Public Citizen recently highlighted "a lack of quality assurance in the construction and operation of TVA's nuclear reactors." Although TVA managers have increased the efficiency of their reactors in the past few years, the anti-nuclear movement notes that TVA's power plants are aging and their major components are degrading, posing, as a result, future threats.

Rather than promote energy efficiency, TVA has used promotional campaigns and subsidized rates to encourage its consumers to be wasteful guzzlers. The average Tennessee resident uses more electricity than consumers in any other state, more than 50 percent above the national average. The other six states partially electrified by TVA also rank among the most energy intensive. Decrying TVA's early promotion of electric heating rather than less-expensive, more-efficient and less-polluting natural gas, former TVA Director David Freeman observed that TVA customers were "snookered into using so much electricity." If a Tennessee homeowner in the 1950s had installed a natural gas furnace instead of an electric heater, he or she would have saved more than $300 each year in energy bills. TVA, at the same time, would have avoided the need to build expensive and polluting power plants.

Perhaps TVA's most renowned environmental controversy centered on the Tellico Dam, which the agency decided in 1963 to build on the Little Tennessee River down the Valley from Knoxville. Although TVA projected the project would create 40,000 jobs and an annual benefit of $3.76 million (1967 dollars), it faced fierce opposition from fishermen, the Tennessee State Planning Commission, and the Cherokee Indians (who would have had their sacred capital and ancient burial grounds flooded). While TVA was using its right of eminent domain to buy up adjacent land, an ichthyologist performing a study required by the National Environmental Policy Act discovered the snail darter, a tiny fish which subsequently was listed as an endangered species protected by federal law. TVA steadfastly proceeded with the dam's construction and refused to discuss alternatives that might preserve the darter. The struggle became the focus of national media attention and it reached the U.S. Supreme Court in 1978, when the justices voted to enjoin TVA from completing the dam.

The following year, the so-called "God Committee" -- composed of seven presidential cabinet secretaries who had life-or-death power over species -- voted unanimously to reject the Tellico Dam. The group concluded that the project was ill-conceived and that although 95 percent complete, most of the $116 million expended on land purchases and road construction would remain valuable even without the use of the dam.

TVA and its political supporters, however, were not about to be stopped by the mere Supreme Court or the God Committee. The Tennessee congressman representing the district in which the dam is located proposed a "rider" on the Energy and Water Appropriations Act of 1980 that exempted Tellico from all federal laws, including the Endangered Species Act, and mandated the dam's completion. According to congressional rules, such "riders" are to be noncontroversial and must obtain unanimous consent of all those present on the floor of the House of Representatives. Yet the Tennessee lawmaker introduced his measure when few other members were on the floor and claimed the amendment was noncontroversial.

The Tellico Dam, as result of that maneuver, was completed. The snail darter vanished from the region. TVA demonstrated its political clout. Yet the experience demonstrated to many that the arrogant agency was beyond control.

Arrogance

Inopining billions of federal subsidies, one Tennessee lawmaker recently asserted: "The people of the Tennessee Valley owe TVA. We have paid for the construction of the assets of TVA -- the plants, transmission lines, and infrastructure -- lock, stock, and barrel. We should determine the future of TVA."

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This leave-us-alone-and-keep-sending-the-subsidies attitude reflects a welfare culture that lacks accountability. With all its exemptions, TVA doesn't have to worry about federal or state regulators. With its long-term and guaranteed contracts, it is immune from competition and normal market forces.

Craven Crowell, TVA's current chairman who was appointed by President Clinton in 1993, when asked about the agency's future, declared proudly, "You can't ignore us, you can't leave us behind, you can't break us up, and you can't sell us."

TVA constantly seems to be trying to wriggle out from under the "fence" imposed by Congress in 1959. A federal court in August 1996 ruled that the federal agency was using a marketer to create "interchange arrangements" that illegally sold power outside the fence. In 1997, TVA was forced to settle a similar suit, and it promised to try harder to adhere to federal law.

Despite the arrogance, TVA can be thin skinned. When private utilities and other critics in 1997 seemed to be gaining ground in the public debate about the agency's future, TVA asked the Attorney General to determine if those utilities were guilty of "undermining TVA's ability to compete." TVA alleged a "conspiracy" and noted that the recommended punishment would be a $5,000 fine and up to five years in jail. Many critics found it ironic that a federal agency exempt from antitrust laws would try to use those very laws to silence its critics. What appeared to some as a publicity stunt by TVA managers to distract attention from their poor political decisions, appears to others as a scene from George Orwell's 1984.

Luring Business

Members of the Northeast-Midwest Congressional and Senate Coalitions are concerned about the regional inequities posed by TVA. Taxpayers in northeastern and midwestern states, who pay some of America's highest electrical rates, unwittingly subsidize power bills in the Tennessee Valley. Yet at the same time, TVA uses those very subsidies and the promise of cheap electricity to lure away businesses and jobs from those same taxpayers.

TVA director Johnny Hayes, for instance, wrote personalized letters encouraging CEOs to relocate their firms to the Valley. Boasted Hayes: "The TVA economic development region is the best place in the United States to locate your business, no matter what its size."

TVA also has developed and placed slick advertisements, complete with an image mixing a fish hook and electric plug, proclaiming: "TVA Lures Business." The agency's credit program offers significant savings to new commercial and industrial customers. Even TVA's distributors get into the act. In web-site and other advertisements, the city of Chattanooga, Tennessee, tries to attract firms by noting that "power distributors throughout the region distribute electricity from TVA and provide a high level of reliable, low-cost service throughout the Chattanooga region."

