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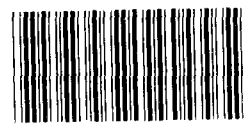
BY THE U.S. GENERAL ACCOUNTING OFFICE

# Report To Senator Jim Sasser

## Tennessee Valley Authority-- Options For Oversight

The TVA Board is in a unique position of autonomy when compared to other utilities or Federal entities. The Congress has established and maintained the Board as the single and final authority on many TVA activities including power planning, rate-making, budgeting, energy resource development, and public involvement.

Options exist to improve oversight of TVA which would not place an undue or inappropriate burden on the agency. These options include regularly scheduled oversight hearings, requiring the Board to develop a long-term strategic plan, incorporation of additional policy guidance into the TVA Act, and a reduction in TVA's bond ceiling.



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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

ENERGY AND MINERALS  
DIVISION

B-206775

The Honorable Jim Sasser  
United States Senate

Dear Senator Sasser:

Your recent letter asked us to review oversight opportunities relative to the power program of the Tennessee Valley Authority (TVA). Specifically you asked that we determine

- to what extent the TVA Act gives the Congress oversight responsibility for TVA's power program;
- what actions are needed to gain additional oversight of TVA's activities, such as bringing TVA's ratemaking process under the jurisdiction of the Federal Energy Regulatory Commission (FERC); and
- other options available to increase or improve oversight at TVA.

We found that the TVA Board of Directors is in a unique position of autonomy when compared to other utilities or other Federal entities. This seems to have been the congressional intent at the time the 1933 Act was passed and has been reinforced in the latest major congressional action on TVA in 1959. The Congress established and has maintained the Board as the single and final authority on many TVA power activities and programs including power planning, ratemaking, budget, energy resource development, and public involvement.

This letter summarizes the results of our analysis. The objectives, scope, and methodology of our review are contained in appendix I. Appendix II responds to your first question. Appendix III provides a comparison of TVA oversight to that of similar utility and Federal entities. Questions 2 and 3 are addressed in appendix IV.

A QUESTION  
OF CONTROL

TVA was created in 1933 after many years of congressional debate and two presidential vetoes. A key issue in the debate

was how the Congress could maintain control of the agency while giving it the freedom and flexibility of a private business. In the end it was decided the agency would be managed by a three-member board appointed by the President. Congressional control was maintained through Senate approval of Board members and the appropriations process. Congress gave the Board a wide range of authority to implement its responsibilities, leaving TVA officials tremendous discretion in carrying out the original congressional intent of the Act.

In the almost fifty years of TVA's existence, the debate on TVA's power program has continued. The Congress has amended the TVA Act on several occasions, always maintaining the agency's independence and at times expanding the authority of the Board.

#### FEW OPPORTUNITIES FOR CONGRESSIONAL INVOLVEMENT

Under existing legislation, congressional involvement in TVA's power program is mandated in only two instances: first, in Senate confirmation of Board appointments; and second, in congressional approval of increases in TVA's bond ceiling. The former occurs statutorily once every 3 years (assuming Board members serve their complete staggered 9-year terms), the latter historically every 4 to 7 years. The Congress also has the option of effecting oversight through the removal of Board members, and through the hearings process.

The Congress, in 1933, provided additional ongoing guidance for the power program by including in the statute several policy parameters and criteria TVA management must address in operating the power system. These policies include (1) that preference for TVA power be given to public utilities and domestic and rural customers and (2) a requirement that rates for domestic and rural customers be set as low as possible. While not a direct form of oversight these policies provide congressional guidance for the TVA power program on a continuing basis.

#### EXECUTIVE AND PUBLIC CONTROL ALSO LIMITED

Executive Branch and public oversight of TVA's power program is limited. The President can exert control through the appointment and removal of Board members and through Office of Management and Budget (OMB) review of the TVA budget. However, while OMB has the authority to modify the Board's proposed budget, it has not done so since 1959 due to staff limitations and the fact that power program funds are not provided through appropriations.

TVA statutes do not require public information or involvement programs. TVA voluntarily provides opportunities for public input in some program areas. The adequacy and effectiveness of these opportunities is a continuing source of controversy in the region. While not a direct form of oversight, the news media has placed increased emphasis on TVA activities in recent years.

In comparing the oversight and accountability of the TVA board to the management of other Federal and utility entities, we found the oversight and regulation of the other entities farther reaching than at TVA. This was particularly true in areas of strategic planning, budget review, public involvement, and for utilities--wholesale rate review.

#### OPTIONS FOR IMPROVED OVERSIGHT

The request for this report, recent media emphasis, and our discussions with TVA customers and Tennessee Valley consumer groups all point to a growing concern with TVA activities and how additional control can be exercised over the agency by the Congress or the ratepayers of the region. Many avenues are open to the Congress for increasing oversight of TVA's power program. Time limits did not allow us to examine them all; therefore, we limited the options analyzed to those which have either applied in the past to TVA or currently apply to other utilities or Federal entities. Within this group, we selected options which to us appeared to be responsive to the concerns being expressed, but which also minimized negative impacts on the authority and responsibility for TVA management and operations given the Board in the TVA Act.

#### Options not requiring legislative action

We analyzed two options in this category; regularly scheduled oversight hearings and expanding OMB's role in the development and review of the power program budget. In the past, TVA oversight hearings have generally resulted from controversy over Board decisions or actions and have not been held on a regular basis. Regular oversight hearings were suggested by several TVA officials as a way of providing a non-adversarial forum for congressional input into TVA's power program. They would also allow TVA to present to the Congress information on the power program, including an identification and discussion of key and controversial issues facing the Board and of problems which require congressional action for resolution. The Congress could also raise its own issues of concern for discussion with the Board and other parties present. Optimally, the outcome of these hearings would be the Congress providing TVA with policy guidance and, where appropriate, adopting any legislation necessary for TVA to fulfill its mission.

Expanding of CMB's review of the TVA power budget to a level similar to that of the Bonneville Power Administration's budget could provide the Congress with an outside opinion on the consistency of the TVA program with national fiscal and energy policies. As the Nation's largest utility, it is appropriate that TVA's power program reflect national energy goals and priorities.

The potential disadvantage of more comprehensive congressional or OMB involvement are the same. For the utility to function efficiently the Board must be in the position to make both day-to-day and long-term management and operational decisions. The Board would retain this control and flexibility if input from the Congress and OMB focused on major policy issues and decisions.

Options requiring  
statutory changes

The Congress has retained the ability to alter TVA's enabling legislation. Legislative changes could provide policy guidance to the Board in areas the Congress believes to be desirable and help assure that TVA's power program reflects national policies. Legislative changes may also be valuable in updating TVA's role in the region and in the utility industry. In this category we addressed

- placing the TVA ratemaking process under FERC;
- requiring the Board to publish records of decision on major rate and resource development actions;
- requiring the Board, or alternatively a regional council, to develop a long-term strategic plan for the regional power program;
- adding policy guidance relative to conservation, and public involvement and participation in TVA's power planning process to the TVA Act; and
- reducing TVA's bond ceiling.

