

BEFORE THE TENNESSEE VALLEY AUTHORITY BOARD AND PRESIDENT

S. DAVID FREEMAN MEMORIAL PETITION FOR TVA TO IMMEDIATELY ADDRESS ELECTRIC UTILITY SHUT-OFFS AND CONVENE PUBLIC HEARINGS ON THE COVID-19, CLIMATE, AND SOCIOECONOMIC AND RACIAL INEQUALITY CRISES FACING THE COMMUNITIES TVA SERVES

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Submitted by:

Center for Biological Diversity, Alabama Arise, Alabama Sierra Club, Alabama State Association of Cooperatives, Appalachian Voices, Energy Alabama, Food & Water Watch, Friends of the Earth, Fund for Democratic Communities, Gasp, Indivisible Tennessee, Interfaith Worker Justice of East Tennessee, Kentuckians for The Commonwealth, Knoxville Working Class Coalition (KWCC), Live Fresh, Inc., Mississippi Center for Justice, North Alabama Sierra Club, One Knox Legacy, Science for the People, Sierra Club Shoals Group, Southern Echo Inc., Southern Poverty Law Center Action Fund, Statewide Organizing for Community eMpowerment (SOCM), Sunrise Movement Bowling Green, Sunrise Movement Franklin, Sunrise Movement Knoxville, Sunrise Movement Nashville, The Climate Reality Project: Memphis Chapter, The Climate Reality Project: Mid-South Regional Chapter, and WKU Young Democratic Socialists of America

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Introduction

On behalf of the undersigned organizations and their millions of members and supporters, we are writing to urge the Tennessee Valley Authority (TVA) to address three compounding crises facing the region: (1) the immediate economic distress caused by the COVID-19 pandemic, and in particular the urgent threat of utility shut-offs, (2) the climate, environmental and economic threats posed by TVA's refusal to embrace the vital clean energy transition; and (3) the disproportionate energy burdens and lack of access to clean energy ownership faced by communities identified as low-wealth, Black communities, and other communities of color.

Given that the Congress has yet to enact a federal moratorium on electricity utility shut-offs, TVA must provide funding and work with local power companies to enact an immediate moratorium on all electricity shut-offs in TVA service territory. In light of the agency's vast resources, and its Congressional mandate to operate "for the benefit of the people"¹ it serves, there is absolutely no excuse for households in TVA territory to lose electricity service due to non-payment.

But supporting a moratorium alone is not sufficient. We are also calling on TVA to initiate a series of urgent public hearings to address these compounding crises. TVA's governing statute provides that TVA "shall" conduct hearings where necessary to address issues that "have a substantial effect on the economic, environmental, social, [and] physical well-being of the people of the service area."² In particular, as discussed further below, while a shut-off moratorium is in effect, TVA's public hearings should address allocating billions of dollars to:

- provide substantial and ongoing relief to customers unable to pay their utility bills due to the current and ongoing economic crisis;
- retire TVA's fossil fuel assets, which is critical to addressing the climate crisis;

- make substantial investments in energy efficiency and renewable energy, including incentivizing investments in distributed energy resources and increasing access to those resources for low- and middle-income households, which will lower utility bills while also advancing community resilience and reducing reliance on centralized TVA power; and
- foster economic revitalization by investing in and incentivizing good-paying jobs in the community, rather than seeking to outsource them elsewhere.

Taken together, these initiatives, as discussed further below, will fulfill TVA's mission to serve the people of the Tennessee Valley and surrounding area by addressing the most pressing issues facing the region at this time.

These initiatives would also serve as a fitting memorial to former TVA Board Chair S. Dave Freeman, a tireless advocate for renewable energy who recently passed away. Recognizing the urgency of the renewable energy transition decades ago, the self-proclaimed "Green Cowboy" long sought to free the people from polluting, centralized TVA power.³

Taking meaningful action to address these issues would thus be a fitting legacy for Dave, and we submit this Petition in his memory.

Given the urgency of these matters please respond to this Petition within the next few weeks, and no later than September 25, 2020.

We look forward to participating in the hearing process discussed below and working with TVA to develop and refine these proposals.