Lobbyists and Cronies

TVA long was blessed with powerful political allies. Howard Baker, Howell Heflin, James Sasser, Jamie Whitten, Tom Bevill, Albert Gore, Jr., and others defended the agency's benefits in Congress against all attacks. Yet as these politicians retailed, were defeated, or moved on to national office, TVA could no longer count on senior, well-placed champions on Capitol Hill. To make up for that political loss, TVA has been spending substantial sums on high-priced lobbyists, despite a law prohibiting such lobbying by federal employees.
To supplement TVA's own $3.8-million in-house communications and governmental affairs staff (a euphemism for in-house lobbyists), the agency in April 1998 signed a $1.2 million public relations contract with Hill & Knowlton, the New York based giant. Four months earlier, it approved a $240,000 no-bid contract with Lent & Scrivner, a Washington lobbying firm with strong Republican connections. It also provided at least $181,000 to Baker Donelson Bearman & Caldwell, where former Senate Republican leader Howard Baker Jr. is a partner. To cover its Democratic bases, TVA has paid $500,000 a year to Jack Quinn, former White House counsel and chief of staff to Vice President Albert Gore, and it has provided Peter Knight, former manager of the Clinton-Gore reelection campaign, with about $600,000.

No doubt having the vice president hail from Tennessee benefits TVA politically, and the connections between the agency and Gore are substantial. Johnny Hayes, whom the Clinton-Gore administration nominated to a second term as a TVA director, was Gore's chief fundraiser for his past campaigns for U.S. representative, senator, and president. Peter Knight, who registered as a TVA lobbyist, was manager of the Clinton-Gore 1996 reelection campaign, director of Gore's vice presidential campaign, national finance director of Gore's 1988 presidential campaign, and legislative assistant from 1977 to 1989 for Gore when he served in the House and Senate. Mark McNelly, another former Clinton-Gore campaign aide, has received more than $100,000 for public relations consulting. Joseph Trapasso, a former White House associate counsel, also is registered with Congress as a TVA lobbyist.

Gore family members, in fact, have been long-time TVA defenders. The vice president's father, Albert Gore, Sr., defended TVA on the Senate floor in the 1950s when the Eisenhower administration sought to limit the utility's expansion. When he himself was a senator, Albert Gore, Jr. attacked the Reagan administration's efforts to cut TVA's nonpower programs as being "so unreasonable that it would represent the destruction of TVA."

Rep. Zach Wamp (R-TN), chairman of the TVA Caucus on Capitol Hill, refers to Gore as TVA's "ace in the hole." According to Wamp: "With his support, TVA can come away losing some fingers and some toes, but we'll have all of our extremities intact. His support is absolutely crucial."

The vice president's office, although trying to keep a low profile, recently spearheaded lobbying efforts to maintain federal appropriations for TVA, launched a failed effort by the Department of Energy to reduce disagreements among Valley constituents about TVA's future, and rallied support for a bailout of TVA's incomplete Bellefonte nuclear reactor. According to TVA critics, the vice president's support of TVA, despite the agency's mismanagement and debt, presents political problems for his future campaigns. Former New Hampshire Governor Steve Merrill already is arguing in his early presidential primary state that Gore is trying to tax New Hampshire residents so that Tennessee consumers can enjoy subsidized electricity.

Even TVA's defenders in Congress question some of the agency's lobbying contracts. Senator Mitch McConnell (R-TN) cited the Hill & Knowlton arrangement as an example of how TVA is "an inefficient and costly power provider." Rep. John Duncan (R-TN) complained, "I feel that TVA spends too much money on lobbying when they have staff people and directors who are supposed to be doing that kind of work."

TVA critics are even more harsh, suggesting that TVA chairman Crowell is using the agency to support his cronies. "It's a mess," said Jim Riccio of Public Citizen, "Basically, Craven Crowell is running a little fiefdom and serving his friends."

TVA, for instance, paid at least $300,000 for "strategic" and "communications" advice to Ingram Group, which employs James Pratt, the press secretary to former Democratic Senator James Sasser when Crowell served as Sasser's chief of staff. It provided at least $1.1 million to Siegenthaler Public Relations whose head, Tom Siegenthaler, is a longtime Crowell friend. The agency even contracted for $123,000 with former TVA chairman John Waters, who once was Crowell's boss.
Crowell also provided $50,000 to Louis Gwin, who was TVA's assistant director of information when Crowell was information director. Tom Seigenthaler, brother of Crowell's former boss at The Tennessean newspaper in Nashville, received $300,000 for public relations support. Wendell "Sonny" Rawls, another friend and former co-worker at The Tennessean, obtained $400,000 to research economic development opportunities in China. The Knoxville News Sentinel subtly mocked Rawls' qualifications for such international work by quoting a TVA spokesman: Rawls was chosen "because of his background in winning a Pulitzer Prize for reporting. His winning entry was on nursing home abuses in Philadelphia."

Bonuses and Questionable Contracts

Crowell and other senior TVA officials also seem to treat themselves and their colleagues well. So well, in fact, the TVA's Inspector General in early 1998 lambasted agency operations, including secret retirement accounts, six-figure bonuses, and non-competitive consulting contracts. Perhaps the best description of the charges comes from an editorial by the Chattanooga Times, a key Valley newspaper that usually defends TVA. "One of the most egregious abuses is in the area of compensation," commented the paper. "TVA secretly established a Senior Executive Retirement Plan (SERP) in 1996 and funneled almost $5 million in previously undisclosed contributions through it to 24 high-ranking managers over the past two years. Neither the agency's Inspector General, nor congressional leaders, nor the general public, knew about the SERP until the IG discovered it last month."

The Inspector General also attacked TVA's end-of-the-year bonuses to key managers. According to Electricity Daily, "The Tennessee Valley Authority sweetened the holidays for some of its top executives, but the agency's decision to award six-figure bonuses has soured a Tennessee congressman. Rep. John Duncan Jr. (D-TN) said ... he was disgusted that TVA paid out $1.9 million to 84 of its top executives in year-end bonuses. The Knoxville congressman said he believed the agency was using the bonuses to dodge a salary cap imposed by Congress."

The generous consulting contracts noted in the previous section also were lambasted by the Inspector General. Again in the words of the Chattanooga Times: "TVA's free-flowing millions on consulting contracts (631 consulting and training contracts with 350 different vendors totaling $145.1 million, with an average of $29 million per year over five years) are equally disturbing. Excessively generous contracts are given to cronies or friends of top managers without bids or acceptable oversight. The practice suggests irresponsible fiscal management is not being applied and undermines TVA's integrity and its pending request for federal appropriations."

