The original documents are located in Box 16, folder "1974/12/23 HR11929 Financing of TVA Pollution Control Expenses (vetoed)" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

POCKET VETO EFF. MIDNIGHT 12/23/74
MEMO OF DISAPPROVAL (DATED 12/21/74) ISSUED 12/23/74

THE WHITE HOUSE

WASHINGTON

ACTION

Last Day - Mon. Dec. 23, 1974

December 20, 1974

MEMORANDUM FOR: THE PRESIDENT

FROM: KEN COLE

SUBJECT: Enrolled Bill H.R. 11929 - Financing of TVA Pollution Control Expenses

BACKGROUND

This bill would authorize TVA to defer for 30 years $100 million in payments ($20 million per year for five years) on its obligations to the U.S. Treasury and write off five years of interest charges which would total about $330 million. This deferral and write off would be used to offset about half of the expected cost TVA's investments over the next five years for air and water pollution control facilities. The action would enable TVA to avoid or postpone some rate increases that would otherwise be required.

ARGUMENT FOR SIGNING

Sponsors of the bill argue that Federal government sharing in the cost of TVA's pollution control investments is equitable since TVA -- unlike private utilities -- cannot benefit from various tax relief devices which ameliorate the cost of pollution control equipment such as accelerated write off. They also argue that TVA facilities are owned by the Federal government and direct appropriations are used to pay for pollution control in other Federally owned facilities.

In addition, Congressman Bob Jones (the leader among 18 House sponsors of the bill) has called Max Friedersdorf and was very threatening about his intentions in terms of future cooperation with the Administration if the bill were vetoed. Copies of Jones' letters to you and Roy Ash are attached at Tab A.

ARGUMENT FOR VETO

The deferral and forgiveness of TVA payments to the U.S. Treasury amount to a violation of the principle that cost of pollution control should be reflected

in the cost of the product. It would be inequitable to have Federal tax payers nationwide bear costs that benefit customers of the TVA system. TVA consumers already benefit from low rates. Furthermore, the benefit to TVA customers from this legislation greatly exceed the benefits that accrue to private utilities because of favorable tax treatment accorded their pollution control investments.

Additional background information is provided in Roy Ash's enrolled bill report (Tab B).

RECOMMENDATIONS

- I recommend that you withhold your approval of the bill.

- Max Friedersdorf, who favors signing the bill, recommends that if you decide to withhold your approval that you call Congressman Bob Jones and notify him of your decision as an attempt to soften the blow.

DECISION - H.R. 11929

Sign (Tab C) _____
TVA
Max Friedersdorf

Withhold Signature MRF.
(Sign Memorandum of Disapproval at Tab D)
OMB
Treasury
CEQ
CEA
Interior
Ken Cole
Phil Areeda

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 18 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 11929 - Financing of TVA pollution control expenses
Sponsor - Rep. Jones (D) Alabama and 17 others

Last Day for Action

December 23, 1974 - Monday

Purpose

Authorizes TVA to defer or write-off as much as $430 million in payments on its debt to the government as an offset to needed investment in air and water pollution control facilities.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto Message Attached)
Tennessee Valley Authority	Approval
Department of the Treasury	Disapproval
Council on Environmental Quality	Disapproval
Council of Economic Advisers	Disapproval
Department of the Interior	Disapproval
Environmental Protection Agency	Defers to Treasury
Federal Energy Administration	No Recommendation

Discussion

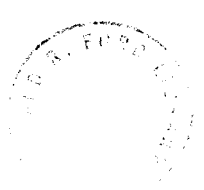
A 1959 Act that authorized TVA to finance its powerplant program by issuing revenue bonds also established a schedule under which $1 billion previously appropriated to TVA would be repaid to the Treasury. TVA is currently repaying

$20 million annually, and the schedule calls for the repayments to continue through fiscal year 2014, at which time a balance of $220 million would remain. TVA is also required by the 1959 Act to pay a return on the outstanding balance of the debt; this "interest" payment currently amounts to $65 million a year.