Discussion

A. TVA Can And Must Re-allocate Its Resources To Address The Triple Threat of Coronavirus, Climate Change, and Socioeconomic and Racial Inequality Facing The Communities TVA Serves

1. The Urgent Need For TVA To Address The Utility Bill Payments Crisis

COVID-19 has unleashed an unprecedented public health crisis to the Tennessee Valley and surrounding area. Tennessee alone has reported more than 125,000 cases, and there is no sign the crisis will abate anytime soon.⁴ This is a racial justice issue; Indigenous, Black, and Latinx people are facing hospitalization rates four to five times higher than white people in the United States.⁵

This public health crisis—and the urgent need to close businesses, schools, and other facilities and activities to slow the spread—is causing an ever more devastating economic crisis, with the pandemic bringing “devastating job losses across . . . diverse industry sectors.”⁶ Again, this is a racial justice issue. By June, the gap in unemployment rates between Black Americans and white Americans was the highest it had been in five years.⁷ Even assuming Tennessee alone had succeeded with its initial re-opening plans, the state was expected to suffer more than \$5 billion in economic losses, with unemployment reaching as high as 15%.⁸

However, things got worse over the summer in Tennessee and elsewhere, as the virus continued to spread and initial re-opening plans were put on hold.⁹

This economic crisis has inevitably made it increasingly difficult for a large number of TVA customers to pay their utility bills, especially amidst competing financial needs. Preliminary data shows that in the early months of the pandemic, 22% of U.S. households went without basic needs like medicine or food in order to pay their energy bills. Nine percent received disconnect notices and four percent had their service disconnected.¹⁰ The people most likely to be unable to afford their bills and therefore be disconnected are below the federal poverty line, as well as Black, Indigenous, and other people of color.¹¹ While many jurisdictions made efforts to protect

consumers from utility shut-offs in the initial stages of the pandemic, no such systematic relief has been available in TVA service territory.¹²

In the modern economy, electricity is a basic human right, critical to everyone's livelihood and health.¹³ This is especially vital in the age of COVID and the climate emergency, where electricity is foundational to powering air conditioning to survive climate-induced, record-breaking heat waves, refrigeration for medicines, and internet and telecommunications for finding new employment and distance-learning.

The current crisis fundamentally challenges whether TVA customers will continue to have access to that right. According to one analysis, if 20% of customers in Tennessee need assistance with 60 days' worth of electricity bills, that alone could add up to \$150 million dollars.¹⁴ Another analysis found that over the course of four months, having 15 percent of households unable to pay their bills in Tennessee could rack up over \$460 million in total utility arrearages (including electric, gas and water services).¹⁵

Moreover, while the health pandemic has certainly highlighted and exacerbated the utility payments crisis, far too many families in TVA service territory faced unreasonable energy burdens and the risk of utility shut-offs even *before* the public health emergency, forced to choose among competing essential needs, including electricity. For instance, data from the U.S. Department of Energy show that more than one-third of all households in Tennessee qualify as low-income, and have an average energy burden of 9%, which far exceeds the 6% threshold for affordability.¹⁶ Moreover, these energy burdens are disproportionately felt by Black communities and other communities of color.¹⁷ Southeast utilities also tend to spend the least amount on energy efficiency and customer relief programs.¹⁸ In short, electricity shutoffs due to nonpayment is a long-standing and chronic justice problem that TVA can and must address.

2. The Urgent Need For TVA To Stop Exacerbating The Climate Crisis

The U.S. Fourth National Climate Assessment—prepared by the federal government’s most preeminent scientists—details that greenhouse gas emissions are fueling climate change, causing ever more severe and frequent hurricanes, extended wildfire seasons, sea level rise, severe impacts on the health and safety of communities, and billions of dollars in damage by the century’s end.¹⁹ The Assessment specifically details that the Southeast in particular is disproportionately threatened with deteriorating air quality, flooding, heat waves, and other grave economic and health risks.²⁰

As detailed by the international scientific body charged with assessing the challenges posed by climate change, to address this crisis *every* large emitter of greenhouse gases—like TVA—must take “unprecedented” action within the next decade to rapidly transition away from fossil fuels.²¹

TVA operates 5 coal-fired power plants, and more than 15 dirty gas plants, that annually impair air quality with millions of pounds of sulfur dioxide and nitrogen oxide, while at the same time exacerbating the climate crisis with tens of millions of tons of carbon dioxide.²² While TVA has replaced some coal plants with additional fracked gas plants, fracked gas is responsible for massive leakages of methane, an exponentially more dangerous greenhouse gas than even carbon dioxide.²³ Moreover, TVA’s original, enormous fleet of highly polluting fossil fuel assets means that even substantial reduction in toxic emissions over the past decade has left TVA with overwhelming remaining and ongoing emissions – and over the next critical decade, TVA currently plans to achieve only *a further 5% reduction* in its fossil fuel emissions.²⁴