Playing Hard Ball

While TVA is quite generous to its managers and their friends, it maintains a rather domineering relationship with its own customers. TVA consumers, in fact, are burdened with long-term, all-requirements contracts which they can terminate only by providing a ten-year notice. These are not ten-year contracts that expire; they are rolling provisions that after each new day cannot be terminated for another ten years. The municipal utilities and rural electric cooperatives that buy power from TVA, as a result, are restricted from the benefits of competition; they cannot even obtain realistic price quotations for power to be supplied in ten years. The Federal Energy Regulatory Commission does not allow private utilities to use similar anti-competitive provisions.

T. County Electric Power Association, wanting lower rates, notified TVA in December 1993 that it would be seeking another power supplier. Earl Weeks, the Mississippi association's general manager, subsequently received some 30 bids from other electric generators, several of which would have saved the association more than $7 million annually in.

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wholesale power costs. TVA, unwilling to lose a customer, responded aggressively. According to Weeks, TVA lobbied 4-County's biggest customers "to put pressure on us to rescind that notice." More troubling to the association manager, TVA representatives "questioned my integrity" by suggesting to customers that perhaps Earl Weeks didn't know what he was doing. But TVA's most effective tactic was to threaten cancellation of a lignite-burning power plant and elimination of the associated construction jobs and economic development in that employment-hungry region. Not surprisingly, 4-County Electric buckled under the pressure.

The Bristol Utility Board in southwest Virginia met similar resistance when it notified TVA that it, too, wanted to leave Angry about high industrial electricity rates, the municipal utility gave TVA "years of forewarning" that it wanted to end its 52-year relationship and to seek bids from other suppliers. TVA's price offer turned out to be the very highest of 20 bids. Therefore, Bristol in 1997 signed a contract to purchase electricity for its 15,000 residents from Cinergy of Cincinnati, Ohio, saving the local government $70 million over seven years, double the city's annual budget. TVA responded by secretly trying to sell power directly to Bristol's industrial customers for 2 percent less than the best bid (and well below what TVA had previously been charging, and well below the agency's recent bid). TVA also promptly charged Bristol $54 million for "stranded costs" investments the federal agency claimed it made with the expectation that it would continue to supply power to Bristol. Rep. Rick Boucher (D-VA), the local congressman, reacted with angry letters and volatile hearings. He claimed that TVA was using tactics "to punish a former customer for exercising its legal right to obtain power from a less expensive supplier. TVA is seeking to make an example of the city of Bristol so as to discourage any other community presently served by TVA from considering the purchase of power from a TVA competitor." After a Boucher-inspired hearing before the House Judiciary Committee, at which die-hard liberals such as Reps. Barney Frank (D-MA) and John Conyers (D-MI) asserted that TVA's arrogant ways and monopolistic practices would make FDR turn over in his grave," and after it appeared that the Federal Energy Regulatory Commission would not allow the agency to recover these costs, TVA backed down, announcing that it would no longer seek stranded cost recovery from Bristol.

As other customers took hope from Bristol's victory. Representatives of the "Big Five" (municipal utilities in Nashville, Chattanooga, Huntsville, Memphis, and Knoxville), which constitute 30 percent of TVA's market, began meeting to discuss strategies. Larry Fleming, general manager of the Knoxville Utilities Board, which is about ten times larger than Bristol, said other distributors want a deregulated industry in which they can purchase less expensive power in a competitive market without having to pay TVA for "stranded investment costs."

The Valley's municipal utilities and rural cooperatives are making progress, albeit slowly. TVA recently said these distributors can avoid paying stranded costs if they sign new ten-year service contracts that include a five-year cancellation notice (reducing by five years the current notice requirement).

Yet TVA is not welcoming competition. It defends vehemently its right to restrict other power suppliers from moving or "wheeling" electricity over TVA's grid to customers inside the fence. That effectively leaves Valley residents with just one option: Pay what TVA charges or go dark.

**Few Benefits Within the Valley**

Valley residents, as a result, seem to have a love-hate relationship with TVA. Many remember the federal agency as having battled poverty. Yet TVA's arrogance is running thin. It has polluted the region and forced thousands to leave their homes to make ways for dams and parks. Despite enormous taxpayer subsidies, years of mismanagement and bad decision-making have resulted in TVA's rates no longer being a bargain; many Valley residents see surrounding private utilities offering cheaper rates, and new competitors promising even lower costs.

Residents also have little control over TVA's actions. Private utilities are at least regulated by elected officials at the

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state, federal, and even local levels. Competitive enterprises also face the rigors of the market. But according to auth
William Chandler, "Until TVA is regulated as other utilities are, and until it is required to obtain congressional
authorization for its projects, the citizens of the Tennessee Valley will remain subject to the whims of three directors
appointed for long terms without being accountable either to voters or to politicians who are accountable to voter:

Valley residents, moreover, are trapped without options to TVA. The agency's distributors are locked into long-term
contracts that have been virtually impossible to break. TVA now wants exemptions from any utility restructuring law
leaving ordinary consumers without the ability to shop freely for better prices or improved services.

A Multi-Purpose Agency?

"If envisioned in its entirety," FDR said when proposing legislation in 1933, "TVA transcends mere power developer;
it enters the wide fields of flood control, soil erosion, afforestation, elimination from agricultural use of marginal lands
and distribution and diversification of industry." TVA, however, has become little more than a power company, devoting
only 1 percent of its resources to helping Valley residents with flood control, soil erosion, or afforestation.

"The myth is that the TVA is a multipurpose regional development authority working for and in touch with the
(Tennessee Valley's) grass-roots community," says Erwin Hargrove, a TVA scholar at Vanderbilt University. "That still
may have been true in the forties and fifties, but that's probably not true today."

Craven Crowell, however, doesn't miss the old days, and he likes TVA being a straightforward power company. In fact,
the chairman dubs TVA "America's Power Company." In an effort to curtail the image of TVA being a subsidized power
company and to prepare TVA for competing head-to-head with other power companies, Crowell decided in 1997 to a...

"This proposal would help TVA focus on our core business of generating and selling electricity."

The chairman faced months of intense criticism over his proposal, particularly from the Valley's congressional
delegation, which for years had spent enormous energy lobbying for those very appropriations. Crowell subsequently
stated that his previous proposal had been "misinterpreted."