These options would increase public and congressional knowledge of TVA's plans and operations and would allow for more direct accountability of the TVA Board. Amending the TVA statutes to incorporate additional requirements and guidance in areas such as public involvement, resource development, and strategic planning would provide a basis for the Congress and the public to evaluate the adequacy of Board actions in these areas.

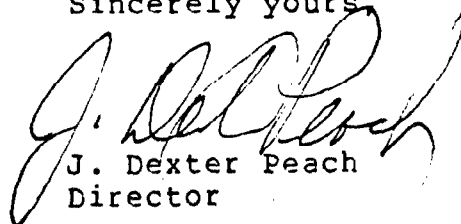
Reducing TVA's bond ceiling would assure the Congress a voice in TVA's future construction plans, as generating units currently deferred are restarted and put congressional review of TVA's bond ceiling back on its traditional 4-7 year review schedule.

Placing TVA under FERC and using a regional body to develop a strategic plan further guarantee outside input and review of TVA programs. The potential disadvantage of both options is they reduce the authority, and therefore, the responsibility and direct accountability of the Board.

As agreed with your staff, we did not make recommendations for actions to increase TVA oversight, but only identified options. Time limitations did not allow us to do an exhaustive analysis of the pros and cons of these options. Several of the options are reflected in TVA's current programs. Statutory changes to require these activities would serve to assure the Congress and the region's ratepayers that these voluntary actions are continued and expanded as the Congress deems appropriate regardless of who sits on the TVA Board.

As you requested we did not obtain TVA comments. This report will be restricted until March 23, 1982 unless you release it sooner.

Sincerely yours,



J. Dexter Peach  
Director

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OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of our review was to respond to questions raised by Senator Sasser. Specifically

- to what extent the TVA Act gives the Congress oversight responsibility for TVA's power program;
- what actions are needed to gain additional oversight of TVA's activities, such as bringing TVA's ratemaking process under the jurisdiction of the Federal Energy Regulatory Commission (FERC); and
- what other options are available to increase or improve oversight at TVA.

To provide a more complete perspective on the oversight and regulation of TVA's power program, we also compared TVA's regulation and oversight to that of private utilities, to the Federal Bonneville Power Administration (BPA), which received a new Federal charter in December 1980, and the Synthetic Fuels Corporation. We performed our review in accordance with GAO's current "Standards for Audit of Government Organizations, Programs, Activities, and Functions."

In conducting the review, we analyzed the TVA Act of 1933 (16 U.S.C. 831) and subsequent amendments, the legislative history of these actions, and other general Federal oversight legislation including

- the Budget and Accounting Act, 1921;
- the Government Corporation Control Act, 1945; and
- the Government Corporation Appropriations Act, 1948.

The statutes and histories enabled us to identify past and current oversight provisions for TVA and other Federal entities.

In addition, we reviewed the transcripts of selected TVA appropriations and oversight hearings to determine the congressional concerns addressed and actions taken. The hearings reviewed were selected on the basis of the issues and controversies involved, their relevancy to TVA's power program, and based on changes in TVA's statutes, their subsequent impacts on TVA activities and programs.

We also interviewed the TVA General Manager, General Counsel, and Managers of the Office of Power, the Office of Engineering, Design, and Construction, and the Office of Planning and Budget; the BPA Assistant Administrator/Washington, D.C.; officials from the Office of Management and Budget (OMB); the Federal Energy Regulatory Commission (FERC); and representatives of TVA's customers

and Tennessee Valley consumer groups. These interviews were used to identify current oversight opportunities, problems associated with existing oversight, and options for improved oversight. In further identifying options for improved oversight, we reviewed past oversight provisions removed from the TVA Act by congressional amendment, past congressional proposals, the 1981 Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) (16 U.S.C. 839), Part B of the Energy Security Act (42 U.S.C. 8701) which establishes the U.S. Synthetic Fuels Corporation, a report by the National Academy of Public Administration performed for OMB on Government Corporations 1/, and a study by the accounting firm Coopers and Lybrand on TVA management. 2/

Other documents used included the report of the Reagan administration's TVA transition team; TVA testimony and policy statements related to accountability and oversight; the TVA Organization and Policy Manual, the TVA Corporate Planning Manual; past GAO reports, in particular a 1978 report on TVA energy options; 3/ and the 1980 TVA triennial assessment; 4/ and other recent and ongoing GAO work at TVA.

We did not attempt to comprehensively evaluate the adequacy of current oversight provisions. We are on record since 1935 as supporting close congressional scrutiny of TVA policies and actions. On numerous occasions we have testified against legislation reducing the accountability of the TVA Board and in support of tighter controls. In discussing options for increased oversight, we identify the advantages and disadvantages of each option. Time limitations did not allow us to do an exhaustive analysis of the pros and cons of these options. We identify those options we have officially recommended in the past, but do not make any new ones. In addition, we did not evaluate the performance of past or current TVA Boards in responding to the Congress under the existing provisions. We do attempt to identify TVA's attitude toward congressional oversight as expressed by TVA top staff and in actions taken in response to recent congressional recommendations.

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1/Report on Government Corporations, National Academy of Public Administration, August 1981, Vol. I & II.

2/Coopers and Lybrand, "Review of Certain Internal Controls in the Tennessee Valley Authority," January, 1982.

3/"Electric Energy Options Hold Great Promise for the Tennessee Valley Authority," EMD-78-91, November 29, 1978.

4/"Triennial Assessment of the Tennessee Valley Authority--Fiscal Years 1977-1979", EMD-80-91, August 13, 1980.

In appendix II we discuss the evolution of TVA power program oversight and current oversight opportunities. Appendix III provides a comparison of TVA oversight to that of other utilities and Federal entities. Drawing on these two analyses, appendix IV identifies options for improved oversight.

OVERSIGHT WITHINTHE TVA ACT

The legislation establishing TVA was enacted in 1933, after many years of congressional debate and 2 presidential vetoes. TVA was established as a Government corporation "to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense...and for other purposes." <sup>1/</sup> In addition, \* \* \* section 10 of the act, "Empowered and authorized [the Board] to sell the surplus power [from Federal hydro-electric facilities] not used in its operations." Although the production and sales of power were not a primary objective of the Act, TVA was instructed to become a "yardstick" for comparing the rates and operations of the budding private utility industry by striving for lowest possible rates and widespread use of electric energy.

From its original status as a secondary activity the TVA power program has expanded to become the Nation's largest utility and a dominant TVA activity. TVA provides power for over six million consumers in seven states with annual power sales revenues estimated at \$4.5 billion in FY 1983. In FY 1983 over 97 percent of TVA's total proposed budget is in the power program.

Congressional concern and controversy have focused on TVA throughout its history. Few issues have generated more debate than the extent of congressional oversight over TVA's power program. In establishing TVA, the Congress desired to set up a "legislative framework" for TVA activities and associated oversight, not a "legislative straightjacket." The Congress intended that TVA be given "much of the essential freedom and elasticity of a private business corporation." Accordingly, after extensive debate over how the Congress was to control or regulate TVA activities, the Congress limited its oversight actions to

- the annual appropriations process;
- approval and removal of Board members; and
- requirements for an annual financial statement; and report on the business of the corporation.