As with the health and economic impacts described above, the climate crisis disproportionately harms Black, Indigenous, and other communities of color, including as a result of deadly heat waves²⁵ and exacerbated and more frequent storm events.²⁶ The air quality and climate impacts of fossil fuel pollution also disproportionately harms Black communities.²⁷ In the Southeast in particular, communities of color, low-wealth and geographically-isolated communities are also least able to respond to climate and related crises due to a lack of recovery resources and governmental support.²⁸

3. TVA Has Substantial Resources And Flexibility To Meaningfully Address These Crises

a. TVA Can And Must Re-Allocate Resources To Insure No TVA Customer Loses Power

TVA has maintained a hands-off approach toward asking local power companies (LPCs) to suspend shutoffs during the pandemic and associated economic distress, leaving the LPCs to deal with the financial burden of continued daily operations on a reduced income. Many of the smaller LPCs were able to suspend shutoffs during the initial months only; larger LPCs with greater resources have extended suspension expiration dates, including KUB in Knoxville, who have extended their expiration date until further notice.²⁹

TVA has announced several new initiatives in response to the COVID-19 pandemic, but they do not remotely address the unfolding crisis. For example, although TVA took action to protect its power companies, making a \$1 billion line of credit available,³⁰ the program provides no direct relief to consumers, and will have to be repaid to TVA in any event.

TVA is also devoting \$2 million to a new “Care Fund” to provide matching grants where local power companies decide to assist local groups working on economic recovery.³¹ However, these funds are woefully inadequate to address the unfolding economic crisis.

Finally, TVA is making additional efforts to educate the public about existing federal assistance for utility bills.³² Although the House of Representatives recently passed a bill that would provide substantial federal relief to address this problem, the Senate has yet to agree to a nationwide moratorium on utility shutoffs.³³ This leaves only TVA’s *own* resources available to address this need in TVA’s own territory.

Fortunately, these resources are substantial, and can be utilized to address the current crisis, consistent with TVA’s own understanding of its mission to “ensure the economic, environmental, social and physical wellbeing of the people in the service area.”³⁴ Indeed, the basic issue regarding utility payments, late fees and shut-offs concerns *who* should bear the unforeseen economic burdens associated with consumers—who have a fundamental need, and

right, for ongoing electricity service—not being in a position to pay their electricity bills. Absent the steps we discuss here, at present it is *consumers* who are being asked to bear that burden, even though those consumers are the ones most likely to already be in debt and facing ongoing health and economic challenges. Instead, as we discuss below, TVA should bear a substantial portion of that burden by re-allocating resources already available to the agency, such as the following:

- ***TVA executive compensation, which exceeded \$35 million dollars in 2019***

TVA executives receive generous compensation packages that include millions in salary and pension-related benefits. In 2019 alone, the top six TVA executives *alone* received more than \$35 million dollars.³⁵

In prior times of economic crisis, executives have offered to forego their salaries in recognition of the greater needs of others. Hence the expression the “dollar-a-year-man,” referring to the executives who served in federal agencies and elsewhere for a salary of only a dollar a year.³⁶

As an initial down-payment towards addressing the current economic crisis facing TVA’s customers who cannot pay their electric bills, TVA executives should similarly forego their salaries during the pandemic and make those funds available as discussed below.

- ***TVA’s millions of dollars of payments to outside organizations***

TVA also spends millions of dollars on outside organizations, including various Chambers of Commerce, the American Gas Association, the National Coal Council, and trade associations such as the Edison Electric Institute and the Nuclear Energy Institute.³⁷ Moreover, as detailed in a recent Petition to TVA, many of these groups take TVA funds and then make political donations, engage in legislative lobbying, pursue controversial litigation, and pursue other forms of political advocacy that promote fossil fuel interests, stifle renewable energy development, and negatively impact the environmental health of the Tennessee Valley area’s residents.³⁸ As that Petition explains, making these payments is contrary to the First Amendment rights of TVA

ratepayers who object to this advocacy. Even putting that issue aside, the fact remains that rather than giving ratepayer money to these outside groups, TVA should re-allocate these millions of dollars to actually assist its end-use customers in need.³⁹

- ***TVA’s billion+ dollars of net income in 2019 alone***

Finally, and most importantly, TVA has substantial resources on hand for this crisis. In fiscal year 2019 alone, TVA’s annual income-over-expenses *exceeded \$1 billion dollars*.⁴⁰

