

**EXHIBIT 5**

January 9, 2024

*Via email to foia@tva.gov*

Denise Smith  
Freedom of Information Act Officer  
Tennessee Valley Authority  
400 West Summit Hill Drive  
Knoxville, Tennessee 37902

**Re: Freedom of Information Act Request No. 23-FOI-00080**

Dear Ms. Smith,

Thank you for your attention to the above-referenced request for records under the Freedom of Information Act (“FOIA”). This is in response to your letter dated January 5, 2024. In that letter, the Tennessee Valley Authority (“TVA”) asserts that the above-referenced FOIA request is complete because responsive documents were made available to the Southern Environmental Law Center (“SELC”) and the public in the administrative record for *Sierra Club v. Tennessee Valley Authority*, No. 3:22-CV-1054 (M.D. Tenn.). This is not correct. For the reasons discussed below, TVA has not satisfied its obligations under FOIA and cannot treat this request as complete.

1. On February 13, 2023, SELC submitted a FOIA request to TVA seeking “[a]ll records related to the Johnsonville Aero derivative Combustion Turbine Project in Humphreys County, Tennessee (except for records cited in the Final Environmental Assessment for the Project that are easily retrievable via the internet including, but not limited to, TVA’s 2019 Integrated Resource Plan).” TVA assigned this request tracking number 23-FOI-00080. On March 15, 2023, TVA notified SELC of TVA’s position that “[t]he scope of information [SELC] requested is extremely broad and general.” TVA informed SELC that it would not begin processing the request unless SELC “more closely define[d] or provide[d] more detailed information on the type of records” sought. On April 4, 2023, SELC responded to TVA via email. Although SELC did not (and does not) agree that the original request was overbroad, SELC voluntarily narrowed its request to three categories of records:

- “All records related to the TVA Board of Directors’ August 2019 approval of a capital project to add 500MW of aero derivative combustion turbines;”
- “All records related to TVA’s development, adoption, and implementation of the CT Modernization Study”; and
- “All records related to TVA’s evaluation, approval, and implementation of the Johnsonville Aero derivative Combustion Turbines Project.”

SELC further narrowed the request by specifying that, “[f]or each category, the relevant time frame is between January 1, 2018, and the date TVA commences its search for responsive documents.”

2. Separately, TVA provided records to SELC on January 4, 2023, in response to a different FOIA request assigned tracking number 22-FOI-00093. Excerpts of that response and the associated records are attached to this letter as **Exhibit A**. Exhibit A includes the approved meeting minutes for the meeting of TVA’s Board of Directors on February 10, 2022. Among other things, the meeting minutes contain an item discussing the “New Johnsonville Aeroderivative Project,” which includes a notational approval of “an increase in an existing capital project for the addition of aeroderivative combustion turbines.” Ex. A at A-20. Exhibit A also includes a document dated August 8, 2022, titled “REQUEST FOR CHIEF EXECUTIVE OFFICER APPROVAL – JOHNSONVILLE AERODERIVATIVE COMBUSTION TURBINE PROJECT, FOLLOWING COMPLETION OF ALL REQUIRED ENVIRONMENTAL REVIEWS.” Ex. A at A-25 to A-26. This document (the “CEO Approval”) summarizes the TVA Board of Directors’ approval in August 2019 of “a capital project to add 500MW of capacity through the addition of aeroderivative combustion turbines.” The CEO Approval also includes TVA President Jeffrey J. Lyash’s approval of the Johnsonville Aeroderivative Combustion Turbines Project on August 16, 2022, at a revised cost of \$598.9 million.

3. TVA has a duty under FOIA to conduct a reasonable search for all responsive records and must disclose all such records unless they fall within a statutory exemption from disclosure. TVA has not satisfied its FOIA obligations with respect to request number 23-FOI-00080 for at least two reasons.

*First*, the January 5 letter itself is deficient. As an initial matter, after SELC voluntarily narrowed its request, TVA should have notified SELC in writing whether TVA would grant or deny the request. *See* 18 C.F.R. § 1301.6(d), (e). Instead, TVA waited eight months to respond. This lengthy delay is particularly inexplicable because the January 5 letter comes four months after the administrative record was lodged in *Sierra Club*, which TVA (incorrectly) asserts allows TVA to close this request.<sup>1</sup>

The January 5 letter is also substantively insufficient on its face. By purporting to complete the FOIA request, the letter implies that the administrative record in *Sierra Club* includes all responsive records. But the letter stops short of saying so explicitly. It merely states that the documents in the administrative record for *Sierra Club* “are responsive to your FOIA request.” To be clear: stating that the administrative record contains responsive documents is not equivalent to stating that the administrative record is coextensive with the universe of responsive documents. If TVA takes the position that the administrative record in *Sierra Club* contains all records responsive to request number 23-FOI-00080, without regard to any FOIA exemption(s), I ask that you clarify TVA’s position in writing.

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<sup>1</sup> TVA’s position is perplexing in light of its March 15, 2023, assertion that request number 23-FOI-00080 was unduly burdensome as originally drafted. The original request expressly excluded all records cited in the Final Environmental Assessment, which would exclude the vast majority of the records in the *Sierra Club* administrative record.

*Second*, it is clear that the administrative record in *Sierra Club* does not contain all records responsive to request number 23-FOI-00080. To start, request number 23-FOI-00080 specified that “the term ‘records’ includes all written, printed, recorded or electronic: documents, materials, communications, correspondence, memoranda,” among other things. The administrative record in *Sierra Club* does not contain any internal TVA communications—such as emails—and it is simply not plausible that no such records exist that are responsive to the three categories of the narrowed request.