Executive oversight was provided through presidential appointment of Board members, the budget submission and review process, and Treasury approval of TVA bonds sold to finance construction of power facilities.

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<sup>1/</sup>Tennessee Valley Authority Act, 16 U.S.C. 831, Preamble.

Besides these direct oversight activities, the Congress set statutory policies that TVA management must follow in operating the power system. While not a direct form of oversight, these policies provide an opportunity for the Congress to guide and influence the TVA power program on a continuing basis. Most notably, these policies include public utilities and domestic and rural customers getting a preference to TVA power and a requirement that rates for domestic and rural customers be set as low as possible.

#### OVERSIGHT ACTIONS 1933-1959

Between 1933 and 1959 the congressional debate on TVA continued and the 1933 Act was amended on several occasions. Trade-offs were made and the amendments frequently provided something for both those parties supporting more congressional control and for those supporting a more independent TVA. For example, in 1935 an amendment was added requiring TVA to submit to the Congress recommendations for the "unified development of the Tennessee River System." The House Committee for Military Affairs report stated, 1/ "This was intended to meet the often repeated objection that the directors of the authority have not explained to the Congress and to the country what their plans are and if they have no plans, then that they should form plans and explain them."

TVA was also instructed to submit to the Federal Power Commission (now the Federal Energy Regulatory Commission--FERC) cost of service data which could be used by the Commission in reviewing the wholesale rates of private utilities.

In an attempt to control TVA's growing power program, the 1935 amendment also redefined net power revenues eliminating the Board's ability to retain revenues to pay for the construction of new generating plants. The amendment, according to the conference report on the legislation, preserved "The principle of congressional control through appropriations over the activities of the board."

At that time, backers of a more independent TVA successfully expanded TVA's bonding authority to include the sale of bonds to assist local and State governments in acquiring and building distribution systems. They were also successful in increasing TVA's condemnation authority for private utility transmission lines.

In response to continuing conflicts between the Board Chairman and the other Board members, the Congress in 1938 held its first oversight hearings, primarily to address charges made by the Board Chairman against the other directors. This was significant because the Congress subsequently found the charges to be unfounded and the Chairman was removed by the President for insubordination when he refused to provide documentation for his charges. However, the

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1/Report of the House Committee on Military Affairs, on H.R. 8632, June 26, 1935.

TVA Act only specifically provides for removal of Board members by the President for stated causes not present in this case, and by Congress with or without cause. After the former chairman challenged his removal by the President as unlawful, the Sixth Circuit Court of Appeals ruled that TVA directors exercise predominantly an executive and administrative function. Consequently, the President's power to remove Board members was not limited to causes stated specifically in the Act. 1/

In 1941, another significant change in TVA oversight occurred when the Congress excluded from our consideration

"all matters relating to the accounts or expenditures which the board of TVA shall determine to have been necessary to carry out the provisions of the original act creating TVA." 2/

From TVA's beginning, TVA and GAO had disagreed on our authority to audit TVA's books and to disallow vouchers and disbursement of money. We maintained the accounts of the authority were subject to final settlement and adjustment under the provisions of the Budget and Accounting Act of 1921. We believed the Congress intended the entirely different audit procedure provided in section 9(b) of the TVA Act was to be considered an addition to such final settlement and adjustment. TVA insisted the procedures established in section 9(b) were in place of our involvement.

To resolve the dispute TVA and GAO requested the Congress to clarify the statute. The Congress adopted TVA's position on the basis TVA was operating a private business as a business concern, and that the character and extent of its business transactions are such that it would be greatly hampered if it were required to submit to our procedures. Consequently, TVA has final settlement authority to all claims against it and our rulings on TVA expenditures are strictly advisory in nature; one of the limited number of Federal entities for which this is the case.

After extensive hearings on TVA's authority to construct steam generating plants, the Congress in 1948 added an oversight provision for the TVA power program to the fiscal year 1948 Government Corporation Appropriations Act. This provision required TVA to repay the total appropriations investment in the TVA power system and provided that TVA power revenues could be used to construct new power producing projects only if the projects were approved by the Congress.

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1/Morgan v. Tennessee Valley Authority, 115 F.2d 990 (6th Cir. 1940), cert denied, 312 U.S.701 (1941).

2/Report of the Senate Committee on Agriculture and Forestry on H.R. 4961, October 7, 1941.

1959 AMENDMENTS AND  
CURRENT OVERSIGHT

Through the 1950s concern continued to mount in the Congress and the Bureau of the Budget (now OMB) over TVA's growing power program and its competition with private power development. As a result of this concern and the philosophies of the Eisenhower Administration, after 1955 the power program did not receive appropriations. Subsequently, in 1959, the Congress passed two amendments to the TVA Act. The first, a comprehensive rewrite of the statutory provisions addressing the power program established the program as self-financing by authorizing TVA to issue bonds to finance the construction and acquisition of any power facility and statutorily limited TVA to a specific geographic service area outside of which TVA cannot sell power. The bonds were to be backed by TVA power sales revenues, not by the U.S. Government. Other sections of the amendment required TVA to pay an annual return to the U.S. Treasury on the unrepaid appropriations investment, required rates be set at a level adequate to cover costs, and exempted the power program budget from revision by the Bureau of Budget. In the oversight area, the original 1959 amendments rescinded several key oversight provisions including congressional review and approval of the power program through the appropriations process; the requirement the Congress approve all new power producing projects; and Treasury approval of TVA bonds.

The amendments compensated for the loss of oversight by requiring TVA to submit the power program budget to the President, who was to forward it intact to the Congress along with his recommended budget. Before new projects could be started, the construction program had to be before the Congress for 90 calendar days. The construction program was considered approved if not rejected by a concurrent resolution.

President Eisenhower, however, objected to having no say over the budget TVA submitted for the Congress and to TVA working directly with the Congress on the construction program on the grounds it undermined his executive authority. To avoid a Presidential veto of the original amendments, the Congress agreed to remove the provisions which required the construction program be submitted to the Congress for review and which prohibited the President from altering the budget submitted by the Board for congressional review. The second amendments were passed 8 days after the enactment of the first.

In deleting those portions of the first amendments objected to by the President, without either adding new oversight provisions or reinstating those in place prior to the original 1959 legislation, the Congress left a void in their opportunities for a routine voice in the development of TVA's power program and power policies.

The TVA Act has not been amended significantly since 1959. Under existing legislation congressional involvement in TVA's

power program is mandated in only two instances: First, in Senate confirmation of Board appointments; and second, in congressional approval of increases in TVA's bond ceiling. The former occurs statutorily once every 3 years (assuming Board members serve complete 9-year staggered terms), the latter historically every 4 to 7 years. While not statutorily required, the Congress also has the option of affecting oversight through the removal of Board members and through the hearings process.