Indeed, it is not clear how a price structure that allowed TVA to charge customers over a billion dollars *more* for power in one year than TVA spent to provide that power is consistent with TVA’s statutory mandate to provide “low cost power” to its customers. Regardless, however, given that this income *originated* with TVA customers, using these funds to provide relief during the pandemic would simply be a form of returning funds that TVA should arguably not have collected in the first place.⁴¹

* * *

Given these substantial resources, and the urgency of the utility shut-off crisis, we call on TVA to take two steps, one of them immediately. First, TVA must guarantee that all customers within TVA’s vast service territory will continue to receive electricity in the next few months, regardless of ability to pay.

This immediate relief effort should be accompanied with appropriate transparency measures. For example, in North Carolina, utilities were required to collect data that would provide meaningful information on things such as the number of accounts impacts by type (*e.g.*, residential or business) for which service termination was forborne; the number of customer reconnections by type of account; and the amount of late fees and other penalties not collected. TVA should request and publicly publish data from its power companies on all unpaid charges that customers owe, all disconnections for non-payment, avoided disconnections for non-payment, and any other costs and benefits related to continuing electric service during and after the pandemic. This data should be

collected and reported on a monthly basis by ZIP code and with income and race demographics included.

Second, as discussed further below, TVA needs to convene public hearings to address a longer-term plan to utilize TVA's substantial assets to address these concerns.

b. TVA Can And Must Re-Position Itself to Be A Clean Energy Leader

Just as TVA has substantial resources to address the current economic crisis, TVA also has ample authority to take meaningful action to address the climate crisis. Unfortunately, rather than embracing the clean energy transition, to date TVA has taken multiple concrete steps to *thwart* the development of clean energy, and keep its customers reliant on TVA's centralized and polluting energy sources.

For example, in recent months TVA has been working to convince its power company partners to enter into long-term energy contracts that severely limit these companies' ability to develop clean energy projects.⁴² While TVA initially indicated that companies could develop up to 5% renewable energy, TVA has back-tracked from even that commitment.⁴³ This recent move is consistent with a number of other actions TVA has taken in recent months and years to delay and otherwise undermine clean energy development. For example:

- While TVA's "Green Power Providers" (GPP) encouraged more than 100 MW of distributed energy generation, in 2018 TVA for the first time offered sub-retail compensation for GPP generation, and when subscriptions inevitably fell as a result, TVA canceled the program altogether.⁴⁴
- Concerned with the threat of competition from consumer-owned clean energy after many companies announced, "sustainability goals and commit[ed] to purchase up to 100% of their energy resources from renewable resources," TVA reduced electricity rates for large commercial customers to make DER investments less financially attractive.⁴⁵

- Claiming that there is “little need for new energy sources,” in 2018 TVA imposed its first-ever fixed charge – the Grid Access Charge – with the express intention of discouraging businesses and homeowners from investing in distributed energy projects, because they will be forced to pay this fixed fee regardless.⁴⁶

Finally, at the same time that TVA has taken these concrete steps to discourage renewable energy development, the agency has also sought to incentivize additional energy *usage*, introducing declining block rates under which consumers pay less the more electricity they use. In sum, rather than encouraging energy efficiency and other measures that might lessen reliance on TVA fossil fuel resources, under TVA’s current pricing structure rates *increase* for those using less electricity, and *decrease* for those using more.⁴⁷

As discussed further below, to fulfill its Congressional mandate, TVA must reverse these recent affirmative efforts to thwart clean energy development, while also exploring concrete steps to actually encourage the transition to renewable energy sources and energy efficiency, and away from polluting and centralized TVA power. This would allow TVA to both address the climate crisis, while also taking advantage of the enormous opportunity for good, family-sustaining jobs and economic revitalization through clean energy employment opportunities.

B. TVA Must Initiate Public Hearings To Address These Matters.

As noted, in creating the TVA in the 1930s, Congress “declared [a] policy” that TVA’s electricity generation must be “for the benefit of the people” it serves.⁴⁸ More recently, Congress updated TVA’s “objective and missions” to also include “being a national leader in technological innovation, low-cost power, and environmental stewardship.”⁴⁹ These twin objectives—to serve the people, and protect the environment—are thus both central to TVA’s congressional mandate.