The facts recounted above also refute the position that no responsive records exist outside the *Sierra Club* administrative record. For example, the CEO Approval included in Exhibit A is plainly responsive to the first and third categories of the narrowed request, as are the February 2022 meeting minutes. Similarly, the CT Modernization Study explicitly references underlying factual information and analysis to support its recommendations, which would certainly be responsive to the second category of the narrowed request. *See* Tennessee Valley Authority, Aging Fossil Unit Evaluation: Oldest Combustion Turbines 13 (CT) (August 2019), *available at* <https://t.ly/SOX2o> (“Preliminary siting work evaluated transmission, fuel, environmental, and project scope and cost considerations for numerous brownfield and greenfield options for gas generation[.]”). Yet none of these documents are included in the *Sierra Club* administrative record. These documents disprove the assertion that the administrative record in *Sierra Club* contains all records responsive to request number 23-FOI-00080. Furthermore, because the CEO Approval was clearly in TVA’s possession or control and found in response to request number 22-FOI-00093, a search reasonably designed to produce records responsive to request number 23-FOI-00080 also should have located it and any others like it.

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TVA’s response to FOIA request number 23-FOI-00080 is not complete. SELC would welcome the opportunity to discuss a mutually agreeable resolution to this request. However, if TVA refuses to take any further action with respect to this request, I ask that you confirm TVA’s position in writing and issue an adverse determination in accordance with 18 C.F.R. § 1301.6(e).

Best regards,



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# **Exhibit A**

No. 22-041

Approved by the Board of Directors  
at its May 11, 2022, meeting:



Executive Vice President, General  
Counsel and Corporate Secretary

MINUTES OF MEETING  
OF  
THE BOARD OF DIRECTORS  
TENNESSEE VALLEY AUTHORITY

February 10, 2022

A meeting of the Board of Directors of the Tennessee Valley Authority was held in the Knicely Conference Center, 2355 Nashville Road, Bowling Green, Kentucky, on February 10, 2022. The meeting was called to order at 10:30 a.m. (ET). The meeting agenda was announced to the public on February 3, 2022. The meeting was open to public observation.

Board members in attendance were: Director and Chair William (Bill) Kilbride and Directors Jeff Smith, A.D. Frazier, Beth Harwell, and Brian Noland.

Also present were TVA officers, including Jeffrey J. (Jeff) Lyash, President and Chief Executive Officer; David Fountain, Executive Vice President, General Counsel and Corporate Secretary; Jeannette M. Mills, Executive Vice President and Chief External Relations Officer; Don Moul, Executive Vice President and Chief Operating Officer; John M. Thomas, Executive Vice President and Chief Financial and Strategy Officer; and Wilson Taylor, Vice President,

People First Solution Center and Ombudsman. David Fountain served as the Board's parliamentarian.

Chair Kilbride presided over the meeting, which was duly called, notice to each Director having been delivered pursuant to section 1.2 of the Bylaws governing meetings of the Board of Directors of the Tennessee Valley Authority. A quorum was present.

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#### **22-01-1      Welcome**

Chair Kilbride welcomed those joining both in person and online and expressed the Board's support for the area affected by recent storms and tornadoes. Chair Kilbride expressed appreciation for the hospitality received from the City of Bowling Green. Chair Kilbride then paid tribute to former TVA Director Pete Mahurin of Bowling Green who passed away late last year. Chair Kilbride detailed the safety measures being followed by the TVA staff in attendance to ensure compliance with the guidelines of the Centers for Disease Control and Prevention. Director Kilbride reported that he and TVA's President and Chief Executive Officer (CEO), Jeff Lyash, toured and visited with people in Mayfield, Kentucky, including David Smart, President and Chief Executive Officer of West Kentucky Rural Electric.

The Board then heard remarks from Rebecca Goodman, Cabinet Secretary of Energy and Environment for the Commonwealth of Kentucky; Kentucky Governor Andy Beshear (via video); Gilbert Mischel from Kentucky Senator Mitch McConnell's office; Senator Mitch McConnell (via video); Congressmen Brett Guthrie (via video); Congressman James Comer (via

video); and Marty Ivy, Mayfield Electric and Water Systems. Other Directors then commented on visits they had made to tornado-damaged areas and on their meetings with local officials. Chair Kilbride discussed the Board's reception the evening before the meeting and the Board's breakfast with local stakeholders.

Chair Kilbride next called on TVA's Ombudsman and Vice President, Wilson Taylor, to summarize the comments received during the Board's public listening session. Mr. Taylor summarized that the Board heard from a total of 30 individuals in the listening session on Wednesday, February 9, 2022 with 19 of those individuals joining in person and the remaining sending comments electronically. Mr. Taylor reported Bowling Green Mayor Todd Alcott, and Marshall County Judge Executive Kevin Neal, commented on the December tornadoes and the broad base support that is helping the affected communities. Mr. Taylor reported two people representing Living Lands and Waters also spoke about their efforts to help the clean-up of Kentucky Lake; two people representing TVA customers spoke about the importance of reliability, resiliency and maintaining electric rates as low as feasible to promote economic development and competitiveness, one representing municipal power customers in Tennessee, and another representing TVA's large industrial customers. Mr. Taylor reported one speaker represented local governments across the seven-state region.