**Congressional Criticism**

The House of Representatives in 1997 voted to eliminate appropriations for TVA's non-power programs. In a rather
scathing critique for a congressional report, House appropriators wrote:

"The Committee has concluded that it is far more appropriate for TVA to plan for its immediate downsizing and eventual elimination...

[TVA's] continued exploitation of these [direct and indirect competitive] advantages in furtherance of the Authority's naked ambition to compete
can be reconciled with neither basic tenets of free enterprise nor the
appropriate role of a limited federal government.

The Committee recommendation includes no appropriated funding for the
Tennessee Valley Authority (TVA) in fiscal year 1998. The bill does,
Congressional appropriators, however, took Crowell at his word, cut TVA's non-power programs for fiscal 1998 by more than 30 percent, and ordered an end to any future appropriation. Noting that TVA receives enormous taxpayer subsidies for its power programs, Congress directed the agency to pay for its mosquito control, economic development activities, and navigation expenses from electricity sales.

Sensing that change, Rep. Edward Whitfield (R-KY) and Senator Mitch McConnell (R-KY) proposed that Land Between the Lakes, a 170,000-acre recreational area on a peninsula in Kentucky isolated by TVA and Corps reservoirs, be transferred from TVA to the Forest Service. Unfortunately, few other officials within the Valley spent the year considering new arrangements, perhaps reviewing how interstate river basin commissions in other parts of the country address water issues. TVA officials blatantly ignored the congressional directive and spent their time trying to change the minds of appropriators. Although the Senate provided $70 million in its fiscal 1999 proposed funding, the House retained the previous agreement — no additional appropriations for TVA's non-power programs; conference negotiations are expected in September 1998.
Members of the Tennessee delegation may be lobbying intensely to sustain the utility's non-power appropriations, but the TVA chairman continues to undermine those efforts. The Chattanooga Free Press in July 1998 revealed an internal TVA document noting Crowell's support for managing the non-power programs with either appropriations or funds from electricity sales. According to the utility's chairman, "We never have to worry about a crisis in our non-power program if we didn't receive any (congressional) funding for some reason."

The case against more taxpayer subsidies is compelling. TVA may rhetorically argue that eliminating the appropriation would be unfair, but the only injustice is that 97 percent of American taxpayers are unwittingly subsidizing the electricity rates of the fortunate few who live within the Tennessee Valley. TVA officials also claim that power rates must rise if these appropriations are cut, but the appropriation represents just 0.0116 of the company's annual revenue, and, more importantly, TVA would still enjoy an estimated $1.2 billion in other taxpayer subsidies.

Facing Economic Realities?

To accumulate a $29 billion debt while enjoying monopolistic control over its service territory must rank among the most egregious examples of business mismanagement. While private utilities pay only 7 percent in finance costs, TVA pays 35 cents of every dollar it earns to service that enormous debt.

During the many years when the agency's debt skyrocketed, politically-motivated officials refused to raise revenue by increasing electric rates. In fact, they boasted that rates had not risen for a full decade. Yet in July 1997, TVA officials could no longer avoid reality -- they increased rates by 5.5 percent and announced an ambitious ten-year plan to cut the agency's debt in half (from $29 billion to $14 billion by 2007) and subsequently to reduce its prices by 16 percent (from 8 cents per kilowatt-hour to 3.5 cents by 2007).

The much-needed proposal demonstrates a new commitment to get TVA's financial house in order. Unfortunately, the plan provides little detail on important issues and includes numerous questionable assumptions. For instance, for TVA to argue that it will reduce its capital expenditures from $732 million in 1997 to $500 million in 2000 it must exclude the $1 to $3 billion it must spend to meet clean air requirements. TVA also fails to account for replacing or upgrading its aging coal, nuclear, and hydro units, and it assumes that it need not build any new generators to meet its own projected increased demand for electricity.

TVA, moreover, does not specify how it will achieve $2 billion in cost cuts. Although the electricity market throughout the country is becoming competitive and most utility restructuring bills before Congress eliminate electric monopolies, TVA assumes that it will retain monopoly control of its customers. Although TVA's total operating revenues since 1989 have declined more than 10 percent in real terms even while kilowatt-hour sales increased by about 35 percent, TVA unrealistically assumes that a rate increase in 1997 will result in increased revenues of $345 million in 1998, or more than 6 percent on average. And although TVA's operating expenses have increased in recent years, the agency projects that its operating expenses (less depreciation) will decline over the next four to five years and rise only by small amounts thereafter.

TVA's ten-year plan, in another questionable assumption, assumes it will save $1 billion by refinancing its $3.2-billion long-term debt held by the Federal Financing Bank without paying the required market value premium. However, Treasury officials, noting that TVA's proposal would cost taxpayers $1 billion, have rejected repeatedly the agency's previous refinancing appeals.

Moreover, TVA assumes that the energy market will not change, despite the billion-dollar-deals and aggressive competition engendered by new state restructuring programs. Consider just the potential competition from privately-owned generators fired by natural gas. Although pipelines have tended to avoid the Tennessee Valley, in part

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because of TVA's dominance, three natural gas firms showed up recently to compete for new markets in Clairobne County, Tennessee. Since innovative natural-gas-fired turbines can generate electricity cheaper than can TVA, industrial customers within the Valley may soon be able to generate their own less-expensive power. New microturbines are nag this option available even for commercial firms like a McDonald's restaurant, and engineers envision refrigerator-sized turbines supplying individual homes with electricity and heat. As new pipelines offer natural gas throughout the Valley, independent power producers also will soon compete for markets with TVA, throwing the giant's growth projections into serious question.

TVA also doesn't address its more than $6 billion in "deferred" assets at three nuclear power plants (Bellefonte 1 and 2, and Watts Bar 2). If it was to employ the same accounting principles as used by private utilities, TVA would "write off" rather than "defer" these debts. In 1984, TVA bit the bullet, abandoned accounting gimmicks, and increased rates to pay for the $3.6 billion spent but not recovered at eight canceled nuclear units. After taking a charge of $800 million against its accumulated retained earnings, TVA amortized the remaining $2.8 billion over an 11-year period. Taking a similar course today would lead to a one-time charge of $1.3 billion and 12.3 percent higher rates over an 11-year period.