While Congress certainly anticipated that TVA’s Board of Directors would take the leading role in carrying out these dual mandates, from the beginning Congress also recognized the vital role that the *public* must be permitted to play in assisting TVA to fulfill its mission. Indeed, while the

Board of Directors serve as TVA’s stewards, the agency ultimately provides the “people’s power,” and decisions about managing that power should be meaningfully informed by the needs of those TVA serves.

To that end, as noted above, Congress specifically directed that among the mandates that the Board “shall” carry out is to “conduct public hearings” to allow for meaningful public input into TVA activities that “could have a substantial effect on” either:

- (i) the electric ratepayers in the service area; or
- (ii) the economic, environmental, social, or physical well-being of the people of the service area.⁵⁰

For the reasons we have detailed, the economic distress caused by the COVID-19 crisis, and the urgent need to rapidly reduce greenhouse gas emissions, call for TVA to invoke this public hearing process, and take urgently needed action to address the “substantial effect” these challenges are having on both TVA ratepayers and their “economic, environmental, social, and physical well-being”

In order to make those hearings productive, we offer the following initial suggestions for how TVA might take action to both provide equitable customer relief from utility shut-offs, and re-structure TVA assets and programs to combat the climate crisis.

1. Approaches For TVA To Provide Immediate Customer Relief

As discussed below, after facilitating an immediate moratorium, we have several proposals for how TVA can approach a program to make the funding sources listed above available to TVA customers for the duration of the COVID-19 crisis and thereafter. Although TVA’s ultimate approach should be developed through the public hearing process, any such programs must focus on relief for low-wealth consumers, who face the highest energy burdens as a result of the current crisis, and are disproportionately communities of color—while also being available to those with incomes well above the poverty level, since the crisis is affecting many income classes. These programs should also provide sufficient resources for outstanding bills and late

fees not just for the duration of the emergency, but also for sufficient grace period after the emergency is lifted and people are able to get back on their feet. In addition, these programs must be as easy as possible for consumers to access and receive the benefits offered, without an involved application, required internet access, or other administrative barriers preventing bill relief.

As regards how customer relief programs might be structured, we offer the following initial list of potential approaches:

- TVA could provide funding directly to LPCs under conditions ensuring LPC ratepayers in turn directly receive the benefits of these funds. LPCs can administer these funds for relief through one of several possible vehicles, such as the following:
 - LPCs might provide a direct credit to customer bills. Under one approach, LPCs might allocate relief based on average energy burden in each ZIP code area.
 - LPCs might distribute funds to third party organizations to provide direct relief – as, for example, CDE Lightband has done with Community Care funds in middle Tennessee.⁵¹
 - TVA funding for LPCs might also be conditioned on the LPC itself making investments in energy efficiency, distributed generation and other steps to further lower customer bills, as discussed further below.
- TVA could provide funding to Community Action Agencies, with strict requirements so residential ratepayers can obtain ready access to the funds with low bureaucratic overhead. This could include those Agencies responsible for the implementation of the federal Weatherization Assistance Program, providing additional funding for energy efficiency projects not covered by federal funding.

- TVA could facilitate the creation of a new independent third-party organization – the “TVA Utility Relief Organization” – that would receive TVA funds and administer them to residential ratepayers in need of this relief.

Each of these possibilities will require extensive consideration in order to ensure that the funds reach those most in need with maximum transparency and minimum obstacles for recipients. We look forward to working with TVA on those details during the public hearing process.

2. Approaches For TVA To Drive The Clean Energy Transition And Economic Revitalization

TVA’s public hearings must also address how the agency can fulfill its Congressional mandate to be “a national leader in . . . environmental stewardship” by embracing the vital clean energy transition.⁵² As multiple states and local jurisdictions have demonstrated in recent years, the concrete plan to achieve 100% clean electricity on a rapid timetable is entirely feasible.⁵³

TVA’s reliance on aging fossil fuel power resources, and the agency’s bureaucratic inertia against distributed energy, are burdening TVA customers with higher energy costs and a more polluted environment. Further, dependence on such centralized power weakens the resilience of households in times of crisis, which not only is seen in the current COVID crisis, but also in the climate and other natural disaster emergencies that are sure to come.

As noted, unfortunately TVA has been posing obstacles to clean energy by, for example, viewing corporate commitments to 100% renewable energy as a *challenge* to TVA power-generation that must be combatted, rather than an opportunity that should be embraced.⁵⁴ At the same time, rather than recognizing the immense opportunity that clean energy development provides for new jobs and economic revitalization, TVA sought to outsource jobs outside the area.⁵⁵

The Trump Administration recently issued orders to prevent TVA from outsourcing jobs and to remove two of its Board members.⁵⁶ With new leadership, and a new directive to be a job creator, TVA should take this opportunity to create clean energy jobs in the Valley that are sorely needed due to COVID-19 unemployment.

