauds TVA’s decarbonization efforts to date. Since 2005, TVA has reduced its reliance on coal-fired generation and increasingly relied on nuclear and hydroelectric energy for carbon-free power.¹⁸ The authority’s May 2021 Sustainability Report indicates that TVA has reduced the carbon emissions from its generation portfolio by 63 percent since 2005 and that it intends to reduce its carbon emissions by 70 percent of 2005 levels by 2030 and 80 percent of 2005 levels by 2035.¹⁹ Its goal is to achieve net zero emissions by 2050.²⁰

Although TVA has made progress over the last two decades, the Committee is concerned by TVA’s comparatively unambitious goal of achieving only a seven percent further reduction in carbon emissions by 2030. Furthermore, to date, TVA has failed to revise its carbon emission reduction objectives in line with President Biden’s Executive Order 14008, which seeks to

¹⁶ Southern Alliance for Clean Energy, *Background for TVA Rate Change comments* (cleanenergy.org/wp-content/uploads/Background-for-TVA-Rate-Change-EA-comments-Solar.pdf).

¹⁷ Energy and Policy Institute, *TVA green-lights new potential fees on distributed solar by local utilities* (Feb. 1, 2021) (www.documentcloud.org/documents/20412575-9-omnibus-notational-final#document/p13/a2005318).

¹⁸ Tennessee Valley Authority, *Our Power System* (www.tva.com/energy/our-power-system) (accessed Nov. 29, 2021).

¹⁹ Tennessee Valley Authority, *FY 2020 Sustainability Report* (May 6, 2021) (www.tva-azr-eastus-cdn-ep-tvawcm-prd.azureedge.net/cdn-tvawcma/docs/default-source/environment/tva-sustainability-report-fy2020-printf7b1e8d4-a417-44e7-b63b-f4f2443397f0.pdf?sfvrsn=d2b4847e_3).

²⁰ *Id.*

achieve a carbon-pollution free electricity sector by 2035.²¹ The Committee is also greatly concerned that TVA has invested comparatively little to date in deploying solar and wind energy, while at the same time considering investments in new natural gas generation that are inconsistent with President Biden's directive.

The Committee would therefore like to understand whether TVA plans to update its decarbonization goals and next integrated resource plan (IRP) to comply with President Biden's executive order and to reflect TVA's statutory role as a national leader in technology and environmental stewardship.

Requests for Information

To better understand TVA's activities, the Committee requests the following information by February 2, 2022. In each instance where the Committee has requested a commitment from TVA, please provide an affirmative or negative answer before expounding upon the reason for your answer.

1. Please provide the percentage of TVA's annual energy savings from energy efficiency for each year from and including 2014 to present. Please describe how TVA defines "energy efficiency" for purposes of these calculations.
2. Please describe TVA's energy efficiency programs from 2014 to present. In doing so, please provide the annual amount of funding for each energy efficiency program, the rationale for any funding changes, and the number of households assisted annually through TVA's energy efficiency programs.
3. How many local power companies within TVA's service territory offer energy efficiency programs and how many do not? Does TVA offer incentives to local power companies to encourage their participation in energy efficiency programs?
4. TVA performed a sensitivity analysis as part of its 2019 IRP that evaluated the effect on TVA's generation portfolio of greater energy efficiency and demand response market depth. Please describe the resource mix resulting from that analysis, and how those results influenced TVA's 2019 IRP.
5. Energy efficiency is consistently identified as a low-cost resource critical to reduce greenhouse gas pollution. Will TVA commit to deploying greater amounts of energy efficiency as part of its next IRP?

²¹ Exec. Order No. 14008, 86 Fed. Reg. 7619 (Jan. 27, 2021).

6. TVA imposed a GAC on local power companies in 2018.²² Internal documents suggest that TVA viewed distributed energy resources as “a threat to our business model” and show that TVA believed the GAC would curtail the deployment of solar energy projects by 40 percent.²³
 - a. What was TVA’s purpose in adopting the GAC?
 - b. Please provide data on whether local power companies served by TVA have passed the GAC along to ratepayers in the form of fixed charges.
 - c. By what percent has the GAC decreased distributed solar installations in TVA’s service area?
7. What other rate changes has TVA adopted in the last five years and why? In answering this question, please address whether any such changes were intended to “lessen the potential decrease in TVA load that may occur through the adoption of [behind the meter] generation.”²⁴
8. PURPA was intended to promote the development of certain qualifying facilities from non-utility power producers. Please describe the contract length, avoided cost, and other contract terms that TVA offers to qualifying facilities pursuant to PURPA.
9. According to publicly available data, wind and solar generation account for only three percent of TVA’s generation mix, which is significantly less than comparable utilities.²⁵ Please provide an explanation for TVA’s comparative underinvestment in solar and wind resources.
10. President Biden’s Executive Order 14008 initiated a “government-wide” effort to achieve “a carbon pollution-free electricity sector no later than 2035.”²⁶ How is TVA revising its carbon emission reduction goals in light of Executive Order 14008?

²² See note 11; See note 14.

²³ See note 16.

²⁴ Energy and Policy Institute, *TVA green-lights new potential fees on distributed solar by local utilities* (Feb. 1, 2021) (www.documentcloud.org/documents/20412575-9-omnibus-notational-final#document/p13/a2005318).

²⁵ See note 18; See, e.g., Southern Company, *Energy Mix* (www.southerncompany.com/clean-energy/environment/energy-mix.html) (accessed Nov. 30, 2021); Duke Energy Corporation, *Clean generation remains Duke Energy’s focus as it plans to triple renewable energy this decade* (Apr. 28, 2021) (press release).