#### Approval and removal of Board members

Since 1933, the Congress has recognized the importance of the TVA Board appointments. The conference committee report recommending passage of the original TVA act stated:

"We are fully persuaded that the full success of the Tennessee Valley Development Project will depend more upon the ability, vision, and executive capacity of the members of the board than upon legislative provisions."

The TVA Act is generally silent about qualifications for Board members although the legislative history lists traits the Congress felt were important. The conference report on the original TVA legislation states:

"The Board of 3 members should not only be sound and experienced men of affairs; they should not only be soundly educated and widely travelled and well-read men; but they should be men of constructive vision, to seek to fit the future into the form of the present."

Beyond this, the Congress in 1933 left it to future Congresses to decide what talents and expertise were necessary at different times in history. A total of 19 men have served as TVA Board members. Their average term of service has been over 8 years. Only one Board member has been removed from office.

Interviews with career TVA staff affirmed the critical importance of the Board members' abilities and philosophies in the management and operations of the corporation, primarily because of the almost total freedom given the Board in running TVA. A review of past Board appointments reveals, however, that while TVA's activities and proposed changes to the TVA Act have elicited much debate, through the years Board appointments have been significantly less controversial. The Congress has failed to approve only three Presidential nominees to the Board in TVA's 49 years of existence: in 1951, 1975, and 1976. The three existing Board members, appointed during a time of critical decisions for both TVA's power and nonpower programs were all confirmed with relative ease.



### Increases in TVA's bond ceiling

The 1959 amendments to the TVA Act put a \$750-million limit on the amount of bonds TVA could issue to finance power construction projects. The ceiling was raised

- in 1966 to \$1.75 billion,
- in 1970 to \$5.0 billion,
- in 1975 to \$15.0 billion, and
- in 1979 to \$30.0 billion.

When the 1959 amendments were passed, sponsors pointed to the bond ceiling as a key congressional oversight point, i.e., when project borrowing approached the limit, the TVA Board would have to come back to the Congress, present their current and proposed power program in detail, and justify the need for additional borrowing authority. The Congress would then review the power program and in effect approve the policies and direction of the Board. A review of the legislative record of the bond increases to date, however, indicates that in practice this has not been the case. Scrutiny of the proposed increases has been limited--primarily to the need for new power plants to avoid regional power shortages.

For example, at hearings held in 1979 on the proposed hike from \$15 to \$30 billion, serious questions were raised on the need for the amount of generating capacity proposed by TVA and TVA's commitment to nuclear power and its associated costs. The Congress, however, approved the full amount with no mention in either the House or Senate report of controversy over TVA's load forecasts or ambitious construction program. Subsequently, TVA has revised its forecast downward on several occasions and has deferred construction of 8 of the 14 nuclear units in process in 1979, markedly decreasing the rate at which funds are needed.

### Congressional hearings

Comprehensive oversight hearings addressing TVA's overall programs and authorities have been held four times in TVA's history--in 1938, 1948, 1958, and 1975. In addition, hearings on more limited concerns or issues have been held intermittently with the latest occurring in March 1981. Budget hearings on TVA's appropriated funds are held annually, with the power program budget being presented for informational purposes.

Hearings in 1938, 1948, and 1958 resulted either directly or indirectly in legislative changes to TVA's oversight. In 1938, the result was indirect in that the courts upheld presidential authority to remove Board members. In 1948, the

impact was direct--the Congress passed provisions to the 1948 appropriations act requiring congressional approval of new power projects. The 1958 hearings resulted in the self-financing amendments. The intermittent hearings on specific issues have more commonly resulted either in recommendations from the congressional committee to the TVA Board or simply in the identification and discussion of congressional concerns.

The hearings provide an opportunity for additional congressional oversight through recommendations made. TVA officials indicated such recommendations are taken seriously. To evaluate TVA's response to congressional recommendations, we reviewed TVA's actions subsequent to the March 1981 hearings. Specifically, the Senate Committee on Environment and Public Works recommended that:

- TVA reevaluate their load forecasts and the impact of changing power demands on TVA's construction program and schedule;
- TVA increase public participation in the ratemaking process and provide additional review time between the initial rate proposals and final rate decisions possibly through annual rate adjustments;
- TVA review its in-house construction policy;
- TVA institute a comprehensive audit by an outside firm of its overall operation to ensure its programs are being managed as efficiently and economically as possible; and
- TVA restructure the management and operation of its coal procurement program along the lines recommended by GAO. 1/

These recommendations resulted from testimony, including GAO's, at the hearings.

Our review indicates TVA is, with one exception, striving to implement those recommendations as they believe to be appropriate to improve TVA operations. For example, TVA has reviewed their load forecasts and has determined they are too high. TVA presented issue papers to the Congress and the public in January 1982, seeking input on how the nuclear construction program should be modified to reflect the new forecast. After receiving the input, the Board

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1/"TVA's Coal Procurement Practices--More Efficient Management Needed," EMD-81-65, August 14, 1981.

deferred construction of three additional units. In addition, the TVA Board has adopted a policy of annual rate increases which would allow up to 6 weeks for outside review and comment instead of the current 2 weeks. TVA has also completed a review of its construction program, had a consultant analyze its overall organizational structure, and is implementing changes designed to address criticisms raised during the hearings.

On the other hand, TVA has declined to fully implement our recommendations on the management and operations of its coal procurement program. A dialogue on the recommendations is continuing.

Discussions with TVA staff indicated that they very seriously review congressional recommendations with the perspective of improving TVA operations and management. In general, staff welcomed the input as it gave them an indication of congressional expectations for TVA, although not all of the recommendations, etc., are adopted and put into place. Unless the Congress legislatively acts to require TVA to adopt such changes or recommendations, the final decision on all such matters rests in the hands of the Board. TVA has recently presented a formal response to the 1981 hearing recommendations to the Congress.

COMPARISON OF TVA OVERSIGHT TO  
OVERSIGHT OF RELATED ENTITIES

As a first step in developing options for improved oversight of TVA's power program we looked at the oversight provisions which apply to private utilities, EPA, and the Synthetic Fuels Corporation. These organizations are similar to TVA's power program in either their activities or organizational format.

In making the oversight comparisons, we looked at six key areas

- requirements for strategic planning;
- stockholder oversight;
- external reviews and/or approval of budgets;
- external review and/or approval of bond issues;
- external review and/or approval of wholesale rates; and
- requirements for public information and involvement.

The TVA Board's autonomy is unique not only among Federal power entities but also among utilities as a group. Whereas EPA and private utilities activities are subject to input, guidance, and approvals from many sources, the TVA statutes leave the Board as the single and final authority on many TVA power activities and programs including power planning, budgeting, energy resource development, rates, and public involvement.

BACKGROUND

Bonneville Power Administration

BPA markets power from Federal multi purpose dams in the Pacific Northwest. EPA is now the Nation's second largest "Federal utility" with an annual budget of over \$2 billion. Although faced with many of the same controversies that accompanied the 1933 TVA Act, the Congress took a different approach with BPA, originally limiting the agency's activities to the sale of Federal hydropower and the construction of a regional transmission system. BPA was established in 1937 as a bureau within the Department of the Interior (in 1977 EPA was transferred to the Department of Energy) with the Secretary appointing the BPA Administrator.