In order to address how it can better serve its customers by bringing the clean energy revolution to the region and do its part to combat the climate crisis, TVA needs to hold public hearings on these matters. Indeed, doing so would be a perfect tribute to Former Chairman S. David Freeman, given his life-long commitment to a clean, renewable, and equitable energy system.

On these matters, the public hearings should address the following:

a. TVA Should Rapidly Retire Its Fossil Fuel Assets

In the coming decade, TVA intends to maintain its reliance on highly-polluting coal plants, as well as a fleet of dirty gas plants.⁵⁷ The public hearings must address how TVA can rapidly retire these assets.

In the 2019 TVA Integrated Resource Planning process, TVA summarily rejected numerous proposals for TVA to move away from fossil fuels and embrace clean energy, including distributed energy development.⁵⁸ The public hearing should take up these and related proposals, under which TVA would quickly divest itself of its fossil fuel resources.

b. TVA Should Unleash the Potential for Renewable Energy Development

As noted, in recent years TVA has launched a number of initiatives expressly designed to stifle renewable energy investments by local power companies, by private businesses committed to renewable energy, and even by individual TVA customers who can generate their own electricity by investing in rooftop solar systems. Unfortunately, TVA has viewed these investments as “competition” from “emerging technologies” that undermines TVA’s own stranglehold and monopoly power over electricity generation in the region.⁵⁹

This approach must change, and the public hearings should address both reversing these anti-renewable initiatives while at the same time launching a series of new initiatives designed to actually encourage renewable energy development in the region. An initial list of possibilities would include:

- Working with Congress to develop a mandate to rapidly transition to a 100 percent clean and renewable energy system with an ambitious distributed solar plus storage carve-out by 2030.
- Creating an expanded, new Green Power Providers Program that encourages distributed energy investments by providing full retail compensation for renewable energy generation, with no caps on participation.⁶⁰
- Working with the States in TVA service territory to authorize and encourage solar leasing, purchase power agreements, and/or feed-in tariffs, for the purpose of financing solar for residential customers.⁶¹
- Removing fees and delays that often pose an obstacle to solar adoption, including waiving fees associated with adoption of smart meters, smart meter communication charges, DER-related inspections and other related interconnection and permitting costs.⁶² Interconnection and permitting for distributed solar and storage systems should also be fast-tracked.
- Encouraging (rather than discouraging) TVA's power companies to make renewable energy investments, including incentivizing the development of community solar and other programs that will bring the benefits of renewable energy to lower-income communities, renters, and others.⁶³

c. TVA Should Embrace Energy Efficiency Initiatives

While renewable energy investments are vital to combatting the climate crisis, energy efficiency is the critical other-half of the equation. Indeed, efficiency investments are often the least expensive way to address energy needs and reduce energy insecurity,⁶⁴ and there are enormous opportunities to take advantage of these least-cost investments.⁶⁵

An initial list of possible initiatives to consider on this front include:

- Adopting rate structures that actually encourage energy efficiency and renewable energy investments by rewarding customers for using less TVA power.⁶⁶
- Incentivizing energy efficiency and home energy audit investments by homeowners, building owners, and others by providing substantial additional funding to the EnergyRight program and/or additional funding for the Weatherization Assistance Program.⁶⁷
- Advancing the widespread implementation by LPCs of tariffed, on-bill financing programs for residential energy efficiency improvements. This should include paying the LPCs an appropriate value for energy savings delivered to the TVA grid, thereby incentivizing LPCs to offer such programs.

d. TVA Should Be An Engine for Economic Revitalization

The initiatives outlined above would permit TVA to meaningfully contribute to addressing the climate crisis, but equally important in light of the current economic and racial injustice crises, these programs offer the opportunity for *enormous financial investment in people and resources* that would help reduce the community's energy burdens while ramping up economic recovery via the build out of new, community-oriented clean energy resources. Indeed, in addition to creating many new jobs, TVA has a responsibility to protect *existing* coal and gas plan workers from unemployment, and these initiatives can provide a vehicle for the just transition of these workers into new areas.

Once again, on this front TVA is presently moving in precisely the wrong direction, with its failed effort at outsourcing jobs elsewhere⁶⁸, providing enormous compensation to a small number of employees, and keeping more than a billion dollars in the bank rather than harnessing those funds to address the community's urgent needs.