Mr. Taylor reported the broad topic of renewable energy, including climate change and reduced carbon emissions, received the most comments with fifteen people urging TVA to end the use of fossil fuel and add more renewable energy. Mr. Taylor reported that of those, seven members of the public spoke on this topic and a speaker plus an additional eight people provided written comments, or compiled signatures from other members of the public, in support of their



respective views urging TVA to retire all coal plants by 2030, move entirely to renewable energy, pursue greater environmental justice, and to do a new integrated resource plan. Mr. Taylor reported that one person shared a view that nuclear energy is not clean energy, another said that TVA's participation in the Nuclear Energy Institute is a conflict of interest and another called for listening sessions to be broadcast on Zoom. Mr. Taylor reported a total of 290 people added their names to written comments from advocacy groups across the TVA service area urging TVA to use more renewable energy, and to not use natural gas or nuclear generation to replace coal.

Mr. Taylor reported that concerns were raised by five people dealing with issues on the river system. Mr. Taylor reported several property owners were concerned about lake access, and comments were received on the ongoing topic of riverbank stabilization along agricultural land in West Tennessee. Mr. Taylor reported that three members of the public urged TVA to pay a life insurance claim to the widow of a former TVA employee. Mr. Taylor noted that TVA has already addressed this matter and has paid all that it can legally pay to this widow. Mr. Taylor expressed appreciation to the members of the public for their comments and input to TVA and helping TVA continue the tradition of public power.

Chair Kilbride stated that he wanted to remind the public that they can deliver comments to the Board 365 days a year using the Board's contact information on the TVA.com website and that those comments are critically important to the Board. Chair Kilbride thanked the members of the public who spoke at the public listening session and provided input.

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### **Old Business**

After a motion duly made and seconded, the Board approved the minutes of its November

10, 2021 meeting.

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### **New Business**

Chair Kilbride called on TVA President and Chief Executive Officer, Jeff Lyash, to provide a brief overview of the meeting. Mr. Lyash expressed his pleasure to meet with the Board and members of the public in the first in-person Board meeting since the pandemic began. Mr. Lyash noted that TVA will continue the practice established in the pandemic of taking written and online comments from the public and responding to those. Mr. Lyash stated that his thoughts continue to be with all those who suffered loss in the recent tornado, and that TVA will continue to work with the local communities to support recovery and restoration. Mr. Lyash stated that he is thankful for skilled workers from TVA and local power companies (LPCs) for their rapid response and continued commitment to restoration and service. Mr. Lyash announced that TVA will be making a contribution of \$100,000 for longer-term support of the area.

Mr. Lyash reported that volunteers helping with the tornado recovery effort included crews from the non-profit organization Living Lands and Waters who arrived two days after the tornadoes and who have been at work ever since pulling out an estimated 18,000 pounds of debris from Kentucky Lake every day, for a total of about a million pounds so far. Mr. Lyash expressed his appreciation to Living Lands and Waters for their work that helps reduce hazards to the public and to the effective operation of TVA facilities. Mr. Lyash announced that TVA is contributing an additional \$150,000 to Living Lands and Waters to continue its mission to protect public safety and natural resources, and to help the area recover from this disaster.

Mr. Lyash reported that TVA suffered no interruption in service as a result of the recent ice storm in early February, but that more than 140,000 homes, served by 10 LPCs, were without power, and the most significant impacts were felt by Memphis, Light, Gas and Water (MLGW). Mr. Lyash reported that TVA has provided assistance to the affected LPCs, and has partnered with Memphis area communities to help with warming center supplies, meals for workers, and contribution to food banks to make sure people are fed. Mr. Lyash reported on TVA's competitive retail rates, the 146 LPCs who have signed long-term agreements, TVA's strong financial performance, the 2.5% pandemic recovery credit to all LPCs for 2022, and the work of the Community Care Fund in providing support to more than 600 local nonprofit groups and charitable organizations across the service territory.

Mr. Lyash then recognized Chris Saucier as the recipient of TVA's 40<sup>th</sup> Annual Ike Zeringue Engineer of the Year Award and described Mr. Saucier's achievements as the technical director at the Boone Dam Remediation Project.

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**22-01-2 Report of the Audit, Finance, Risk, and Cybersecurity Committee.**

Chair Kilbride called on Director A. D. Frazier, Chair of the Audit, Finance, Risk and Cybersecurity Committee, to provide the Committee's report. Director Frazier reported that the Committee met on January 19, 2022 for its regular quarterly meeting and again on January 31, 2022 to review TVA's quarterly report to the Securities and Exchange Commission (SEC). Director Frazier then called on John Thomas, Executive Vice President and Chief Financial and Strategy Officer, to provide TVA's financial results for the first quarter of fiscal year (FY) 2022.

**22-01-3 Financial Performance Update**

Mr. Thomas presented TVA's financial results for the first quarter of FY 2022. Mr. Thomas reviewed revenues, expenses, and TVA's summary income statement and summary cash flow statement for the quarter and reported that TVA had favorable financial performance overall for the quarter. Copies of the slides used by Mr. Thomas in his report are filed with the records of the Board as Exhibit 02/10/22A.

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Following Mr. Thomas's report, Director Frazier noted that the Committee met in executive session with Deputy Inspector General, Jill Matthews, and separately with TVA's external auditor, Ernst & Young (E&Y). Director Frazier reported that the Committee received a report from management concerning a proposed update of the Board's Capital Projects Approval Board Practice, an update on E&Y's external audit plan for FY 2022, and a summary of activities from TVA's Disclosure Control Committee and Sarbanes-Oxley control processes. Director Frazier also reported the Committee received an update on TVA's Commercial Energy Solutions programs and TVA's progress in developing an environment that encourages the adoption of electric vehicles. Director Frazier reported the Committee received an update from management on the Green Invest Program and on TVA's enterprise risks, including a summary of TVA's strategy for addressing risks involving coal combustion residuals. Director Frazier reported that through continued outreach, TVA will keep the public well-informed of its activities on closed plants and legacy coal impoundments.