While there are differences between the original legislative mandates and authorities given to TVA and EPA, through the years their power programs have evolved in a similar fashion and play similar regional roles. Reports of an administration proposal to phase out by 1984 most of TVA's nonpower activities,

such as regional development and fertilizer programs, could further increase the agencies' similarities. Like TVA, BPA is now self-financing, and since the passage of the Northwest Power Act in 1980, BPA is responsible under contractual arrangements for meeting its utility customers increasing demands for electric energy.

Regional similarities also exist between the Tennessee Valley and the Pacific Northwest. Both regions are heavily dependent on electric energy with per capita consumption twice the national average. Both regions enjoy power rates significantly below the national average, but now face skyrocketing rates necessitated primarily by major nuclear construction programs. The rate increases have resulted in a decrease in demand growth which undermines the need for the additional generating capacity causing the regions to question the credibility of agency decisionmakers in undertaking the original construction programs. In passing the Northwest Power Act, the Congress gave BPA additional authorities to acquire power resources to assist the Pacific Northwest in dealing with these problems; authorities TVA already possessed. But in return, the Congress provided mechanisms for assuring congressional oversight of these activities and also strengthened regional opportunities for oversight.

#### Private utilities

When TVA was established the Nation's emerging private utility industry was virtually unregulated. Today the utility industry is subject to extensive regulatory and other oversight. Private utilities are comparable to TVA in that they are responsible for developing resources to meet the power needs of their service territory and selling bonds to finance their construction activities. Private utilities also face the same problems as TVA with dropping load forecasts and increasing construction costs and rates.

#### Synthetic Fuels Corporation

In 1980 with passage of the Energy Security Act, the Congress created the United States Synthetic Fuels Corporation. The corporation, like TVA, was established amid much controversy over the Federal role in the energy area. Therefore, the Energy Security Act provided us an additional opportunity to review the oversight provisions the Congress felt were necessary in 1980 to maintain control over the programs and activities of a Federal energy corporation.

#### KEY AREAS OF OVERSIGHT

The six areas of oversight selected were chosen based on their applicability to TVA's power program and their ability to address issues of concern relative to TVA.

### Strategic planning

Strategic planning is the process an organization goes through to identify its long-term goals and determine how those goals will be achieved. It is updated periodically to reflect changes in the organizations environment and the accomplishment of certain goals.

#### TVA

Long term planning has been a chronic TVA problem. The Congress in 1936 required TVA to prepare a unified development plan for the TVA region in an attempt to find out where the Board was headed with TVA programs. The 1936 plan, which was essentially implemented by 1946, remains the only unified plan developed by TVA.

The TVA Act does not require the development of a long-term strategic plan for the TVA power program. In a 1978 report we recommended TVA prepare a long-range (minimum of 25 years), strategic plan for the program to be presented to the President and the Congress. The plan as recommended would contain a long-range load forecast and TVA's proposal for meeting those loads. We recommended TVA obtain review of the plan from a wide spectrum of the regional population, with implementation of the plan to be periodically evaluated by GAO in reports to the Congress. In a follow up GAO review 2/ in 1980, TVA indicated they were in the process of developing such a plan. In a January 1982 report to the Board, the accounting firm of Coopers and Lybrand also recommended TVA develop a formal corporate strategic plan as soon as possible and stated TVA anticipated doing this in the current planning cycle. 3/

#### BPA

Under the Northwest Power Act, long-term power planning for the Pacific Northwest is the responsibility of a regional planning council appointed by the region's governors. The statutorily required plan includes a long-term load/resource forecast, a conservation plan, and a program for fish and wildlife protection. The plan adopted by the council must be submitted to the Congress and reviewed by the council at least every 5 years. BPA actions to

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1/"Electric Energy Options Hold Great Promise for the Tennessee Valley Authority," November 29, 1978, EMD-78-91.

2/"Triennial Assessment of the Tennessee Valley Authority--Fiscal Year 1977-1979," EMD-80-91, Aug. 13, 1980.

3/Coopers and Lybrand, "Review of Certain Internal Controls in the Tennessee Valley Authority," January 1982, pg. 13.

acquire major resources (over 50 MW capacity) must be in conformance with the regional plan or approved by the Congress. Public involvement is required during development of the plan.

#### Private utilities

Private utilities are responsible for long-term planning with approval and or review provided by the appropriate State regulatory commission(s) or State energy offices. Many States now develop independent load forecasts and resource analyses to check against utility proposals. Although the process varies from State to State, State regulatory commissions, in general, want assurance the utility's retail rates reflect good planning and decisionmaking.

#### Synthetic Fuels Corporation

The Energy Security Act requires the Synthetic Fuels Corporation to develop a strategic plan by 1984 outlining the Corporation's goals and how the Corporation's Board proposes to meet those goals. The plan and any amendments must be approved by the Congress. The Board must report annually to the Congress on its projects and identify how each project contributes to the achievement of the goals in the strategic plan.

#### Stockholder oversight

##### TVA/BPA/Synthetic Fuels Corporation

As Federal entities none of these organizations have investing stockholders. Rather they look to the Congress and the President for the policy guidance stockholders normally provide and for the selection of their Board of Directors or Administrators.

TVA and BPA differ from other publicly owned utilities in that their management is not elected by the consumer/owners of the system. In contrast TVA's Board is appointed by the President and confirmed by the Congress; BPA's Administrator by the Secretary of Energy. This type of oversight is provided, in part, to BPA by the regional power council appointed by the Governors in BPA's service area. TVA has no such council. The TVA Act has no provisions for the residents of the Tennessee Valley or their elected representatives to have any formal control over TVA policies and programs except through the President and the Congress.

#### Private utilities

Private utilities as private companies have individual stockholders. Private utility stockholders provide direct management oversight through their ability to elect board members and adopt policy positions and statements at stockholder meetings. The elected board members are then responsible for employing utility

management responsive to the priorities and concerns of the stockholders. If the management and subsequently the board are unresponsive to the stockholders, corporation by laws generally allow for their recall or replacement.

#### External review/approval of budgets

##### TVA

The power program budget is submitted to OMB for review annually before being sent to the Congress. The President and OMB can modify the Board's budget but this has not been done since the power program was removed from the appropriations process in 1959. A justification given at that time for TVA's becoming self-financed was its need to have funds for power operations etc., which were not subject to the Bureau of the Budget's (now OMB) approval process. Sponsors stated this was necessary to assure efficient operation of the power system. This philosophy and limited OMB staff resources have led to the current situation where the budget is submitted to both OMB and the Congress primarily for information purposes. Congressional approval of the power program budget is not required.

##### BPA

BPA's annual budget is first submitted to the Department of Energy (DOE) for review and approval. It then goes to OMB as a part of DOE's annual budget submission and is transmitted to the Congress. Throughout the process the budget is analyzed for conformance with national policies and compliance with BPA's statutory mandates. Changes in the budget proposed by the Administrator have been made at all three levels.