The public hearings should therefore also address how TVA can undertake all these initiatives in a manner that fosters economic revitalization in the area. Indeed, given that so many of these programs – including, for example, home energy audits, solar system projects, and energy efficiency installations – will be undertaken in the community, they provide an unparalleled opportunity for TVA to be a key driver for economic recovery.⁶⁹

Conclusion

More than forty years ago, TVA Chairman Dave Freeman sought to “hook TVA customers to the sun,” rather than polluting fossil fuels and other dangerous energy sources.⁷⁰ Today, TVA has an opportunity to fulfill that vision by holding public hearings to bring the promise of renewable energy to TVA’s service territory.

At the same time, TVA must use its enormous resources to address the current economic crisis facing the community, by both guaranteeing that customers will continue to receive electricity, while also convening public hearings to create a longer-term solution to the utility-shut off crisis.

Taken together, these initiatives will allow TVA to advance its Congressional mandate to act for the benefit of the people it serves including both the community in which is located, and the Nation as a whole.

We look forward to hearing from you promptly on these proposals.

Respectfully submitted,

/s/Howard Crystal
Howard Crystal
Energy Justice Program Legal Director
Greer Ryan
Energy Policy Analyst
Jean Su
Energy Justice Program Director
CENTER FOR BIOLOGICAL DIVERSITY

John Zippert
Vice-President
**ALABAMA STATE ASSOCIATION OF
COOPERATIVES**

Robyn Hyden
Executive Director
ALABAMA ARISE

Joi Travis
Chairperson
ALABAMA SIERRA CLUB

Bri Knisley
TN Field Coordinator
APPALACHIAN VOICES

Michele Merkel
Managing Director of Advocacy Programs
FOOD & WATER WATCH

Michelle Chan
Vice President of Programs
FRIENDS OF THE EARTH

Marnie Thompson
Co-Managing Director
FUND FOR DEMOCRATIC COMMUNITIES

Michael Hansen
Executive Director
GASP

Aftyn Behn
Organizer
INDIVISIBLE TENNESSEE

Jim Sessions
Reverend
**INTERFAITH WORKER JUSTICE OF EAST
TENNESSEE**

Nikita Perumal
New Energy and Transition Organizer
KENTUCKIANS FOR THE COMMONWEALTH
**KNOXVILLE WORKING CLASS COALITION
(KWCC)**

Shanda-Joy Laws
Founder & CEO
LIVE FRESH, INC.

Beth Orlansky
Advocacy Director
MISSISSIPPI CENTER FOR JUSTICE

Steve Jackson
Chair
NORTH ALABAMA SIERRA CLUB

Calvin Taylor Skinner
Co-Founder and Convener
ONE KNOX LEGACY

Ben Allen
Organizer
SCIENCE FOR THE PEOPLE

Nancy Muse
Sierra Club Alabama Chapter ExCom
SIERRA CLUB SHOALS GROUP

Rachel Mayes
Executive Director
SOUTHERN ECHO INC.

Ivy Wang
Senior Staff Attorney
**SOUTHERN POVERTY LAW CENTER
ACTION FUND**

Ann League
Executive Director
**STATEWIDE ORGANIZING FOR
COMMUNITY EMPOWERMENT (SOCM)**

Jessica Williams
Hub Coordinator
SUNRISE MOVEMENT BOWLING GREEN

Cassie Jackson
Hub Coordinator
SUNRISE MOVEMENT FRANKLIN

Isabella Killius
Organizer
SUNRISE MOVEMENT KNOXVILLE

Rick Herron
Hub Coordinator
SUNRISE MOVEMENT NASHVILLE

Duffy-Marie Arnoult
Co-Chair
**THE CLIMATE REALITY PROJECT:
MEMPHIS CHAPTER**

Duffy-Marie Arnoult
Co-Chair
**THE CLIMATE REALITY PROJECT: MID-
SOUTH REGIONAL CHAPTER**

Sabre Semrau
Chair
**WKU YOUNG DEMOCRATIC SOCIALISTS
OF AMERICA**

¹ See 16 U.S.C. § 831j.

² *Id.* § 831a(g)(1)(K)(ii).

³ *S. David Freeman, 94, Tireless Advocate for Clean Energy, Dies*, New York Times (May 19, 2020), <https://www.nytimes.com/2020/05/17/climate/s-david-freeman-dead.html>.