Director Frazier reported the Committee received an annual innovation update from management and reported that TVA has launched six transformative innovation efforts to support

TVA operations, and to identify new technologies, such as battery storage and carbon capture, that will enable TVA to build on its success. Director Frazier reported the Committee also received updates on the funding status of TVA's retirement system and an update on recent asset allocation changes designed to remove market risk from the system as the funding level continues to improve. Director Frazier reported the Committee also received updates on steps that TVA is taking to identify and mitigate cybersecurity risk, including insider threats, cyber exploits, unauthorized data disclosures, regulatory compliance issues, and supply chain risks. Director Frazier reported that management briefed the Committee on significant legal matters and the Committee completed its annual external inquiries and quarterly ethics and compliance update.

Director Frazier reported that in the meeting held on January 31, 2022, management briefed the Committee on TVA's quarterly report on Form 10Q, and E&Y provided an independent assessment of TVA's interim financial statements for the quarter.

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#### **22-01-4 Report of the People and Governance Committee**

Chair Kilbride called upon Director Brian Noland, Chair of the People and Governance Committee, to provide the Committee's report. Director Noland reported the Committee met on January 19, 2022. Director Noland reported the Committee received updates from management on various workforce matters and initiatives and noted that the Committee had two action items for the Board's consideration.

Director Noland reported that the first item was a recommendation to approve the Real Property Board Practice, which would provide more definitive guidance to TVA's CEO as to what real property acquisition, disposal, and management actions the Board generally considers to be

within the CEO's approval authority under the TVA Bylaws. Director Noland noted that the Board last comprehensively addressed this authority in the 1980's and since that time the Board's governance has changed significantly. Director Noland explained the Committee believes that it is appropriate to provide more comprehensive guidance to the CEO with respect to his authority with regard to real property transactions and management.

### **22-01-5 Real Property Board Practice**

After a motion duly made and seconded, the Board adopted the following resolution, as recommended in a memorandum from the Executive Vice President and General Counsel dated January 12, 2022, and filed with the records of the Board as Exhibit 02/10/22B:

WHEREAS the Board has from time to time adopted practices to address the authority of the Chief Executive Officer (CEO); and

WHEREAS the TVA Bylaws provide, among other things, that the principal responsibilities of the CEO are to achieve the broad strategies, goals, objectives, long-range plans, and policies established by the Board and to ensure the continuity and reliability of TVA's operations; and

WHEREAS the Bylaws further specify that the CEO has all powers, authorities, and duties "necessary or appropriate to carry out those principal responsibilities, including but not limited to those to carry out projects and activities approved by the Board of Directors or to maintain continuity and/or reliability of ongoing operations"; and

WHEREAS the Board acknowledges that a routine part of carrying out approved projects and activities and maintaining continuity and/or reliability of ongoing operations involves the acquisition, disposal, and management of real property and real property interests (collectively, "real property actions"); and

WHEREAS a memorandum from the General Counsel, dated January 12, 2022, a copy of which is filed with the records of the Board as Exhibit 02/10/22B (the "Memorandum"), recommends that the Board adopt a new TVA Board Practice to provide more definitive guidance as to what real property actions the Board considers to be within the CEO's authority under the Bylaws;

BE IT RESOLVED, That the Board finds that providing such guidance would be beneficial and hereby adopts the TVA Board Practice Real Property as recommended in the Memorandum.

\* \* \*

Director Noland reported that the second action item recommended by the Committee is approval of an update to the Board Practice on Capital Projects Approvals which will clarify that the CEO has authority to approve capital projects in amounts not to exceed \$200 million. Director Noland explained that a routine part of maintaining continuity and reliability of ongoing operations involves undertaking capital projects. Director Noland explained that TVA has experienced an increase in the need for expedited projects in order to meet customer commitments. Director Noland reported an evaluation of the current threshold for Board approval of capital projects was conducted, with a determination that an increase of this threshold to \$200 million would enhance the strategic focus of the Board's capital projects review and will best position TVA to execute capital projects in a timely manner.

**22-01-6 Revised Capital Projects Approvals Board Practice**

After a motion duly made and seconded, the Board adopted the following resolution, as recommended in a memorandum from the Executive Vice President and Chief Financial and Strategy Officer dated January 13, 2022, and filed with the records of the Board as Exhibit 02/10/22C:

WHEREAS the Board has from time to time adopted and revised certain practices to provide guidance regarding the Chief Executive Officer's (CEO) authority; and

WHEREAS the TVA Bylaws provide, among other things, that the principal responsibilities of the CEO are to achieve the broad strategies, goals, objectives, long-range plans, and policies established by the Board and to ensure the continuity and reliability of TVA's operations;

WHEREAS the Bylaws further specify that the CEO has all powers, authorities, and duties "necessary or appropriate to carry out those principal responsibilities";

WHEREAS the Board acknowledges that approval of capital projects up to a specific dollar amount is a routine part of achieving the broad strategies, goals, objectives, long-range plans, and policies established by the Board and of ensuring the continuity and reliability of TVA's operations;

WHEREAS the Board has previously adopted a TVA Board Practice entitled "Capital Projects Approvals" under which it authorized the CEO to approve capital projects up to a specific dollar amount; and

WHEREAS a memorandum from the Chief Financial and Strategy Officer, dated 01/13/2022, a copy of which is filed with the records of the Board as Exhibit 02/10/22C (the "Memorandum"), recommends that the Board adopt a revised version of the Capital Projects Approvals Board Practice that increases the authority of the CEO with regard to the approval of capital projects;

BE IT RESOLVED, That the Board finds that updating the Capital Projects Approvals Board Practice would be beneficial and hereby adopts the revised Capital Projects Approvals Board Practice as recommended in the Memorandum.