##### Private utilities

Private utility budgets are developed by management and submitted to the Board of Directors for approval. Utility budgets are also indirectly approved by the appropriate State regulatory commission(s) in their decisions on what utility expenditures can be recouped from rate payers and which expenditures stockholders must bear. State Commissions review the budgets to assure the utility is being operated in an efficient manner which will assure retail rates to the consumer are as low as possible. Frequently, costs the State Commission believes to be the result of poor management are not allowed to be recovered through power rates but must be paid by the utility's stockholders through reduced profits.

##### Synthetic Fuels Corporation

The Energy Security Act sets limits on the authorized funds available to the Corporation over its life. All expenditures after congressional approval of the strategic plan and goals identified in the statute must be consistent with the plan.



External review/approval of bond issuesTVA

TVA issues bonds for the construction of power facilities and for related activities. The bonds may be sold on the open market or to the Federal Financing Bank (FFB). Since 1974 all TVA bonds have been sold to the FFB, primarily due to a lower interest rate. The bonds are backed by the revenues and assets of TVA, not the U.S. Government. However, as the FFB gets its funds from the Treasury, the U.S. Government in effect currently buys all TVA bonds. As long as TVA is within their statutory bond limit, neither FFB nor Treasury review TVA's financial status prior to FFB buying the bonds.

BPA

BPA sells bonds directly to the Treasury, as the agency does not have the authority to sell bonds on the open market. Treasury does not review BPA's financial position prior to issuing the bonds. OMB does review BPA's financial standing before approving EPA's annual request to borrow in their budget submission. BPA's financial position is indirectly reviewed by securities analysts when bonds are issued on the market by regional utilities to finance power plants for which BPA is contractually committed to pay.

Private utilities

Nonregulatory oversight of private utility operations is provided indirectly by the bond market. In determining the bond ratings for individual utilities, investor services consider among other things, the utility's financial position; long-term plans, (particularly capital intensive construction programs); management philosophies; and State regulatory commission policies and decisions on the utility's rate revenues. The bond ratings and accompanying analyses are then used by potential investors in utility stocks and bonds to determine whether to invest, and in the case of bonds, what interest rate to offer. In many States the bond ratings are also used as a legal investment risk threshold for specific types of group investments such as pension funds.

Synthetic Fuels Corporation

Corporation obligations are directly issued to the Treasury. As long as the corporation is within its statutory bond limit, no analysis is done by Treasury, which must purchase the bonds within five days of issuance by the Corporation.

External review/approval of wholesale ratesTVA

TVA rates are not subject to review beyond the Board of Directors. The TVA Act does not provide for FERC review and the courts have held the rates are not subject to judicial scrutiny. Section 15d(f) of the TVA Act is specific on the costs that rate revenues must be adequate to cover, although controversy has developed over TVA's authority to capitalize interest under the Act. <sup>1/</sup> There are no statutory requirements for public involvement in the TVA wholesale rate process. TVA does voluntarily provide for public input although the time limitations have been stringent.

BPA

The Northwest Power Act requires the Administrator of BPA to follow set procedures in developing wholesale rates including comprehensive requirements for public involvement and a record of decision justifying the final rates in writing. BPA rates must be approved by FERC and are judicially reviewable.

Private utilities

FERC is charged under the Federal Power Act with assuring that the wholesale rates of private utilities are reasonable. FERC was given this authority by the Congress to protect the public interest. FERC's authority to review utility rates is broad and may encompass such issues as rates of return, allocation of costs and cost of service studies. FERC decisions are judicially reviewable.

Synthetic Fuels Corporation

Wholesale rates are inapplicable to the Synthetic Fuels Corporation.

Public information and involvementTVA

The TVA Act does not require public involvement or information programs. Current TVA programs have been implemented since

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<sup>1/</sup>The subject of TVA deferring interest on its construction financing is currently at issue in a court case brought by ratepayers. (Tennessee Valley Energy Coalition et. al. vs. Tennessee Valley Authority et. al., U.S. district Court for the Middle District of Tennessee, Civil Action No. 81-1069).

1975 when Board meetings were opened to the public for the first time. TVA's current public involvement programs are voluntarily and at the discretion of the Board. These programs include Board meetings throughout the region.

#### BPA

Both BPA and the Pacific Northwest regional council are required to maintain comprehensive public information and involvement programs. One of the six purposes of the 1980 Northwest Power Act was to provide for State and local Government, special interest group, and public participation in the development of regional power plans and programs. Specific public involvement procedures must be followed by BPA in setting wholesale rates and acquiring major resources.

#### Private utilities

Privately owned utilities are subject to public involvement in most major areas of activity through State rate review and approval hearings and State hearings on the siting of new power plants. Members of the public and special interest groups are allowed to address and dispute utility load forecasts, cost of service studies, and other utility documents and positions at these hearings. Public testimony is considered before the final decision or order is issued.

#### Synthetic Fuels Corporation

All Board meetings of the Synthetic Fuels corporation with the exception of those discussing topics or information specifically exempted by the Energy Security Act must be open to the public and announced in advance.

OPTIONS FOR IMPROVED OVERSIGHT

There are few statutory oversight provisions relative to TVA's power program. The Board has absolute and final authority in many issues including resource development, load forecasting, rates, and regional power planning. Under current legislation further congressional action on TVA's power program will not be required until 1984 assuming all current Board members serve their full terms. There are no requirements on the Board for public involvement or regional oversight by the States in TVA's service area or in the operation and management of TVA's power program.

The request for this report, recent media emphasis, and our discussions with TVA customers and Tennessee Valley consumer groups all point to a growing concern with TVA activities, and with how additional control can be exercised over the agency by the Congress or the ratepayers of the region. However, many of the problems facing TVA as a Federal entity and as an electric utility are also facing other entities and utilities. It would be misleading to imply that issues, such as rising rates and the amount of construction, which are frequently raised are unique to TVA and result solely from its independence. This is not the case. On the other hand concerns related to influencing, understanding, and reviewing key Board decisions and policies are tied at least in part to the limited opportunity for oversight of TVA's activities.

Problems with the TVA decisionmaking process were identified in our discussions with outside groups. Regional consumer groups stated that when public input is solicited, it was felt to be a token effort because the Board had already "made up its mind." This may be in part because the Board rarely explains its decisions, either formally or informally, in such a way that the public understands why one alternative was selected over others, how the public comments were handled, or how the decisions were made.

The recent action taken by the Board to raise the compensation level of top TVA officials above the Federal pay cap is an example. After adopting a policy to award retention bonuses, the Board was unable to justify the amount selected for the bonuses, specifically identify to whom they would be offered or show specifically how the plan would solve the problem of retaining key personnel. After proving to be extremely controversial both inside and outside of TVA, the Board, facing congressional action to halt the plan and a GAO advisory opinion questioning its legality, reversed its position.

The public needs more information to understand and evaluate major Board decisions and policies, and so does the Congress and the President. This lack of information and understanding appears to be compromising TVA's credibility at a crucial time in its history.