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⁹ *Nashville Rolling Back Reopening After Virus Surge*, U.S. News, July 2, 2020, <https://www.usnews.com/news/best-states/tennessee/articles/2020-07-02/nashville-rolling-back-reopening-after-virus-surge>.

¹⁰ A national survey found that households unable to pay their energy bills in the early months of the pandemic were disproportionately: at or below the poverty line, people of color, households with children under 5 years old or with adults over 65 years old, households with at least one member with a disability, households including someone requiring use of an electronic medical device, and households where someone lost their job or had their hours reduced as a result of the pandemic. See Carley, S. and D. Konitsky, *Survey of Household Energy Insecurity in Time of COVID Preliminary Results of Wave-1*, O'Neill School of Public and Environmental Affairs at Indiana University (June 10, 2020), <https://oneill.indiana.edu/doc/research/energy-insecurity-survey-june-2020.pdf>.

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- 11 *Id.*
- 12 *Expiring Electricity Shutoff Bans Could Leave Two-Thirds of States With No Binding Protections by July, 88% by August*, https://www.biologicaldiversity.org/programs/energy-justice/pdfs/June-23-2020-Issue-Brief_State-Moratoria-on-Electric-ShutOffs.pdf. Some of the local power companies served by TVA provided temporary relief, but local jurisdictions have limited resources and these moratoria have generally expired. *See Memphis Light, Gas and Water pauses utility cutoffs amid coronavirus outbreak*, Commercial Appeal (Mar. 13, 2020), <https://www.commercialappeal.com/story/news/2020/03/13/mlgw-pauses-utility-cutoffs-amid-coronavirus-outbreak/5044934002/>; *Utilities Offer a Moratorium on Disconnections to Assist in Battling the Heat*, Nashville.gov, <https://www.nashville.gov/News-Media/News-Article/ID/772/Utilities-Offer-a-Moratorium-on-Disconnections-to-Assist-in-Battling-the-Heat.aspx>. Groups urged TVPPA to suspend service disconnections and late fees, but neither TVA nor its retail power companies offered any kind of systematic relief. *See Letter of Mar. 27, 2020*, https://alcse.org/wp-content/uploads/2020/04/Letter-to-TVPPA-to-Suspend-Disconnections-and-Late-Fees-3_27_20-1.pdf.
- 13 *See, e.g.*, Stephen Tully, *The Human Right to Access Electricity*, 19 *The Electricity Journal* 30 (Apr. 2006); NAACP Environmental and Climate Justice Program, *Lights Out In The Cold: Reforming Utility Shut-Off Policies as If Human Rights Matter* (Mar. 2017) (“The need to incorporate human rights into the utility business model is a key component of the larger reform of the extractive energy economy and movement toward energy justice”), available at https://www.naacp.org/wp-content/uploads/2017/12/Lights-Out-in-the-Cold_NAACP.pdf.
- 14 *See Natl Consumer Law Center, Skyrocketing Utility Arrears during the Covid-19 Crisis: The Need for Substantial Federal Support* (Apr. 2020), available at https://www.nclc.org/images/pdf/special_projects/covid-19/IB_Electric_Service_Arrearage_Narrative.pdf.
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- ¹⁹ U.S. Global Change Research Program, *Climate Change Impacts in the United States: The Fourth National Climate Assessment, Volume II* ch.1,14 (2018).
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- 39 While that Petition detailed these outside groups’ anti-environmental advocacy and precisely why funding them is contrary to TVA ratepayers’ First Amendment rights, TVA has refused to take any action at all to address these concerns.
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- ⁶³ Community solar and innovative finance models can enable a wide variety of consumers, including renters and apartment dwellers, to participate in and benefit from distributed solar markets. See, e.g., *Low-Income Solar Policy Guide*, GRID Alternatives, Vote Solar, and the Center for Social Inclusion; *Shared Renewable Energy for Low- to Moderate-Income Consumers: Policy Guidelines and Model Provisions*, Interstate Renewable Energy Council (IREC); *Solar for All: What Utilities Can Do Right Now to Bring Solar Within Reach for Everyday Folks*, Southern Environmental Law Center (2017).
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- ⁷⁰ *S. David Freeman, green-energy champion who advised presidents, dies at 94*, Washington Post (May 13, 2020), https://www.washingtonpost.com/local/obituaries/s-david-freeman-green-energy-champion-who-advised-presidents-dies-at-94/2020/05/13/37af8c1c-9526-11ea-82b4-c8db161ff6e5_story.html