Despite these concerns about the plan's projections, TVA officials are to be commended for acknowledging their debt problem, developing a long-term strategy, and making that strategy public. While the General Accounting Office review: the reasonableness of that plan, TVA needs to provide more specifics and a clear timetable, with year-to-year targets and implementation strategies for achieving the stated goals.

Looking for a Bailout

Though TVA managers finally developed a long-term (if incomplete) plan to reduce their $29-billion debt, they are not b. and seeking some quick fixes. They and several members of the Tennessee congressional delegation quietly have worked on a proposal to restructure TVA's $3.2 billion debt to the Federal Financing Bank without paying the contractual prepayment penalties. As noted above, the Treasury Department, calculating that such a move would cost U.S. taxpayers almost $1 billion, hasn't been exactly wild about the proposal.

The Tennessee lawmakers, however, proposed a "bargain." In what must be among the high ranks of political chutzpah, they suggested that TVA pay its own non-power programs in exchange for the restructuring. They failed to note, however, that this "deal" would mean TVA annually pays $70 million but receives some $200 million. Moreover, they failed to point out that Congress already had declared that TVA should pay for its own non-power programs.

When that plan wouldn't fly, TVA's supporters decided they would ask the federal Department of Energy to complete one of the utility's abandoned and budget-busting nuclear reactors. Since few taxpayers would see the wisdom of paying $2-4 billion to finish constructing the Bellefonte power plant in northern Alabama, TVA officials cloaked the proposal as a national security matter. They argued that a completed Bellefonte could be designed to produce both electricity and tritium, a gas used to help boost the explosive yield of nuclear bombs.

Although Vice President Gore quietly promoted the "deal," South Carolina's senators were advancing an alternate "linear accelerator" that would supply tritium and be built in their own state. But TVA's proposal suffered its most serious blow when India and Pakistan tested their nuclear weapons and sparked a fire-storm of international criticism. Suddenly it was awkward for any politician, on the one hand, to criticize India and Pakistan for using commercial reactors to build bomb materials, while, on the other hand, to advance a similar arrangement for TVA. The House of Representatives, therefore, voted in May 1998 to prohibit the production of tritium from commercial nuclear reactors, a move that would effectively b TVA from finishing its Bellefonte nuclear plant. House-Senate negotiations set for September 1998 are expected to reject this particular TVA bailout.
Poststructuring, Reform, and Privatization

A growing number of states have restructured their utility industry, replacing monopolies with competition. Federal lawmakers are advancing similar proposals, and TVA, just like every smaller utility throughout the nation, faces change.

TVA bureaucrats may like the status quo, but the current monopoly structure-complete with its arrogance, unaccountability, and mismanagement—simply is too expensive for both the nation’s taxpayers and the Valley’s ratepayers. Senator Mitch McConnell (R-KY), a senior senator from within the Tennessee Valley, introduced legislation in April 1998 to make TVA accountable to its customers. The Tennessee Valley Customer Protection Act, according to McConnell, "will require TVA to justify its rates." The Republican lawmaker noted, "Only through years of unaccountability and fiscal irresponsibility could a monopoly power provider have ever reached this level of debt. If a business was run in this manner it would have filed for bankruptcy years ago."

As any good politician, the Kentucky lawmaker is watching out for his constituents’ interests—which he concludes are not being served by the government-owned utility. According to McConnell:

- Valley ratepayers deserve to know how TVA, as a monopoly provider with full rate-setting authority, could rack up a staggering $29 billion debt.
- Ratepayers deserve to know why they are paying higher rates than ratepayers outside the Tennessee Valley.
- Valley ratepayers deserve the same authority to challenge unreasonable rates just like other power customers.

To allow the public to see how TVA justifies its rates and to have TVA play on the same field as private utilities, McConnell proposes to have agency become a "public utility" subject to the authority of the Federal Energy Regulatory Commission. He would force TVA to disclose publicly its tariffs and schedules, to abide by antitrust laws, and to restrain from competing against private-sector businesses for equipment leasing and engineering services.

McConnell’s reforms move significantly toward accountability and fairness. Other possible steps include the removal of TVA’s exemption from nuclear decommissioning rules, a requirement that TVA abide by all relevant environmental law and regulations, and an equalization of labor laws and civil liability laws among all power suppliers.

Private utilities surrounding TVA a few years back formed TVA Watch to advance reforms that would level the playing field. Don Meiners, the group’s co-chair and president of Entergy Mississippi, recently spoke to TVA’s distributors about his vision of TVA’s future in a restructured market. According to the private utility executive, “If our markets are not separated by geographic franchised territories, then we will need to be governed similarly. (TVA Watch) sees no reason for TVA to be any different from investor-owned utilities if and when they move to either wholesale or retail competition. ... If we are to compete against TVA, then the rules and regulations should be the same. It can be the rules under which TVA currently operates or it can be under the rules which apply to IOUs or it can be a new set of rules, but the rules should be the same.”

TVA tends to like its different sets of rules. In fact, its rather one-sided vision of the future would increase its monopolistic benefits at the expense of customers and competitors. The agency, for instance, wants the authority to sell power outside the “fence,” to restrict others from selling inside the “fence,” and to preserve all of its protections and subsidies.

Since virtually no one endorsed TVA’s initial vision, agency officials have begun to admit that some changes are probably needed, but their proposed “reforms” are rather cute ... and suspect. Noting criticism that it alone in the utility industry doesn’t face oversight by the Federal Energy Regulatory Commission, TVA recently offered to follow FERC rules voluntarily. But such a move differs substantially from submitting to the same rigor of regulation as the rest of

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electricity industry. TVA's proposal, for instance, would exempt it from paying penalties for failing to comply with FERC regulation.

But criticism that it alone avoids antitrust oversight, the government-owned monopoly also recently offered to allow courts to review its actions. But TVA cleverly notes that it would not subject itself to the same level of enforcement and penalties as others in the power industry. TVA may not want treble damages, but the threat of such penalties influences behavior and is needed as a check on all unfair competitors.