In identifying and evaluating options the Congress could undertake to improve oversight relative to TVA's power program, we divided

the options considered into two categories--actions which do not require statutory changes and those options which do. 1/

#### OPTIONS POSSIBLE UNDER CURRENT STATUTE

Even though the Congress is required to act only in the approval of Board nominations and changes in TVA's bond ceiling, other options exist within current statutes for increased oversight actions. We addressed two of these options

- regularly scheduled oversight hearings and
- comprehensive OMB review of the TVA power program budget.

#### Regularly scheduled oversight hearings

In general, past congressional oversight hearings on TVA's power activities have been the result of controversy, either in the region or the Congress, over Board decisions or actions. TVA staff expressed frustration over this situation and the fact that for the most part the hearings focused on a single issue. TVA staff suggested regularly scheduled hearings would provide a non-adversarial forum for TVA to present to the Congress information on the power program. This presentation could include the identification and discussion of key and controversial issues facing the Board and of problems which require congressional action for resolution. The Congress could also raise its own issues of concern for discussion with the Board and other parties present. Optimally the outcome of these hearings would be the Congress providing TVA with policy guidance and where appropriate adopting any legislation necessary for TVA to fulfill its mission. A biannual hearing by the appropriate congressional committees in conjunction with TVA's budget hearings was proposed by TVA staff.

Scheduled hearings could be anticipated and major Board actions could be put on a timetable to optimize congressional input in their decisionmaking processes. As a part of the hearings TVA could be required to fully inform the Congress of the direction the agency was headed. This would be beneficial also to the Tennessee Valley region, State governments, consumer groups, and TVA customers who frequently expressed the concern that no one outside the Board knew what the agency was proposing, if anything in terms of long-term, 25-year direction. During this oversight process these groups could have an opportunity to provide the Congress with comments on TVA policies and proposals.

The proposal also has a possible drawback. In essence the Congress could become active in TVA's management and operations, to the extent that it assumed the management responsibilities

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1/We did not analyze the option of the Congress authorizing an Inspector General for TVA as this is covered in a separate GAO report.

statutorily delegated to the Board of Directors. The result of this could be the "straightjacketing" of TVA programs the Congress in 1933 strived to avoid.

Comprehensive OMB review  
of the TVA power budget

At the present time OMB only performs a cursory review of the annual power program budget. This is the result of both a lack of explicit approval authority for OMB, staff limitations, and a TVA position that OMB involvement with this portion of the TVA budget is unjustified on the basis of TVA's statutory independence and legislative history.

We believe, however, that the level of OMB involvement should also be based on TVA's status as a Federal entity under the control of the President and the Congress. That TVA power funds are not appropriated but come from regional power revenues does not alter the fact TVA and its assets are owned by the United States Government, its financing is provided through the Department of the Treasury, and that the Board of Directors is responsible to the President and the Congress. As the Nation's largest utility TVA's power program should reflect national energy policies and priorities. Further, the Federal Government is a major user of TVA power and correspondingly a major source of revenues. More comprehensive reviews on the part of OMB could provide the Congress, the President, and the public with a more objective understanding of TVA's power program and related expenditures and how both relate to national fiscal and energy policies.

The potential disadvantage associated with a more comprehensive review of the TVA power budget is similar to that of more extensive congressional involvement. In order for the utility to function efficiently the Board should be responsible for day-to-day, long-term management and operational decisions. Depending upon the individual administration's philosophies and longevity, this necessary flexibility could be jeopardized. In addition, OMB may need more staff in this area to do a comprehensive review.

OPTIONS REQUIRING  
STATUTORY CHANGES

The Congress has at all times retained the ability to alter TVA's enabling legislation and as noted earlier, did so a number of times in the 26 years between 1933 and 1959. Since 1959 the Congress has made only minor changes to the act except for increases in the bond ceiling. As discussed in the following sections, changes in the legislation could be used to provide policy guidance to the Board in areas the Congress believes to be desirable as well as a basis for assuring TVA's power program reflects national policies. Legislative changes may also be valuable in updating TVA's role in both the region and the utility industry.

- Options in this category which we addressed are
- placing the TVA ratemaking process under FERC;
  - requiring the Board to publish records of decision on major rate and resource development actions;
  - requiring the Board or alternatively a regional council, to develop a long-term strategic plan for the regional power program,
  - adding policy guidance relative to conservation, and public involvement and participation in the TVA's power planning process to the TVA Act; and
  - reducing TVA's bond ceiling.

#### FERC approval of TVA rates

This option can be accomplished by amending section 15d(f) of the TVA Act to require FERC approval of TVA rates. As BPA rates require FERC approval we have borrowed from their experience in identifying the pros and cons of this option. On the positive side, with FERC review, TVA rates would be subject to mandatory scrutiny by parties outside of TVA, therefore TVA customers unhappy with the proposed rates could take their concerns beyond the Board and have their position addressed. According to BPA, their customers believe this type of appeal to be critical even though historically FERC has approved the proposed rates.

On the negative side, BPA and FERC disagree on the criteria FERC should be using to review BPA rates. Because BPA is a federally owned, not a private utility, different standards are necessary than those followed for FERC's review of private utility wholesale rates. BPA has consistently held that FERC review should be limited to those criteria identified in their enabling legislation, i.e., that BPA rates provide adequate revenues to recover costs and repay the Federal investment in the individual power system. Historically this has been the basis of FERC action. Since the late 1970s, however, FERC has maintained its review should also address such issues as consistency with national energy policies and goals. BPA has maintained that this scope of review is beyond FERC's authority. The current Commission has backed off somewhat on the issue but this debate, coupled with a lack of FERC staff, has placed FERC 2 to 3 years behind in approving BPA rates. This delay makes it difficult for BPA to adequately plan and budget its financial resources even though the rates do become effective on an interim basis subject to reimbursement if disapproved.

In addition to this potential problem, the TVA Act as currently written makes the TVA Board solely responsible for operating the power program and setting rates at an adequate level to recover the costs identified in the act. The courts have held that because of this provision TVA rates are not judicially reviewable. To require FERC

approval would potentially conflict with the Board's responsibility and accountability for rates and revenues. If the rates allowed TVA did not cover costs, the financial integrity of the power system could be undermined. The Board's authority to set rates without further review and the requirement rates must cover costs is considered important to the financial community, which would rate TVA bonds, absent TVA having access to the Federal Financing Bank.

#### Records of decision

To gain most of the benefits provided by FERC review of TVA rates while avoiding the pitfalls, we looked at the possibility of the Congress amending the TVA act to include procedural requirements for the ratemaking process, specifically

- publishing the proposed rates in the Federal Register with a statement of the justification and reasons supporting such rates;
- holding public hearings to develop a full and complete record and to receive oral and written comments on views, data, questions, and arguments related to such proposed rates;
- publishing of any revisions and the basis of the revisions in the Federal Register; and
- publishing of the Board's decision on the final rates in the Federal Register, with a full and complete justification of the rates adopted and reasons for rejecting other rate proposals to be made available for public review. 1/

These procedural requirements and public records of decision would directly address two concerns frequently raised in our interviews. First, the public, special interest groups, States, and other interested groups would be guaranteed an opportunity to review and comment on all TVA rate proposals ahead of their being adopted. Second, the Board would be required to justify and explain the methodologies used in developing the rates as well as why alternative proposals were rejected, in effect responding to the public comments received. This option would not provide for "outside" review of the rates, final authority would still rest with the Board. Although with this information, the Congress would be in a good position to review Board actions.