Over the next several years, TVA must invest a substantial amount of capital to build the pollution control facilities necessary to meet requirements of State programs established under the Federal Water Pollution Control Act and the Clean Air Act. On the basis of a State and EPA certification procedure, the enrolled bill would authorize TVA to suspend on a year-by-year basis its scheduled repayment of the $20 million principal for any of the next five fiscal years if pollution control expenditures for the preceding year exceeded $20 million, with any amount in excess of that credited against the "interest" payment. In effect, repayments of principal would be deferred and interest payments written off when prior year expenditures for this equipment reach the indicated dollar levels.

Although there are various estimates of TVA's pollution control expenditures for each of the next five years, all are well above the amounts necessary to defer the $20 million payment on the principal and to write off the $65 million in "interest" that would otherwise be paid each year.

The Senate Public Works Committee's report states that it is the purpose of the bill "to ease the rapid inflation of TVA power rates." These rates have recently undergone a rapid and substantial increase; for example, the residential electric rate increased 12 percent between June 1973 and June 1974. Most of this increase has been due to rising coal prices, but part has also been due to increasing capital requirements for pollution control equipment. The Senate report estimates these at $25 million in 1972, and $31 million in 1973, increasing to $136 million in 1974, $183 million in 1975, and $150 million annually in future years. Since TVA is financed entirely by bonds and by retained earnings, all of the costs of additional facilities are reflected in the electric rates.



In its appearance before the Committee, TVA indicated that enactment would not be in accord with the program of the President, although TVA itself did not oppose enactment. Treasury, EPA and OMB opposed the bill in committee, generally on the basis of the arguments set out below, and OMB reiterated these arguments in a letter of opposition to the conferees. The bill passed the House by 209-193 and the Senate by voice vote.

In recommending approval, TVA states in its enrolled bill letter:

> "Utilization of the authority ... would enable TVA to realize savings in the interest costs which would otherwise have to be incurred. These savings would lessen in some measure pressures on electric power rates in the TVA area. The benefit would accrue to TVA customers, including industry, thereby easing some of the inflationary pressures on the economy."

Two additional arguments for approval were employed in Committee reports and floor statements:

-- Private industry is afforded various tax relief devices to ameliorate the cost of pollution equipment. The Tax Reform Act of 1969, for example, allows accelerated amortization of "certified pollution control equipment."

-- Although TVA is supported by its customers, all of its facilities are owned by the Government; direct appropriations are provided to install similar equipment on Federal installations such as military bases and office buildings.

Enrolled bill letters from CEA, Treasury and the other agencies present arguments for disapproval along the following lines:

-- The arrangement set out in the bill would result in an unwarranted subsidy to consumers of TVA power from taxpayers in general; there is no reason why any of TVA's costs should be borne by residents of other parts of the country, who also are charged in their electric bills for the costs of similar equipment being installed by their local utilities.

-- TVA consumers already benefit from the fact that the cost of the energy they use does not include profit or taxes. Further, the relief provided in the bill is not comparable to a tax write-off, since TVA's expenditures would be offset dollar-for-dollar, whereas under tax law similar expenditures give rise only to a more rapid amortization as a deduction against taxable income rather than a credit against tax liability. Moreover, a number of facilities installed by private industry which would not now qualify for rapid amortization would, if installed by TVA, qualify for the legislation's benefits.

-- The bill would set an undesirable precedent. As Treasury points out, "...various taxpayers -- such as competing private utilities -- might attempt to use ... enactment as precedent for a liberalization of the provisions permitting tax-exempt financing and rapid amortization of pollution control facilities. Such liberalization could result in significant Federal revenue losses and substantial increases in the borrowing costs for conventional State and local projects."

-- Enactment would serve as an incentive for TVA to control pollution with capital equipment rather than employing cost-saving changes in its processes -- an economically inefficient practice.

-- Allowing the rates to increase would assist in energy conservation by TVA's customers to the same extent that it does with other consumers who are required to pay the full cost of the energy they use.