\* \* \*

Director Noland reported the Committee reviewed TVA's performance for the first quarter of FY 2022 against its goals and key performance measures and, at this time, TVA's programs are on target. Director Noland reported the Committee discussed the ongoing labor challenges that TVA faces as a result of the COVID-19 pandemic, TVA's success in continuing to advance women and individuals of color in leadership positions despite the tight labor market, and how TVA is communicating about its individuals, its people, and its workforce, to its stakeholders. Director Noland reported that as part of TVA's ongoing inclusion with diversity efforts, TVA will soon be publishing its first Strategic Plan to Advance Diversity, Equity, Inclusion, and Accessibility. Director Noland reported the Committee also heard about the recent successful Employee Resource Group Leadership Summit. Director Noland reported the Committee received an update on how TVA is reimagining the workplace and moving into a hybrid work environment phase as pandemic conditions allow. Director Noland reported the Committee



conducted a review of compensation items, including environmental, social, and governance metrics, as well as TVA's Total Rewards Strategy Initiative, and reviewed TVA's supplemental compensation plans. Director Noland then reported the Board's independent compensation consultant, F.W. Cook Incorporated, confirmed its independence to the Committee, and the Committee then reviewed the performance of the compensation consultant.

Director Noland reported that information received by the Committee, along with his personal experience, indicated that there is an expectation for employees to have flexibility. Director Noland then called on Mr. Lyash, to comment on remote work as a part of the TVA operating environment. Mr. Lyash commented on TVA's plans for transitioning to a hybrid work environment phase as pandemic conditions allow and TVA's broader plan to reimagine the workplace beyond that.

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#### **22-01-7 Report of the External Stakeholders and Regulation Committee**

Chair Kilbride called on Director Harwell, Chair of the External Stakeholders and Regulation Committee, to provide the Committee's report. Director Harwell reported that the Committee met on January 20, 2022, and received several updates from management. Director Harwell then called on Jeannette Mills, Executive Vice President and Chief External Relations Officer, to present the resolution to renew TVA's two federal advisory committees, the Regional Resources Stewardship Council and the Regional Energy Resource Council. Ms. Mills presented the context for the following resolution. Copies of the slides used by Ms. Mills in her presentation are filed with the records of the Board as Exhibit 02/10/22D.

**22-01-8 Regional Resource Stewardship Council and Regional Energy Resource Council Renewals**

After a motion duly made and seconded, the Board adopted the following resolution, as recommended in a memorandum from Executive Vice President and Chief External Relations Officer dated January 7, 2022, and filed with the records of the Board as Exhibit 02/10/22E:

WHEREAS the Tennessee Valley Authority (TVA) established the Regional Resource Stewardship Council (RRSC) to advise TVA about its resource stewardship activities and the Regional Energy Resource Council (RERC) to advise TVA about its energy resource activities; and

WHEREAS the RRSC's eleventh term will expire on April 27, 2022, and the RERC's fifth term will expire on July 28, 2023; and

WHEREAS these councils have proven to be effective tools in obtaining input from and achieving collaboration among the numerous public and private entities and individuals involved with and interested in natural resource stewardship activities, and in the development and management of energy resources in the Tennessee Valley region; and

WHEREAS as detailed in a January 7, 2022, memorandum, a copy of which is filed with the records of the TVA Board of Directors as Exhibit 02/10/22E, the Executive Vice President and Chief External Relations Officer has recommended the renewal of the RRSC and the RERC for a twelfth term and a sixth term, respectively; and

WHEREAS the Federal Advisory Committee Act requires the appointment of a Designated Federal Officer to call meetings of the council and conduct other administrative functions; and

WHEREAS the Federal Advisory Committee Act requires the designation of a Committee Management Officer (CMO) to oversee administration of Federal Advisory Committee Act requirements, and the CMO has previously been designated by the Board of Directors on February 11, 2021, and

BE IT RESOLVED, That the TVA Board of Directors hereby approves the charters of the RRSC and the RERC, copies of which are filed with the records of the Board as Exhibits 02/10/22F and 02/10/22G; authorizes the renewal of these charters for an additional two years; and authorizes

and directs the Vice President, External Strategy & Regulatory Oversight, to complete the charter renewal process in accordance with the Federal Advisory Committee Act; and

RESOLVED further, That the TVA Board of Directors hereby appoints Melanie Farrell, Vice President, External Strategy & Regulatory Oversight, to serve as the Designated Federal Officer (DFO) for the councils and, if the DFO is unavailable, authorizes the DFO's designee to serve as the Alternate Designated Federal Officer for the councils; and

RESOLVED further, The TVA Board of Directors hereby designates the Senior Manager, Public and Community Engagement, to serve as the CMO for the councils, and if the CMO is unavailable, authorizes the CMO's designee to serve as the Alternate CMO for the councils; and

RESOLVED further, That the TVA Board of Directors hereby delegates to the Chief Executive Officer the authority, following consultation with the External Stakeholders and Regulation Committee of the TVA Board of Directors, to appoint members to these councils and to fill any vacancies in council membership that may arise during the course of their terms; and

RESOLVED further, That the TVA Board of Directors expresses its gratitude to the members of the eleventh term of the RRSC and the fifth term for the RERC for their service to TVA and the Tennessee Valley region.