The most direct reform, of course, would be privatization -- getting the federal government out of the electricity business. At least two dozen other countries over the past decade have launched electricity privatization programs, including highly developed countries such as Australia and Britain, as well as emerging economies such as Argentina and Taiwan, as well as former communist countries such as Hungary and Poland. This global move from government control to the free market is described well in Daniel Yergin's recent The Commanding Heights. Senator Frank Murkowski (R-AK), who knows first hand about the privatization of the Alaska Power Administration, stated the issue succinctly: "When the rest of the world is trying to get government out of business, so should we."

The privatization debate offers some fascinating rhetorical inconsistencies. Some conservative TVA beneficiaries argue vehemently that the government should get out of business and let the free enterprise system work its wonders. Although they wouldn't fathom having the Air Force compete with Delta Air Lines, some maintain that Washington should continue to own and control the nation's largest utility.

Is there some failure in the electricity market that requires government intervention? There was 70 years ago when only 15 percent of rural Americans enjoyed electricity. But strong private-sector electricity companies exist throughout this country. One could argue that there's far more justification for the Air Force to provide rural airplane service than there is for the federal government to generate electricity.

A long list of suitors -- power brokers, independent power producers, shareholder-owned utilities, and investment bankers -- have expressed an interest in TVA assets, assuming the agency reduces its enormous debt. Just as Britain reformed its debt-ridden government enterprises before privatization, TVA's ten-year plan -- if its assumptions are realistic and if it is monitored aggressively -- will (ironically for TVA's current managers) make the utility a likely candidate for privatization.

Selling TVA to the private sector is not a new concept. Neighboring investor-owned utilities never wanted the federal agency established in the first place, and they sometimes have found powerful political allies. Barry Goldwater called TVA a "federal white elephant" that produced enormous quantities of electricity but paid no taxes. The Arizona senator and presidential candidate suggested TVA's mammoth power plants be sold to either the states or private industry. According to Goldwater, moving management of dams for flood control and navigation to other agencies already doing such work elsewhere in the country, such as the Army Corps of Engineers, would "end the duplication by TVA of national programs."

Wall Street is intrigued with privatization. Peter Lynch, the famous former manager of the giant Fidelity Magellan mutual fund, stated, "There has never been a serious effort to privatize the TVA but if there was I would be the first in line to get a copy of the prospectus."

Privatization advocates have even come from within the agency. William Malec, who retired in 1995 as TVA's executive vice president and chief financial officer, argued that selling the "New Deal dinosaur" could reduce the federal deficit and add $600 million a year in taxes to the federal till. Privatization, said Malec, "would move one of the largest electric companies in America out from under the burden of federal bureaucracy into the private sector, where I believe it could compete effectively, without excuses or alibis." Noting that a sale would generate big savings for the U.S. taxpayer, Malec called TVA's hydropower and coal-fired plants "dramatically undervalued" and added: "If TVA's physical
generating capacity were valued at only half of what it would cost to replace it, TVA's net asset value would be $50 billion, rather than its current book value of $32 billion."

... from the nuclear reactors, which supply TVA's most expensive electricity, the 29 hydroelectric dams and the coal-fired plants would sell easily. But perhaps the agency's most valuable asset are its 17,000 miles of transmission wires, which "could ultimately turn out to be a major thoroughfare for power transfer in the region," according to a 1995 study TVA commissioned on its competitive future.

Options for selling TVA's assets are numerous and varied, according to Should the Federal Government Sell Electricity, a November 1997 study by the Congressional Budget Office (CBO). The British privatized their electric utilities and other industries, selling common stock in the enterprises to the general public. The U.S. government already has sold numerous assets, including the Alaska Power Administration, Conrail, the U.S. Enrichment Corporation, the naval petroleum reserve at Elk Hills, and radio spectrum rights. According to CBO, "There are strong similarities between the sale of spectrum licenses and power facilities: many different combinations of asset types and locations may be offered, each having a different value for different buyers."

Among the existing privatization proposals: The Heritage Foundation has encouraged that TVA be divided into "three to six geographical units that could be sold to separate buyers to ensure that one company is not left holding the TVA's massive regional monopoly; buyers would be required to take a little bad with the good when they purchase a newly privatized unit of TVA assets." The Progress and Freedom Foundation has advocated that the ultimate customers of federal utilities be given stock in the entities, basically buying consumer support for privatization. An option proposed by the Tennessee Valley Energy Reform Coalition, a coalition of environmental and consumer advocates, would have TVA's reactors and coal-fired plants sold to a regional power pool while a new multi-purpose watershed management agency would control the hydroelectric dams. Reps. Marty Meehan (D-MA), Bob Franks (R-NJ), Mark Foley (R-FL), and Scott Klug (R-WI) have proposed outright auctions to sell TVA's utility assets.

Federal restructuring legislation must address TVA, if for no other reason than TVA is the nation's largest utility. The government simply must get its own house (or businesses) to participate fairly in a competitive electricity market as it orders others to do the same. Any such legislation must recognize that in this era when hundreds of private-sector firms want to generate and sell electricity, the federal government should no longer do so. It's time for politicians to declare victoriously that TVA served its purpose. Yet since situations have changed in the past 65 years, it's also time for politicians to restructure and privatize this outmoded government agency that has become too expensive for both taxpayers and ratepayers.

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Chapter 1A—TENNESSEE VALLEY AUTHORITY

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Repealed.
TITLE VI—FEDERAL ELECTRIC UTILITIES
Subtitle A—Tennessee Valley Authority

SEC. 601. DEFINITIONS.

For purposes of this subtitle:


(2) The term "distributor" means a cooperative organization, municipal or other publicly owned electric power system which on December 31, 1997, purchased substantially all of its wholesale power requirements from the Tennessee Valley Authority pursuant to a long-term power sales agreement.

(3) The term "distributor service area" means the geographic area within which a distributor is authorized by State law to sell electric power to retail electric consumers on the date of enactment of this Act.

(4) The term "electric utility" has the same meaning as provided by section 3(22) of the Federal Power Act (16 U.S.C. 796(22)).