We join with the other agencies in recommending disapproval. TVA consumers already benefit from rates which do not have to reflect all of the costs covered by private utility rates -- its residential customers, for example, pay one-half to two-thirds as much as customers elsewhere in the nation. All utilities face similar problems of rising energy prices and a similar need to invest in pollution abatement equipment, and if privately-owned, they are expected to pay taxes as well. We do not believe that the appropriation of funds for similar equipment at Federal installations should have any bearing on this situation; TVA does not serve the same sort of governmental function as Federal installations -- it operates as a utility, which is the fundamental reason why its operations are no longer funded by appropriations.

Attached for your consideration is a memorandum of disapproval prepared in this Office.

Director

Enclosures

ROBERT E. JONES
8TH DISTRICT, ALABAMA

HOME ADDRESS:
SCOTTSBORO, ALABAMA

PWR HR 11929

12-11

COMMITTEES:
PUBLIC WORKS
GOVERNMENT OPERATIONS

Congress of the United States
House of Representatives
Washington, D.C. 20515

December 10, 1974

The President
The White House
Washington, D. C.

Dear Mr. President:

You have before you for your approval H. R. 11929 concerning the Tennessee Valley Authority's pollution control expenditures.

This legislation has unanimous bi-partisan sponsorship of the Members from the TVA area. The amended version approved in Conference was passed on voice votes in both the House and Senate. Your approval would be a move toward fairness for the consumers of electric power in the TVA service area who have been bearing the total cost of environmental improvements and other investments in this system owned by the United States.

Some of your people have opposed H. R. 11929. Their opposition ignores the existing law relating to federal cost-sharing of investments through the private sector. Director Ash of the Office of Management and Budget expressed his views in a letter to the Conferees recently. My strong response to him and my memorandum on his letter are enclosed for your information.

I most earnestly solicit your approval of H. R. 11929 so that the consumers of the TVA area can be accorded some recognition of their great expenditures in pursuit of nationally beneficial objectives which were unforeseen when the present financial obligations were established for the power operations in 1959.

Your friend,

Bob

J:vp
Enclosure

ROBERT E. JONES
6TH DISTRICT, ALABAMA

HOME ADDRESS:
SCOTTSBORO, ALABAMA

COMMITTEES:
PUBLIC WORKS
GOVERNMENT OPERATIONS

Congress of the United States

House of Representatives

Washington, D.C. 20515

December 9, 1974

Mr. Roy L. Ash, Director
Executive Office of the President
Office of Management and Budget
Washington, D. C. 20503

Dear Director Ash:

Your letter of November 27 referring to H. R. 11929, concerning Tennessee Valley Authority's pollution control expenditures, has been received.

Your comments are, in my opinion, a deliberate attempt to distort the facts and the application of existing law.

Your statements appear to be a calculated effort to raise only one issue -- the issue of private versus public power -- and, with it, all the hatefulness formerly associated with this protracted public issue.

The letter is a total indication that you did not seek to investigate the situation. You fail to recognize that the TVA is a government corporation, a public enterprise and an on-going responsibility of the Federal government even though the revenues for operation, improvement and expansion of the system are completely provided by the consumers of power within the service area.

Your letter sought political vehemence rather than consideration of Federal obligations to come to the aid of an ailing governmental function.

While I can respect your right to your political philosophies, those political philosophies are not at issue.

It is my conclusion that your letter is nothing more than a prey upon an injured institution of service to the people of the TVA area and the entire nation.

Evidently you were not mindful of the breakfast meeting I had with Mr. Harlow and Mr. Zarb back in February. Mr. Zarb indicated that he might be willing to accept the original bill which I had introduced with a reduction in the application of credits to the 50 per cent range. The final amended legislation provides credits or deferral for only about half the anticipated annual expenditures and limits the coverage to five years.

Should you wish additional information concerning this legislation, I am enclosing a memorandum dealing with the subject.

In view of the inquiries I have received concerning the contents of your letter, it is my intention to make it available to the public along with this response.

Sincerely,

Robert E. Jones

J:vp
Enclosure

Memorandum: Comments of OMB Director Concerning H. R. 11929, TVA Pollution Control Facilities

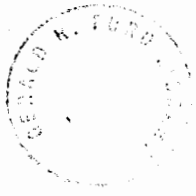
From: Rep. Robert E. Jones, (Ala.)

References: Hearings, H. R. 11929, House Public Works Committee, February 26, 27 and March 5, 1974.