\* \* \*

Director Harwell then called upon Ms. Mills to present the Committee's second action item, an authorization to the CEO to develop, implement, administer, and modify programs and incentives designated to foster economic growth, investment, and job creation and retention, and to enter into contracts related to such programs and incentives. Ms. Mills presented the resolution that follows. Copies of the slides used by Ms. Mills in her presentation are filed with the records of the Board as Exhibit 02/10/2022H.

During discussion of the resolution, Director Frazier requested that the Board receive periodic reports on actions taken under the delegation. Director Harwell stated that would be the intention of the Committee. Director Frazier called on Mr. Lyash to comment. Mr. Lyash stated that the resolution provides for periodic updates to the Committee on TVA's economic

development programs and that the funding for these programs is included in annual budgets approved by the Board. However, management will continue providing visibility to the appropriate committee through periodic reports or briefings on specific decisions.

**22-01-9 Economic Development Programs, Incentives, and Contract Delegations**

After a motion duly made and seconded, with the periodic update requirement included, the Board adopted the following resolution, as recommended in a memorandum from Executive Vice President and Chief External Relations Officer dated January 7, 2022, and filed with the records of the Board as Exhibit 02/10/22I:

WHEREAS TVA discharges its responsibility for the advancement of the economic development of the area in which it conducts its operations in accordance with the TVA Act of 1933.

WHEREAS the Board has approved various economic development programs and incentives to further TVA's mission and foster capital investment and job growth in the TVA's service territory.

WHEREAS TVA's economic development programs and incentives are normally implemented through contractual arrangements.

WHEREAS a memorandum from the Executive Vice President and Chief External Relations Officer, dated January 7, 2022 (Memorandum), a copy of which is filed with the records of the Board as Exhibit 02/10/22I, recommends delegating authority to the President and Chief Executive Officer (CEO), to develop, implement, administer, and modify economic development related programs, incentives, and loans, and to execute and administer contracts in connection with such programs, incentives, and loans, as more fully described in the Memorandum.

BE IT RESOLVED, That the Board delegates authority to the CEO to develop, implement, administer, and modify Economic Development Programs and Contracts, as defined in the Memorandum, provided that any such Economic Development Programs and Contracts are funded through the annual budgets approved by the Board, and further provided that management periodically update the External Stakeholders and Regulation Committee on TVA's economic development programs.

\* \* \*

Director Harwell reported the Committee received a quarterly update about TVA's

economic development activity, including that TVA has helped create or retain 350,000 jobs and brought almost \$46 billion in capital investment to TVA's service territory over the past five years. Director Harwell noted the Committee received a management update on the work being done by TVA's Federal Affairs team to monitor national policy issues, and proactively engage with stakeholders on matters affecting TVA and its service territory. Director Harwell reported management provided an overview of the continued implementation of TVA's regional organizational model that enables TVA to advance its strategic priorities through more localized action and facilitates more effective engagement with LPCs and TVA's stakeholders. Director Harwell reported the Committee also received an update on TVA's communications strategy. Director Harwell noted that last quarter, TVA issued its annual report as a companion to TVA's Form 10-K with the SEC and that the annual report highlighted the strength of TVA and its people, and TVA's focus on improving the quality of life for the communities TVA serves, as well as the importance of strong partnership across TVA's service territory. Director Harwell additionally reported that management provided an update on TVA's next sustainability report, received several written updates regarding LPC regulatory matters, and received a report of recent and upcoming engagement with TVA's federal advisory committees.

Chair Kilbride called on Jeff Lyash, President and CEO to discuss how the annual report is distributed. Mr. Lyash reported that hard copies of the annual report are provided directly to community officials, elected officials, business leaders, and others across the TVA footprint. Mr. Lyash noted that it is also posted prominently on TVA's public website, and easily accessible there. . Mr. Lyash noted that the annual report was initiated last year to provide even more transparency for the public into TVA's performance in support of its mission..

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**22-01-10 Report of the Operations and Nuclear Oversight Committee.**

Chair Kilbride then called on Jeff Smith, Chair of the Operations and Nuclear Oversight Committee to provide the Committee's report. Director Smith reported the Committee met on January 11, 2022 and received operational performance and safety updates from management. Director Smith reported the Committee received an update on TVA's safety performance and that overall, TVA's safety and operational performance remains very strong. Director Smith reported the Committee discussed management's efforts to maintain local transmission capacity, which is important to TVA's role encouraging and supporting increased economic development activities, and to increasing TVA's solar deployment.

Director Smith reported that management is focused on enabling first-line supervisors' daily engagement with their workers to address an increase in Occupational Safety and Health Administration (OSHA) recordable injuries compared to the same time last year. Director Smith reported that in response to the findings of the contractor's investigation into the accidental fatality involving a contract worker at the Bull Run Fossil Plant last year, management is strongly focused on building and sustaining a culture that empowers all individuals, including employees within the TVA system as well as contract workers, to intervene in circumstances where they observe reduced safety margins that might put someone at risk. Director Smith reported management highlighted efforts to leverage TVA's Power Service Shops to support TVA outages and requests from LPCs and on TVA's continued actions to strengthen its supply chain by mitigating supply chain risks. Director Smith reported that TVA will be transitioning 100% of TVA's light duty vehicles to electric vehicles by 2030 and the Committee received an update on

the progress of that effort. Director Smith reported TVA is focusing on supplier diversity in support of TVA's inclusion and diversity goals, and streamlining processes to support reliability and keep costs low. Director Smith reported management provided an update on TVA's pandemic response in its effort to implement the federal vaccine mandates. Director Smith reported the Committee discussed the process that management uses to deal with what TVA calls dispatch risk and TVA is working on continuing to reduce the risk of not having assets available when TVA needs them. Director Smith noted that TVA is particularly strong in maintaining the resiliency of the system.