(5) The term "excess electric power" means that portion of the electric power and capacity that is available to the Tennessee Valley Authority and which exceeds the Tennessee Valley Authority's firm power supply obligations to (i) distributors and to (ii) those Tennessee Valley Authority retail electric consumers (or predecessor in interest) that had...
a contract for the purchase of electric power from the Tennessee Valley Authority on the date of enactment of this Act.

(6) The term "public utility" has the same meaning as provided by section 201(e) of the Federal Power Act (16 U.S.C. 824(e)(1)).

(7) The term "retail electric consumer" has the same meaning as provided by section 3 of the Federal Power Act (16 U.S.C. 796).

(8) The term "Tennessee Valley Region" means the geographic area in which the Tennessee Valley Authority or its distributors were the primary source of electric power on December 31, 1997.

SEC. 602. WHOLESALE COMPETITION IN THE TENNESSEE VALLEY REGION.

(a) AMENDMENTS TO THE FEDERAL POWER ACT—

(1) Section 212(f) of the Federal Power Act (16 U.S.C. 824k(f)), relating to interconnection or wheeling orders that result in the sale or delivery of electric power outside the Tennessee Valley Region, is repealed.

(2) Section 212(j) of the Federal Power Act (16 U.S.C. 824k(j)), relating to transmission within the Tennessee Valley Region, is repealed.

(b) AMENDMENTS TO THE TENNESSEE VALLEY AUTHORITY ACT—

(1) The third sentence of the first paragraph of section 15d(a) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(a)), limiting the sale or delivery of electric power outside the area for which the Tennessee
Valley Authority or its distributors were the primary source of electric power on July 1, 1957, is repealed.

(2) The second and third paragraphs of section 15d(a) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n-4(a)) are repealed.

SEC. 603. TENNESSEE VALLEY AUTHORITY POWER SALES.

(a) LIMIT ON RETAIL SALES BY TENNESSEE VALLEY AUTHORITY.—

Notwithstanding sections 10, 11, and 12 of the Tennessee Valley Authority Act (16 U.S.C. 831i), the Tennessee Valley Authority shall not sell electric power at retail, except it may sell electric power to—

(1) a retail electric consumer (or predecessor in interest) that had a contract for the purchase of electric power from the Tennessee Valley Authority on the date of enactment of this Act; or

(2) a retail electric consumer who consumes that electric power within a distributor service area, if the distributor agrees that the Tennessee Valley Authority can sell electric power to such retail electric consumer.

(b) REGIONAL PREFERENCE FOR WHOLESALE POWER SALES.—

(1) REGIONAL PREFERENCE.—Nothing in this title shall be construed to modify or alter the existing obligations of the Tennessee Valley Authority under the Tennessee Valley Authority Act (16 U.S.C. 831 et seq.) to give preference in the sale of power to states, counties, municipalities, and cooperative organizations of citizens or farmers within the Tennessee Valley Region.
(2) SALES OF EXCESS ELECTRIC POWER.—Notwithstanding sections 10, 11, and 12, or any other provision of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 and following), the sale of electric power at wholesale by the Tennessee Valley Authority for use outside the Tennessee Valley Region shall be limited to excess electric power. The Tennessee Valley Authority shall not offer firm excess electric power under an agreement with a term of three years or longer to a new wholesale customer at rates, terms, and conditions more favorable than those offered to any distributor for comparable electric power, taking into account such factors as the amount of electric power sold, the firmness of such power, and the length of the contract term, unless the distributor or distributors that are purchasing electric power under equivalent firm power contracts agree to the sale to the new customer.

Nothing in this subsection shall prevent the Tennessee Valley Authority from making exchange power arrangements with other electric utilities when economically feasible.

(c) APPLICATION OF TENNESSEE VALLEY AUTHORITY ACT TO SALES OUTSIDE TENNESSEE VALLEY REGION.—The third proviso of section 10 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831i) and the second and third provisos of section 12 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831k) shall not apply to any sale of excess electric power by the Tennessee Valley Authority for use outside the Tennessee Valley Region.
SEC. 604. TENNESSEE VALLEY AUTHORITY ELECTRIC GENERATION FACILITIES.

Section 15d(a) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n-4(a)) is amended by striking the period at the end of the second sentence and inserting the following: "if the Corporation determines that the construction, acquisition, enlargement, improvement, or replacement of any plant or facility used or to be used for the generation of electric power is necessary to supply the demands of distributors (as defined in section 601 of the Electricity Competition and Reliability Act) and, to the extent permitted by section 603(a) of such Act, retail electric consumers of the Corporation. The Corporation shall not acquire any new generating source that it reasonably expects will necessitate the use of the authority granted in Section 608 of such Act to recover otherwise unrecoverable costs.".

SEC. 605. RENEGOTIATION OF POWER CONTRACTS.

(a) RENEGOTIATION.—Within one year following the date of enactment of this Act, the Tennessee Valley Authority and the distributors shall make good faith efforts to renegotiate their existing power contracts with respect to—

(1) the remaining term;

(2) the length of the termination notice;

(3) the amount of electric power a distributor may purchase from an electric utility other than the Tennessee Valley Authority, and access to the Tennessee Valley Authority transmission system for that electric power; and

(4) stranded cost recovery.
(b) DISTRIBUTOR CONTRACT TERMINATION OR REDUCTION RIGHT – The Tennessee Valley Authority shall allow any distributor that had a contract to purchase wholesale electric energy from the Tennessee Valley Authority in effect on the date of enactment of this title to terminate its contract or reduce the quantity of its wholesale power requirements thereunder by, or to, either a specific amount of power, or a percentage of its requirements, upon two years notice which notice may be given at any time or from time to time beginning from one year after date of enactment.