#### Requirements for a strategic plan

In a 1978 report 2/ on TVA's power program, we recommended TVA prepare a long range (minimum of 25 years) strategic plan to be

1/Consideration of this option may involve the scope of Judicial Review.

2/"Electric Energy Options Hold Great Promise for the Tennessee Valley Authority," November 29, 1978, EMD-79-91.



presented to the President and the Congress. The plan as recommended would contain a long-range load forecast and TVA's proposal for meeting those loads. We recommended TVA obtain review of the plan from a wide spectrum of the regional population, with implementation of the final plan evaluated by GAO with periodic reports to the Congress. In a followup review 1/ in 1980, TVA indicated it was developing such a plan. To date no such plan has been released.

A statutory requirement for a strategic plan would assure that the Congress is informed as to where TVA's power program was going and provide an opportunity for policy input. It would also inform TVA management on Board policies and directions. A 1975 consultant's report done for TVA concluded many TVA executives want more effective planning and felt that a document summarizing TVA plans would be beneficial to the agency. Our discussions with TVA staff confirmed this to be true today. TVA planning staff, consistent with a January 1982 consultant's study, is in the process of developing a planning strategy which is coordinated with TVA's budget planning process. It is not clear what the result of this process will be or when a plan will be released.

As part of the process of implementing any long-term plan, additional oversight could be provided by requiring records of decision and public involvement procedures such as those presented in the discussion of the ratemaking process. As with rates, these procedures would help assure the TVA Board considers public input in making resource development decisions and explains the basis for and impacts of their decisions.

We also identified two possible suboptions related to a requirement for improved strategic planning

- submission of TVA's construction program to the Congress and
- establishing a regional council to do power planning.

In the original 1959 Amendments the TVA construction program had to be before the Congress for 90 days prior to action being taken on new projects. Reinstatement of this requirement would ensure the Congress an opportunity to review the proposed actions, TVA's justification for taking the action, and in appropriate cases, obtain additional information from other sources or schedule hearings. This approach is consistent with TVA actions in January 1981 seeking congressional input on what course of action the Board should take on the powerplant construction schedule in light of updated load forecasts. Subsequent to publishing an "options paper" on the situation, briefing congressional members and staff, and holding public hearings on the issue, the Board decided to defer construction on additional

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1/"Triennial Assessment of the Tennessee Valley Authority--Fiscal Years 1977-1979," EMD-80-91, Aug. 13, 1980.

units. It is unclear if the Board will provide a full justification of their final decision for public and congressional review.

An alternative to having the Board responsible for long-term regional power planning is to vest this responsibility with a regional planning council established for this purpose. This proposal was initially raised by a group of TVA customers at the March 1981 oversight hearing and has been proposed by other groups since. The major advantage of this proposal is that it would increase regional participation in and control over a regional power program. Assuming council members are appointed by State governors in the region (this is the 1980 compromise worked out for the Northwest Power Act), the philosophies of the council representatives would presumably reflect more closely regional desires and concerns than a Board appointed by the President from national candidates. In addition, a regional council could provide oversight in areas currently missing at TVA--oversight provided private utilities by State energy offices and utility regulatory commissions. Forecasts and resource evaluations may also be viewed as more objective than those done by TVA executives whom the public sometimes perceives to have a vested interest in an expanding power program.

The disadvantages of this proposal relate to the Board's statutorily assigned responsibility for not only the power program but also regional development. An important part of TVA's initial mandate was to improve the economy of the Tennessee Valley and standard of living. According to TVA's January 1982 option document on the construction program it is still "TVA's objective [to provide] an ample supply of electric power at the lowest feasible rates to support high economic growth and the physical and social development of the Tennessee Valley region." <sup>1/</sup> Accordingly, TVA's nuclear construction plan has historically been geared to meet a high load forecast. A regional council would perhaps disagree with this philosophy and adopt a regional power plan limiting future energy growth, thus potentially frustrating TVA's regional development program if it is dependent upon the construction of additional generating units the council does not endorse.

#### Additional statutory policies

The TVA statutes contain limited policy guidance for TVA's power program. The Congress, by amending the existing legislation to address additional policy issues, could have a more effective and ongoing role in influencing actions of the Board. For example, in 1978, <sup>2/</sup> we recommended that the Congress amend the TVA act to ensure national

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<sup>1/</sup>"Review of the TVA Load Growth/Plant Construction Situation," TVA, January 1982, Page 1.

<sup>2/</sup>"Electric Power Options Hold Great Promise for the Tennessee Valley Authority," EMD-78-91, Nov. 29, 1978.

energy policies are endorsed by the Board. Specifically we recommended that the Congress require TVA to

- acquire resources which are cost effective, giving first priority to conservation and renewable resources.
- develop and implement comprehensive public information on involvement programs.
- provide for the participation of the States, local governments, TVA customers the region's ratepayers, and the general public in power planning.

Inclusion of such policies would provide a statutory basis for evaluating the adequacy of Board actions and programs in these areas; in effect, making the Board more accountable under the TVA Act. Because the amendments constitute policy guidance from the Congress--not program or management interference--the Board would be able to continue managing and operating the TVA power system as they have since 1933.

#### Reduction in TVA's bond ceiling

During the debate prior to passage of the 1959 amendments to the TVA act, supporters pointed to the limit of the amount of bonds TVA could issue as a continuing point of oversight. It was anticipated TVA would have to return to the Congress for additional bond approval every 4 to 7 years as the power program expanded. As previously discussed, this was the case through 1979 when the ceiling was raised to its present \$30 billion. Of the current ceiling \$9.3 billion was obligated in 1979 and \$6.4 billion was the anticipated cost of finishing TVA's ongoing construction program, leaving \$14.3 billion to finance through 1985 future capacity requirements into the 1990--approximately 7,200 MW. It has been the traditional position of the TVA Board that bonding authority beyond completion of the current construction program is necessary to provide the Board with the flexibility needed to take care of contingencies, inflation, and other unknowns.

Since the Congress last acted to raise the ceiling, however, TVA has adjusted the regional load forecast downward several times and consequently has deferred 8 out of 14 nuclear units under construction in 1979. The result of these deferrals is a marked decrease in the rate at which TVA must borrow construction funds. The reduced rate will extend the time prior to the next congressional review beyond the 1985 date anticipated in 1979. The Congress could, therefore, consider reducing TVA's bonding authority to a level adequate to cover the construction program through 1985 based on current spending.

There are several advantages to this option. First, it would restore congressional actions on the bond ceiling to the schedule originally anticipated. Second, a reduction in TVA's bonding

authority would assure the Congress of a voice in TVA's future construction programs should construction of the deferred units be restarted.

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