Director Smith reported the Committee heard information on the long-term vision for advanced nuclear deployment, how it fits into TVA's vision for carbon reduction, and the opportunities that TVA has to collaborate with industry in this area. Director Smith reported that the TVA nuclear fleet successfully achieved the top quartile of industry performance as of November of last year, which is a year ahead of schedule. Director Smith reported the Committee received an update from Sequoyah Nuclear Plant (SQN) management on the work that they're doing to align the organization with goals and objectives. Director Smith reported the Committee received updates on the recent fall outages, including the SQN Unit 2 refueling outage and the Watts Bar Nuclear Plant (WBN) Unit 1 refueling outage. Director Smith reported that management updated the Committee on the current status of the replacement of the steam generators at WBN Unit 2.

Director Smith then called on Don Moul, Executive Vice President and Chief Operating Officer, to provide an update on TVA's response to the recent storms.

**22-01-11 Report on TVA's Severe Storm Response**

Mr. Moul summarized TVA's response to the strong storms that passed through the TVA service area the night of December 10, 2022 through the morning of December 11, 2022 which had a significant impact on the TVA transmission system in the area, the LPCs, and the communities TVA serves. Mr. Moul reported that, in spite of the significant damage to its transmission system, TVA was able to restore full service within about 5 days of the storms. Mr. Moul noted that, as part of its continuous improvement culture, TVA will conduct an internal after-action review to capture lessons learned and will also engage with LPCs and key external stakeholders for their input. Copies of the slides used by Mr. Moul in his presentation are filed with the records of the Board as Exhibit 02/10/22J.

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Director Smith concluded by reporting that the Committee received a written update on the TVA sustainability report and also reviewed the performance of Dennis Koehl, who is a nuclear consultant to the Committee.

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**Ratification Items**

Chair Kilbride introduced for ratification four items previously approved by notation (Minute Items No. 22-01-12, 22-01-13, 22-01-14, and 22-01-15). After a motion duly made and seconded, the following items were ratified unanimously by the Directors present.

**22-01-12 Advanced Reactor Program**

As recommend in an application for Notational Board Approval from the Chair of the



Operations and Nuclear Oversight Committee, a copy of which is filed with the records of the Board as Exhibit 02/10/22K the individual Board Members notationally approved a program regarding advanced nuclear reactors.

**22-01-13 Less-Than-Quorum**

As recommend in an application for Notational Board Approval from the Executive Vice President and General Counsel, a copy of which is filed with the records of the Board as Exhibit 02/10/22L, the individual Board Members notationally approved certain delegations to the CEO to be exercised in the event the Board ceases to have a quorum.

**22-01-14 Severe Weather Response**

As recommend in an application for Notational Board Approval from Executive Vice President and Chief Financial and Strategy Officer, a copy of which is filed with the records of the Board as Exhibit 02/10/22M the individual Board Members notationally approved certain actions to help mitigate the impacts of severe storms in parts of the TVA service area.

**22-01-15 New Johnsonville Aero derivative Project**

As recommend in an application for Notational Board Approval from the Executive Vice President and Chief Operating Officer, a copy of which is filed with the records of the Board as Exhibit 02/10/22N, the individual Board Members notationally approved an increase in an existing capital project for the addition of aero derivative combustion turbines.

Chair Kilbride noted the Board's existing bylaws and board practices permit the Board, along with the CEO, to conduct regular business needed to assure continuity of operations, even if this Board falls below the minimum needed for a quorum.

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**22-01-16 President's Report**

Chair Kilbride then called on President and Chief Executive Officer, Jeff Lyash, to provide the President's report. Mr. Lyash expressed appreciation for the Board's leadership and support as TVA continues to serve its customers across the region. Mr. Lyash emphasized that for 88 years TVA has focused on a clear mission to benefit the public good. Mr. Lyash summarized that in driving efficiencies into the business, lowering cost, investing in clean energy, and reducing debt to the lowest level in more than 30 years, TVA's efforts are providing tangible benefits for its customers. Mr. Lyash reported that through the pandemic, the public power workforce, including the LPCs, have worked at adapting to new pandemic protocols, and new ways of doing work, responding to severe weather events, building what is needed to support continued economic growth, and in doing so, have performed to the highest standards.

Mr. Lyash discussed how TVA's power system performed and maintained industry-leading reliability over the past quarter. Mr. Lyash reported that TVA continually invests in its transmission system to ensure reliability and resiliency, and TVA also invests in its generating assets to ensure that TVA delivers affordable low-carbon energy under all environmental conditions, including freezing temperatures, and sweltering heat. Mr. Lyash discussed how TVA is prepared for the effects of market fluctuations through a diverse generation portfolio. Mr. Lyash noted that in the first quarter of FY 2022, 59% of TVA energy came from the carbon-free sources of nuclear, hydroelectric, wind, and solar, which also helped mitigate the higher impact of gas prices.

Mr. Lyash noted that TVA's focus is on helping those in the greatest need to manage the energy burden they experience and discussed TVA's Home Uplift program to improve energy

efficiency in homes. Mr. Lyash reported that from FY2018 through present, TVA has invested \$46 million through the program to improve energy efficiency in homes at no cost to homeowners. Mr. Lyash explained that in the city of Memphis, TVA and MLGW have worked together to deliver the second lowest power rates of any metropolitan area in the nation. However, Mr. Lyash noted that many residents of Memphis still stretch their budgets to cover even basic expenses. Mr. Lyash reported that Home Uplift recently celebrated completion of the 500th Home Uplift in Memphis. He also noted that, in total, TVA has partnered with LPCs and others in the TVA service territory to complete over 2,600 Home Uplifts to date and will complete 3,700 by the end of FY2022.