House Report 93-891
Senate Report 93-1247
House Conference Report 93-1512

The opinions expressed in the letter relating to :

> "unwarranted Federal subsidy"
> "unfair to these taxpayers and consumers throughout the country"
> "undesirable, departure from the principl that the costs of pollution control should be reflected in the price of the product" and
> "undesirable precedent for Federal absorption of pollution control costs or private utilities and other industries"



indicate a failure to recognize that the precedent for Federal absorption of pollution control costs of private utilities and other industries is already well established in the law and its application.

The existing Federal laws providing for absorption of part of the cost of investments through the private sector were deliberate and conscious efforts to share part of the burden of increasingly high pollution control costs among all citizens and to achieve other beneficial national objectives.

In approving the legislation, both the House and the Senate acknowledged the need to remedy the different treatment which is accorded investments by citizens in the private sector as compared to investments by citizens through the public sector.

The reports which accompany the legislation provide detail as to the TVA, the electric power industry, and the changes in the tax law which result in cost-sharing by all citizens for investments in the private sector. Ample documentation is provided on existing law and its application. Some provisions

apply to investments by private firms whether for pollution control of production facilities.

Two laws relate only to pollution control expenditures. Public Law 90-364 of June 28, 1968, the Revenue and Expenditure Control Act, included facilities for pollution control in a category for special tax treatment. Although the legislation ended the existing tax exemption on the interest from industrial development bonds of more than $1 million, exemptions were retained for air or water pollution control abatement facilities and for certain other facilities deemed to be beneficial to national goals.

The investment tax credit was repealed by the Tax Reform Act of 1969, Public Law 91-172, but the Congress recognized the need for special consideration of pollution control expenditures by allowing a five-year amortization of such investments. The amortization provision is available for a five-year period for pollution control equipment installed at existing facilities. Other incentives have been more widely engaged by industry.

Recognition of the general beneficial nature of private investments, whether for pollution control or other purposes, is provided in other legislation and tax procedures for depreciation and investment tax credits.

Early procedures for accelerated depreciation and liberalized depreciation were provided by the Internal Revenue Code of 1954. Section 167 provided liberalized depreciation by allowing a faster rate of depreciation during the early years of life of facilities. This applies to all new facilities at the option of the company.

Section 168 of the 1954 Code provided for an accelerated 60-month depreciation for the facilities constructed under the emergency legislation to encourage private firms to expand to provide electric power during the Korean Conflict. Section 168 which allowed private firms to depreciate these facilities over 5 years in place of the 33 1/3-year life which was normally used.

The next liberalization of depreciation rules was provided by Revenue Procedure 62-21, issued by the Treasury Department July 12, 1962, to spur business investment. This allowed electric utilities to depreciate facilities over 28 years in place of the former guideline life of 33 1/3 years.

The investment tax credit was authorized by Public Law

87-834, to provide credit for investment in certain depreciable property, signed October 16, 1962, as part of a program to stimulate the future economic growth of the United States and lessen the changes for recessions. For privately owned electric utilities this provided a 3 percent credit against tax liabilities for new investments in facilities.

Problems in the economy during 1971 resulted in additional changes in the tax procedures for private firms that year.

The Administration adopted new liberalized depreciation schedules (Asset Depreciation Range-June 22, 1971) for business property and equipment which allowed alteration by 20 percent of the minimum guideline life rules for property which had been shortened in 1962.

In response to Administration requests, the Congress adopted the Revenue Act of 1971, Public Law 92-178, to reinstate the investment tax credit with an increase of 33 1/3 percent for electric utilities--from 3 percent credit to 4 percent credit.

The Administration, in October 1974, requested additional changes in the tax law relating to the investment tax credit.

The request was for an increase to 10 percent with a provision for direct payments from the Treasury to the industry if the credits so generated exceed the tax liabilities of private firms beyond a three year period.

This would be vital to the electric power industry in view of the fact that the tax liabilities for many of the larger firms have been reduced to zero.