²⁶ See note 21.

11. TVA announced in May 2021 that it plans to close its remaining coal fleet by 2035.²⁷ Please provide a status update on TVA's plans to retire its existing coal fleet and explain whether TVA intends to accelerate the retirement of its existing coal generation portfolio in light of President Biden's carbon emission reduction objectives.
12. What is the status of TVA's environmental impact statement on the planned retirements of its Cumberland and Kingston coal plants? Please describe the factors that TVA will consider, including carbon emissions and upstream methane emissions, in deciding whether to replace its coal plants with new fossil, renewable, or nuclear generation assets?
13. According to the Environmental Protection Agency (EPA), methane is the second-most abundant anthropogenic greenhouse gas and is significantly more potent than carbon dioxide at trapping heat in the atmosphere.²⁸ A large percentage of methane emissions from natural gas occur at the wellhead and in transport on pipelines.
 - a. Given TVA's statutory obligation to act as a leader in environmental stewardship, what actions is TVA taking to reduce its reliance on natural gas?
 - b. To the extent TVA continues to rely on natural gas generation, will TVA commit to procuring natural gas from companies that focus on minimizing methane emissions?
14. TVA's 2019 IRP sensitivity analysis indicated that "higher natural gas prices" would increase TVA's procurement of solar capacity by 2,050 MW.²⁹ According to correspondence from TVA, fossil fuel price volatility in 2021 has led to rising fuel costs that will be reflected in consumer bills. How will TVA account for the increased volatility of global fuel prices in deciding whether to deploy additional fossil-powered generation, including in its decision as to how to replace the Cumberland and Kingston coal plants?
15. In 2019, this Committee requested TVA explain whether its participation in the Utility Air Resources Group (UARG) funded lobbying or litigation activities to defeat public

²⁷ *TVA to retire coal fleet by 2035, CEO says, with renewables, gas and nuclear on the table as replacements*, Utility Dive (Apr. 30, 2021) (www.utilitydive.com/news/tva-to-retire-coal-fleet-by-2035-ceo-says-with-renewables-gas-and-nuclea/599370/).

²⁸ US Environmental Protection Agency, *Importance of Methane* (www.epa.gov/gmi/importance-methane) (accessed Nov. 29, 2021).

²⁹ Tennessee Valley Authority, *2019 Integrated Resource Plan* (www.tva-azr-eastus-cdn-ep-tvawcm-prd.azureedge.net/cdn-tvawcma/docs/default-source/default-document-library/site-content/environment/environmental-stewardship/irp/2019-documents/tva-2019-integrated-resource-plan-volume-i-final-resource-plan.pdf?sfvrsn=44251e0a_4).

health and welfare regulations.³⁰ Although TVA denied that its funds were used for those purposes, a recent Evaluation Report from TVA's Office of the Inspector General (OIG) investigating the authority's participation in UARG was "unable to determine if [TVA] funds were used for lobbying or litigation."³¹

- a. Given the inconclusiveness of the OIG report, what safeguards or other measures has TVA adopted to ensure that ratepayer funds are not spent on lobbying or litigation opposing public health and welfare regulations?
16. After UARG disbanded in 2020, TVA executed an agreement with attorneys formerly representing UARG to monitor Clean Air Act regulatory developments, possibly under the guise of the Clean Air Act Monitoring Services and the Climate Legal Group.³² That contract barred the use of TVA funds for any "[Clean Air Act] or other litigation."³³ However, an amendment to the contract executed in 2021 now permits those attorneys to represent TVA in litigation "without limitation."³⁴
- a. Are any TVA funds, including funding for the Climate Legal Group and Clean Air Act Monitoring Services, paying for lobbying or litigation to contest health and welfare regulations, including regulations issued by EPA?

³⁰ Letter from Rep. Frank Pallone, Jr., Chairman, Rep. Diana DeGette, Chair, Subcommittee on Oversight and Investigations, Rep. Paul D. Tonko, Chairman, Subcommittee on Environment and Climate Change, House Committee on Energy and Commerce, to Jeffrey J. Lyash, President and Chief Executive Officer, Tennessee Valley Authority (April 11, 2019).

³¹ Office of the Inspector General, *External Organizations Board Practice* (Oct. 7, 2021) (Evaluation 2021-17259).

³² *Emails, docs show TVA's ties to fight against federal regs*, E&E News (Sept. 13, 2021) (www.eenews.net/articles/emails-docs-show-tvas-ties-to-fight-against-federal-regs/).

³³ *TVA Contract Number 15140 with McGuire Woods LLP*, E&E News (May 28, 2020) (subscriber.politicopro.com/f/eenews/?id=0000017b-112b-d5d7-a1ff-33ab4db90000).

³⁴ *TVA Contract Number 15140 Supplement No. 1*, E&E News (Feb. 10, 2021). (subscriber.politicopro.com/f/eenews/?id=0000017b-112a-d5d7-a1ff-33aa589c0000).

Mr. Jeffrey J. Lyash
January 13, 2022
Page 9

If you have any questions, please contact Rebekah Jones or Tyler O'Connor on the Committee staff at (202) 225-2927.

Sincerely,



Frank Pallone, Jr.
Chairman



Bobby L. Rush
Chairman
Subcommittee on Energy



Diana DeGette
Chair
Subcommittee on Oversight
and Investigations



Paul D. Tonko
Chairman
Subcommittee on Environment
and Climate Change