Mr. Lyash then recapped economic development activities. Mr. Lyash reported in the first quarter of FY2022 TVA has helped attract or retain 24,500 jobs and more than \$5 billion in capital investments to the region, including in industries and jobs of the future like advanced manufacturing, aerospace, and the automotive and electric vehicle industry.

Mr. Lyash reported that TVA expects to add at least 10,000 megawatts of solar energy and that TVA currently has over 2,000 megawatts of that solar energy in service or in development and construction. Mr. Lyash reported TVA also has an additional 1200 megawatts of wind coming into the system. Mr. Lyash reported that 76 LPCs have joined TVA's Generation Flexibility program that supports distributed energy projects across the service territory, many of them solar. Mr. Lyash reported that the objective is to help LPCs meet their customer needs and further improve carbon reduction in the region through these programs. Mr. Lyash reported the first flexibility project, a solar farm, was completed recently in northeast Tennessee. Mr. Lyash explained that TVA is executing a plan to further reduce carbon emissions to 70% by 2030 (over

the 2005 baseline) and is on a path to reaching 80% reduction by 2035, with an aspiration to reach net-zero by 2050.

Mr. Lyash reported that TVA supports broad efforts to decarbonize the economy with the electrification of transportation such as TVA's electric vehicle charging initiative, newer and cleaner fuels for industries, long duration battery storage development that will make renewables more reliable and increase their penetration and constructing transmission networks that support distributed energy resources. Mr. Lyash reported TVA's plan to reduce its carbon emissions by 80% by 2035 is on track and TVA believes it will reach that target without impacting cost and reliability. Mr. Lyash reported that achieving the remaining 20% in carbon reduction while keeping energy costs low and power reliable for TVA's customers will require new technologies and that TVA will need to develop these in partnership with others.

Mr. Lyash reported that TVA believes new nuclear technology will have a material impact on carbon reduction efforts across the nation and must begin to work toward new nuclear technology solutions now at a programmatic level. Mr. Lyash reported that as part of TVA's strategic intent and guiding principles document, TVA has been developing pathways for exploring advanced nuclear power and small modular reactor technologies. Mr. Lyash explained TVA's efforts in this area and the companies with which TVA is working. The Board then heard remarks from Maria Korsnick, President and CEO of the Nuclear Energy Institute via video. Ms. Korsnick praised TVA's leadership in advancing new nuclear technologies and its potential for carbon-free generation. Copies of the slides used by Mr. Lyash in his report are filed with the records of the Board as Exhibit 02/10/220.

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Chair Kilbride thanked the Committee chairs for their work during the past quarter. Chair Kilbride also congratulated Chris Saucier and noted that he speaks for the entire board in saying this engineering award is a recognition of his exceptional work. In honor of Black History Month, Chair Kilbride also noted the respect and recognition for the hard work and the sacrifices made by African-Americans and thanked those who paved the way for future generations. Chair Kilbride noted that it is an important time where all can reflect on history and what African-Americans have accomplished.

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The meeting was adjourned at 1:00 p.m. (EST).

August 8, 2022

Jeffrey J. Lyash, WT 7B-K

REQUEST FOR CHIEF EXECUTIVE OFFICER APPROVAL – JOHNSONVILLE  
AERODERIVATIVE COMBUSTION TURBINE PROJECT, FOLLOWING COMPLETION OF  
ALL REQUIRED ENVIRONMENTAL REVIEWS

Background:

In August 2019, the TVA Board approved a capital project to add 500MW of capacity through the addition of aeroderivative combustion turbines (the “Project”), with a total estimated cost of \$498.5 million. In approving this expenditure, the Board delegated to the CEO the authority to make the final decision to proceed with the Project subject to the budget approved by the Board and the completion of all required reviews for the Project. Consistent with this limitation in the Board’s approval, no Project activities were undertaken that are irreversible and irretrievable prior to the completion of applicable federal environmental reviews.

In January 2022, the Board approved, by notation, a revised cost estimate of \$598.9 million for the Project. The Board’s approval of the revised cost estimate relates back to its earlier August 2019 approval, which delegated to the CEO the authority to proceed with the Project subject to the completion of all required federal environmental reviews.

Environmental Reviews:

All applicable federal environmental reviews, including those under the National Environmental Policy Act, Endangered Species Act, and the National Historic Preservation Act, have been completed for the Project. On July 22, 2022, TVA published a Finding of No Significant Impact (FONSI) for the project based on an Environmental Assessment (EA) of the Project conducted under NEPA. The EA and FONSI were published on TVA’s website at the following links:

[TVA JOHNSONVILLE AERO FINAL EA \(azureedge.net\)](#) (Environmental Assessment)

[johnsonville-aero-fonsid86a68cb-b7e4-4d9f-ac77-c5f3dfe8e46b.pdf \(azureedge.net\)](#) (FONSI)

Jeffrey J. Lyash  
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Recommended Action:

It is recommended, based on the analysis in the EA and FONSI, that the CEO authorize TVA staff to proceed with the Project with a total estimated revised cost of \$598.9 million.



Donald A. Moul  
Executive Vice President and Chief Operating Officer  
WT 7B-K

REVIEWED AND APPROVED:



8/16/2022

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Jeffrey J. Lyash  
President and Chief Executive Officer

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Date

CC: TVA Board Members