As a percent of operating revenues, federal taxes for all electric systems decreased from 12.0 percent in 1955 to 3.5 percent in 1972. Preliminary date from FPC indicates an even smaller percent in 1973. Had the federal tax payments been the same percent as in 1955, federal receipts from this industry would have been $2 billion greater than they were in 1972.

Because of the generally declining percentage of Federal revenues from corporate profits tax, this $2 billion reduction in liabilities of privately owned electric systems became an added liability on the revenues from individual income taxes of citizens in the TVA area as in other parts of the nation.

While it is possible that reductions in corporate tax liabilities may enhance the profits of the owners in some industries, in the profit-regulated electric power industry it is presumed that reductions in revenue requirements for an individual system, whether from reduced raxes or other lower operating costs, accrue to the benefit of the consumer.

Thus the consumer of privately produced electric power, outside the TVA area, is already the receipient of a Federal subsidy which has been determined to be warranted on the basis of achievement of beneficial national objectives.

Even spokesmen for the private utility industry, who opposed the extent of the credits approved in the original House versions of H. R. 11929, acknowledge that the consumers of power produced by private firms enjoy the benefits of cost-sharing, with all tax payers, for the installation of pollution control and other equipment installed by the private firms.

Mr. Donham Crawford, President of Edison Electric Institute of New York, estimated the value of tax benefits to the industry at approximately 50 percent (House Hearings, P. 62). This of course applies to all investments, not just those for pollution control. The Minority view (two members) of the House Public Works Committee suggested similar credits were appropriate (House Report, p. 42).

The Conference agreement provides approximately this level of credits during a five year period. On the basis of recent experience the TVA estimates pollution control expenditures will average at least $750 million a year for the next five years. Under the final proposal credits of $60 to $70 million would be available for a total of $300 to $350 million. Deferrals of $20 million a year would be available for a total of $100 million. This latter sum would be repaid.

Because of the effective ceiling on credits at about half the level of expenditures expected without the benefits of H. R. 11929, it is absurd to think that the TVA Board would flaunt the basic TVA Act to install anything other than the "most cost efficient abatement program" allowed by pollution control laws.

In view of present national energy and environmental policies the Director's letter probably underestimates the rate of increases electric power consumers are experiencing both inside and outside the TVA service area.

Opinions similar to those of the Director were expressed by other Administration spokesmen in February and were published in the House Report on H. R. 11929. The views have already been considered in the Congress and rejected.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

NOV 27 1974

Honorable Robert E. Jones
House of Representatives
Washington, D.C. 20515

Dear Congressman Jones:

I see that you have been named as one of the conferees that will consider H.R. 11929, concerning Tennessee Valley Authority's pollution control expenditures, and I would like to take this opportunity to explain the Administration's view on this legislation.

In our view, both the House and Senate versions would provide an unwarranted Federal subsidy to power users in TVA by either forgiving or deferring that obligation which power consumers elsewhere in the country would be required to pay. Under the terms of either bill, taxpayers throughout the country would be forced to pay the costs of TVA's pollution control program while at the same time, as consumers of electricity, they would also have to pay for similar equipment installed by their local utilities.

Our analysis shows that either version of H.R. 11929 would enable TVA to reduce its payments to the Treasury by approximately $90 million annually for each of the next five years. This represents an annual savings of at least $10.00 to an average TVA power consumer. Power customers not located in the area served by TVA will probably be experiencing rate increases of as much as thirty percent, with a substantial portion due to the costs of pollution control equipment. We believe that it would be unfair to these taxpayers and consumers throughout the country to subsidize the costs of TVA's program.

In addition, enactment of either version of the bill would represent a sharp, and very undesirable, departure from the principle that the costs of pollution control should be reflected in the price of the product. Allowing these costs to be subsidized by the Federal Treasury would reduce the incentive to TVA to adopt the most cost-efficient abatement program.

Finally, we are convinced that enactment would set an undesirable precedent for Federal absorption of pollution control costs of private utilities and other industries.

We would urge the conferees to reconsider whether this legislation should be enacted in any form.

Sincerely,

Roy L. Ash
Director

~~DRAFT~~
~~12/20/74~~ OK/AH

Memorandum of Disapproval

~~Draft Statement on the Veto of H. R. 11929~~

I have withheld my approval from H. R. 11929, "To amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments."

