

February 3, 2022

Chairman Frank J. Pallone
CC: Members of the Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Re: Tennessee Valley Authority Response to Committee on Energy and Commerce Information Request

Dear Chairman Pallone and Members of the Committee,

On behalf the Center for Biological Diversity (“the Center”), the Southern Alliance for Clean Energy (“SACE”), Energy Alabama, Appalachian Voices, NAACP – Memphis Chapter, the People’s Justice Council, Alabama Interfaith Power & Light, Sunrise Knoxville, Memphis Has the Power, and our over 100,000 members and supporters throughout the Tennessee Valley, we write to urge the Committee on Energy and Commerce (“Committee”) to call Tennessee Valley Authority (“TVA”) President & CEO, Jeff J. Lyash, forward for an oversight hearing to investigate how the agency’s business practices are in direct violation of the agency’s statutory requirements as defined by the TVA Act (“Act”).

Yesterday’s response by TVA to the Committee’s January 13, 2022 letter (“Committee Letter”) provides misleading and woefully insufficient information on critical questions concerning TVA’s high electricity bills, underinvestment in energy efficiency and renewable energy, deficient decarbonization commitments, and participation in trade associations. The Committee has already pointed out that TVA’s business practices disadvantage ratepayers and interfere with the renewable energy transition. TVA’s response, however, does not present evidence to disprove this. In fact, Lyash, when questioned about the Committee’s letter, reiterated that TVA’s decarbonization goals are aligned with President Biden’s clean energy mandates. However, TVA has simply stated its *aspiration* to reduce carbon emissions to 80% by 2035,¹ which falls short of the President’s mandate of 100% carbon-free electricity by 2035.²

Even more, despite urgent calls from leading agencies to rapidly decarbonize and immediately stop approving new coal-fired power plants and new gas extraction,³ TVA falsely asserts that “natural gas [i]s

¹ Kristi Swartz, TVA chief defends renewables, climate record, E&E News, (February 2, 2022), <https://subscriber.politicopro.com/article/eenews/2022/02/02/tva-ceo-defends-renewables-climate-record-ee-00004138>.

² See President Biden Executive Order on Tackling the Climate Crisis at Home and Abroad, Sections 201 and 205(b)(i) (“Biden Order”) (Jan. 27, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>.

³ See International Energy Agency, *Net Zero by 2050: A Roadmap for the Global Energy Sector*, revised version (October 2021), https://iea.blob.core.windows.net/assets/deebef5d-0c34-4539-9d0c-10b13d840027/NetZeroBy2050-ARoadmapfortheGlobalEnergySector_CORR.pdf.

an important part of its clean energy future because it serves as an enabler for coal retirements and larger amounts of renewable resources today.”⁴

In response to a question about its investment in energy efficiency, TVA incorrectly uses cumulative figures to hide the fact that they have in recent years severely cut these important cost-saving programs. TVA uses improved codes and standards as an excuse for the utility to pull back dramatically on energy efficiency. Yet all across the country utilities that also face the same improvements to codes and standards are achieving energy efficiency savings for their customers. In the Southeast, Duke Energy, which is similar in size to TVA, achieved nearly 36 times the energy savings as TVA in 2019, and Duke’s savings are still around the national average.⁵

Moreover, when probed on its controversial Grid Access Charge (“GAC”), TVA relies on the long-ago debunked cost-shift argument multiple times to justify its policies designed to block rooftop solar and goes on to claim that the agency “expects there has been essentially no or very limited impact on the adoption of distributed solar installations due to the rate change.”⁶ As many studies have shown, distributed renewables can be a key part of a future grid that is both carbon-free and lower cost.⁷ Yet in its response TVA states the opposite without providing evidence of this so-called cost shift.

Furthermore, TVA’s response failed to explain the extent to which ratepayer funds are being “spent on lobbying or litigation opposing public health and welfare regulations.” As your letter detailed, TVA has spent millions of dollars to fund outside groups that regularly fight against consumer and environmental protections. TVA admits in its response that it is currently finalizing a contract with the entity referenced in the OIG report, which warrants further scrutiny from your Committee. In addition, TVA is currently engaged in a lawsuit on this particular issue, and recently asked a federal court in Tennessee to find the agency immune from its basic responsibility to respond to citizen petitions requesting a new regulation to preclude ratepayer funds from subsidizing lobbying and advocacy work.⁸

⁴ See Tennessee Valley Authority response to Energy and Commerce Committee, (February 2, 2022), published by Southern Alliance for Clean Energy and available at <https://cleanenergy.org/wp-content/uploads/TVA-Energy-Commerce-Committee-Response.pdf>.

⁵ Southern Alliance for Clean Energy, Energy Efficiency in the Southeast, Third Annual Report, January 26, 2021, <https://cleanenergy.org/wp-content/uploads/22Energy-Efficiency-in-the-Southeast22-third-annual-report-2021.pdf>.

⁶ See Tennessee Valley Authority response to Energy and Commerce Committee, (February 2, 2022), published by Southern Alliance for Clean Energy and available at <https://cleanenergy.org/wp-content/uploads/TVA-Energy-Commerce-Committee-Response.pdf>.

⁷ Vibrant Clean Energy, Why Local Solar For All Costs Less: A New Roadmap for the Lowest Cost Grid, (December 2020), https://www.vibrantcleanenergy.com/wp-content/uploads/2020/12/WhyDERs_ES_Final.pdf.

⁸ See Plaintiffs’ Reply Brief in Center v. TVA, No. 21-319 (E.D. Tenn.), available at <https://www.biologicaldiversity.org/programs/energy-justice/pdfs/Center-v-TVA-21-319Reply-in-Support-of-Motion-for-Summary-Judgment.pdf>.

By refusing to comprehensively answer the Committee’s pointed questions, TVA is once again stonewalling public oversight. This is in line with what is largely a trend of the agency avoiding accountability for its actions. It is clear that TVA has fallen out of line with its statutory requirements, which calls on the agency to lead in “technological innovation, low-cost power, and environmental stewardship.”⁹ And, as the largest public power provider in the country, Congress must take immediate action to ensure that the agency fulfills its mission to serve Valley residents.

In conclusion, TVA’s response is inaccurate and deficient and therefore warrants a more comprehensive congressional response. We urge the Committee to not settle for these unsatisfactory answers and call Mr. Lyash and TVA’s executive staff before the Committee for a hearing. For too long, TVA has proceeded without oversight, which explains the extensive list of troubling policies in effect at the agency today.

Thank you for your consideration.

Respectfully,

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Energy Justice Campaigner
CENTER FOR BIOLOGICAL DIVERSITY

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SOUTHERN ALLIANCE FOR CLEAN ENERGY

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⁹ 16 U.S.C. § 831a(b)(5)