(c) RENEGOTIATION OF CERTAIN WHOLESALE POWER CONTRACTS – If a distributor elects to reduce the quantity of its purchases from the Tennessee Valley Authority pursuant to subsection (b) of this Section, but not to terminate its contract, such distributor and the Tennessee Valley Authority shall, within one year following the date of such election, renegotiate the remaining terms of their existing contract under which the Tennessee Valley Authority will continue to provide wholesale power to the distributor, provided that such contract shall preserve the distributor’s right under subsection (b) to elect further reduction(s). If the distributor and the Tennessee Valley Authority are not able to reach agreement on such remaining terms of their contract within the one-year period, either the distributor or the Tennessee Valley Authority may submit the matter to the Commission which shall have jurisdiction to and shall establish such terms.
SEC. 606. REGULATION OF TENNESSEE VALLEY AUTHORITY

TRANSMISSION SYSTEM.
(a) Notwithstanding sections 201(b)(1) and 201(f) of the Federal Power Act, sections 202(h), 205, 206, 208, and 210 through 213 and sections 301 through 304, 306, 307 (except the last sentence of subsection (c)), 308, 309, 313, and 317 of the Federal Power Act apply to the transmission and local distribution of electric power by the Tennessee Valley Authority to the same extent and in the same manner as such provisions apply to the transmission of electric power in interstate commerce by a public utility otherwise subject to the jurisdiction of the Commission under part II of such Act, provided that the preference granted in Section 10 of the Tennessee Valley Authority Act (16 U.S.C. 831i) to States, counties, municipalities, and cooperative organizations of citizens or farmers within the Tennessee Valley shall include access to transmission capacity on the Tennessee Valley Authority transmission system.

(b) No person shall duplicate the facilities of a distributor for the purpose of serving a retail electric consumer within the distributor service area.

SEC. 607. REGULATION OF TENNESSEE VALLEY AUTHORITY DISTRIBUTORS.

(a) ELECTION TO REPEAL TENNESSEE VALLEY AUTHORITY REGULATION OF DISTRIBUTORS.—Upon the election of a distributor, the third proviso of section 10 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831i) and the second and third provisos of section 12 of the...
Tennessee Valley Authority Act of 1933 (16 U.S.C. 831k) shall not apply to wholesale sales of electric power by the Tennessee Valley Authority in the Tennessee Valley Region after the date of enactment of this Act, and the Tennessee Valley Authority shall not be authorized to regulate, by means of rules, contract provisions, resale rate schedules, contract termination rights, or any other method, any rates, terms, or conditions imposed on the resale of such electric power by such distributor, or any rates, terms, or conditions for the use of local distribution facilities.

(b) AUTHORITY OF GOVERNING BODIES OF DISTRIBUTORS.—Any regulatory authority exercised by the Tennessee Valley Authority over any distributor making an election authorized in subsection (a) shall be exercised by the governing body of such distributor, in accordance with the laws of the State in which it is organized. In the event a distributor does not make the election authorized in subsection (a), the provisions of the Tennessee Valley Authority Act specified in that subsection shall continue to apply for the duration of any wholesale power contract between the Tennessee Valley Authority and the distributor, according to its terms.

(c) USE OF FUNDS.—In any contract between the Tennessee Valley Authority and a distributor for the purchase of at least 70 percent of the distributor’s requirements for the sale of electric power, the Tennessee Valley Authority shall include such terms and conditions as may be reasonably necessary to assure that the financial benefits of a distributor’s electric system operations are allocated to the distributor’s retail electric consumers.
(d) REMOVAL OF PURPA RATEMAKING AUTHORITY.—Section 3(17) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(17)) is amended by striking "", and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.”.

SEC. 608. STRANDED COST RECOVERY.

(a) The Tennessee Valley Authority may recover any wholesale stranded costs that may arise from the exercise of rights by a distributor pursuant to Section 605 of this title to the extent authorized by the Commission based on application of the rules and principles the Commission applies to wholesale stranded cost recovery by other electric utilities within its jurisdiction, provided that Tennessee Valley Authority shall not be authorized to recover from any distributor any wholesale stranded costs related to loss of sales revenues by Tennessee Valley Authority, or its expectation of continuing to sell electric energy, for any period after September 30, 2007.

(b) DEBT.—Stranded costs recovered by the Tennessee Valley Authority under subsection (a) shall be used to pay down the Tennessee Valley Authority’s debt to the extent determined by the Tennessee Valley Authority to be consistent with proper financial management. The Tennessee Valley Authority may not use amounts recovered to pay for additions to the Tennessee Valley Authority’s generation capacity.
(c) UNBUNDLING.— Any stranded cost recovery charge authorized by the Commission to be assessed by the Tennessee Valley Authority shall be unbundled from the otherwise applicable rates and charges to such customer and separately stated on the bill of such customer. The Tennessee Valley Authority shall not recover wholesale stranded costs from any customer through any other rate, charge, or mechanism.

(d) REPORT.—Beginning in fiscal year 2001, as part of the annual management report submitted by the Tennessee Valley Authority to Congress, the Tennessee Valley Authority shall also specifically report:

(1) the status of the Tennessee Valley Authority’s long-range financial plans and the progress toward its goal of competitively priced electric power, and a general discussion of the Tennessee Valley Authority’s prospects on meeting the objectives of the Ten Year Business Outlook issued on July 22, 1997;

(2) any changes in assumptions since the previous report that may have a material effect on the Tennessee Valley Authority’s long-range financial plans;

(3) the source of funds used for any generation and transmission capacity additions;

(4) the use or other disposition of amounts recovered by the Tennessee Valley Authority under the Tennessee Valley Authority Act and this Act;
(5) the amount by which the Tennessee Valley Authority's publicly-held debt was reduced; and

(6) the projected amount by which the Tennessee Valley Authority's publicly held debt will be reduced.

SEC. 609. APPLICATION OF ANTITRUST LAW

(a) IN GENERAL.—The Tennessee Valley Authority shall be subject to the antitrust laws of the United States with respect to the operation of its electric power and transmission systems. For purposes of this section, the term "antitrust laws" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(b) DAMAGES.—No damages, interest on damages, costs, or attorneys' fees may be recovered under section 4, 4A, or 4C of the Clayton Act (15 U.S.C. 15, 15a, or 15c) from the Tennessee Valley Authority.

(c) Nothing in this Act shall diminish or impair any privileges, immunities or exemptions prior to enactment that would have been accorded any person by virtue of their association together in advocating their cause and points of view to the Tennessee Valley Authority or any other agency or branch of federal, state or local government.
SEC. 610. SAVINGS PROVISION.

Nothing in this subtitle shall affect section 15d(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(b)), providing that bonds issued by the Tennessee Valley Authority shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the United States.