

# Exhibit 1

# SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 615-921-9470

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NASHVILLE, TN 37203

Facsimile 615-921-8011

August 5, 2021

**VIA TVA FOIA portal and electronic mail to foia@tva.gov**

Denise Smith  
Freedom of Information Officer  
Tennessee Valley Authority  
400 West Summit Hill Dr.  
Knoxville, TN 37902-1401

**Re: Freedom of Information Act Request: Records of Correspondence with Gas Pipeline Companies**

Dear Ms. Smith:

Under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA), as amended, the Southern Environmental Law Center (SELC) requests the following documents, in electronic format where possible:<sup>1</sup>

- 1) Records of communications, including all attachments thereto, with Tennessee Gas Pipeline, Kinder Morgan, Texas Eastern Transmission, East Tennessee Natural Gas, or Enbridge regarding possible or planned gas infrastructure projects, including pipelines, compressor stations, and gas plants, to be constructed after January 2021.<sup>2</sup>

For the purposes of this request, the term “documents” includes all written, printed, recorded or electronic: materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, maps, photographs, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages and mail in the possession or control of TVA. Please search for records created or received beginning January 2021 through the date of the search for responsive records.

FOIA requires a responding agency to make a “determination” on any request within twenty (20) working days of receipt. *See* 5 U.S.C. § 552(a)(6)(A)(i). FOIA also requires the release of all reasonably segregable portions of a document that are themselves not exempt. 5 U.S.C. § 552(b). Should TVA deny this request, TVA must inform SELC of the grounds for

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<sup>1</sup> Upon request, SELC will provide a file-sharing link for easy transfer of the requested documents.

<sup>2</sup> TVA is considering retiring the Cumberland and Kingston coal plants and replacing them with new gas plants, which would require new gas infrastructure, including pipelines. *See* TVA, Environmental Impact Statement for Cumberland Fossil Plant Retirement, 86 Fed. Reg. 25933, 25935 (May 11, 2021) (discussing the potential for new gas pipelines to serve new gas plants); TVA, Environmental Impact Statement for Kingston Fossil Plant Retirement, 86 Fed. Reg. 31780, 31781 (June 15, 2021) (same).

denial and the specific administrative appeal rights which are available. *See* 5 U.S.C. § 552(a)(6)(A)(i).

SELC is requesting photocopies without charge, or at a reduced charge, because reduction or waiver of fees would be in the public interest. A disclosure is in the public interest if: (1) it is likely to contribute significantly to public understanding of the operations or activities of the government, and (2) it is not primarily in the commercial interest of the requester. The public interest standard of the fee waiver provision of the FOIA should be “liberally construed” in favor of waivers. *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9<sup>th</sup> Cir. 1987); *Pederson v. Resolution Trust Corp.*, 847 F. Supp. 851, 855 (D. Colo. 1994); *Etlinger v. FBI*, 596 F. Supp 867, 872 (D. Mass. 1984). The goal of the statute is to avoid the “roadblocks and technicalities which have been used by various Federal agencies to deny waivers....” *Pederson*, 847 F. Supp. at 855.

SELC is a 501(c)(3) non-profit organization with over 30 years of experience disseminating public information about regulated industries’ activities, such as TVA’s regulatory issues and operations. *See* 5 U.S.C. § 552 (a)(4)(A)(iii). SELC maintains a website that includes both general and topic-specific information regarding the matters with which SELC is involved, including TVA’s energy policy choices.<sup>3</sup> Lawyers at SELC are interviewed by the media to explain their work and its significance.<sup>4</sup> SELC’s website contains documents generated by SELC for the specific purpose of educating the public on particular issues. SELC staff members speak at conferences on particular topics, and SELC assists the public in locating information relating to a particular topic by collecting and posting relevant information, documents, and links to other websites.

A fee waiver will clearly benefit the general public through increased notice and understanding of the operations of TVA and of potential or proposed major investments in new generation facilities. SELC further certifies that disclosure of the information sought is not in our commercial interest. Should SELC’s request for reduced or waived fees be denied, SELC is prepared to bear the reasonable duplication and search costs necessary to fulfill this request. However, I request you contact me before processing this request if the fee is expected to be in excess of \$100.00. SELC reserves its right to appeal a fee waiver or reduction denial.

If you have any questions regarding this request, please feel free to contact me at (615) 921-9470 or [tbussey@selctn.org](mailto:tbussey@selctn.org). I appreciate your prompt attention to this matter and look forward to receiving the public records requested.

Sincerely,



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<sup>3</sup> *See, e.g.*, <https://selc.link/3xaNpO5>; <https://selc.link/2RLAjYp>.

<sup>4</sup> *See, e.g.*, <https://abcnews.go.com/US/wireStory/tennessee-valley-authority-considers-replacing-coal-gas-78640645>.

SELC FOIA for Correspondence with Gas Pipeline Companies  
August 5, 2021

Trey Bussey  
Associate Attorney  
Southern Environmental Law Center