This bill would permit TVA to defer or offset its repayment obligations to the United States Treasury about $85 million per year for 5 years because of expenditures required to install pollution control equipment -- and thereby enable TVA to postpone some rate increases otherwise required.

The people who are provided with electric power by the Tennessee Valley Authority have been subjected to substantial increases in power rates in recent months. I must point out, however, that consumers of electricity throughout the Nation have experienced similar rate increases for essentially the same reasons -- the rising prices of fuel and materials, the cost of installing air pollution control equipment, and the rising cost of labor.

Nevertheless, TVA customers still pay among the lowest power rates of any region in the Nation -- about 30 percent of rates in New York,

64 percent of Chicago, and 78 percent of Louisville, Kentucky.

No one likes to pay higher electric bills. But we must not allow this simple fact to result in new legislation which violates the fundamental principal that electricity should be priced to reflect its cost of production, including the cost of pollution abatement and control. My environmental advisers as well as my economic advisers ~~have strongly recommended that I not allow this to happen.~~ agree with me that this principle must be upheld.

I see no basis in equity or in logic for departing from this principle in the case of the TVA, and for asking the general taxpayer to make up the difference in TVA power rates. To do so would be unfair to power consumers elsewhere in the Nation who do not have the benefit of Tennessee Valley Authority power facilities and who are required to bear the costs attributed to pollution control in their power bills.

FOR IMMEDIATE RELEASE DECEMBER 23, 1974

Office of the White House Press Secretary
(Vail, Colorado)

THE WHITE HOUSE

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GERALD R. FORD

THE WHITE HOUSE,
December 23, 1974

# # #

FOR IMMED. RELEASE

DECEMBER 23, 1974

OFF WH Press Secy
(Vail, Colorado)

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GERALD R. FORD

Gerald R. Ford

THE WHITE HOUSE,
December 23, 1974

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THE WHITE HOUSE,

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 795

Date: December 19, 1974 Time: 11:00 a.m.

FOR ACTION: Mike Duval
Max Friedersdorf
Phil Areeda *veto*
Paul Theis

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, December 20 Time: 10;00 a.m.

SUBJECT:

Enrolled Bill H.R. 11929 - Financing of TVA pollution control expenses

ACTION REQUESTED:

____ For Necessary Action

__x__ For Your Recommendations

____ Prepare Agenda and Brief

____ Draft Reply

__x__ For Your Comments

____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

WASHINGTON

December 20, 1974

MEMORANDUM FOR: WARREN HENDRIKS

FROM: MAX L. FRIEDERSDORF M.L.F.

SUBJECT: Action Memorandum - Log No. 795
Enrolled Bill H.R. 11929 - Financing of TVA pollution control expenses.

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

Changed to sign per conversation w/Schleede

THE WHITE HOUSE

709

ACTION MEMORANDUM WASHINGTON LOG NO.: 795

Date: December 19, 1974 Time: 11:00 a.m.

FOR ACTION: Mike Duval
Max Friedersdorf
Phil Areeda
Paul Theis

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, December 20 Time: 10;00 a.m.

SUBJECT:

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ACTION REQUESTED:

____ For Necessary Action

____ Prepare Agenda and Brief

__x__ For Your Comments

__x__ For Your Recommendations

____ Draft Reply

____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

Veto
P. Areeda

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

TENNESSEE VALLEY AUTHORITY
KNOXVILLE, TENNESSEE 37902

OFFICE OF THE BOARD OF DIRECTORS

December 13, 1974

Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Rommel:

This is in response to your enrolled bill request of December 11 requesting our views and recommendations with respect to enrolled bill H.R. 11929 dealing with TVA pollution prevention facilities.

The bill would provide procedures enabling TVA to credit certain expenditures for pollution control facilities against amounts payable to the Treasury under section 15d(e) of the Tennessee Valley Authority Act (16 U.S.C. § 831n-4(e)). Under the bill these credits could be taken for fiscal years 1976 through 1980, inclusive.

Utilization of the authority contained in H.R. 11929 would enable TVA to realize savings in the interest costs which would otherwise have to be incurred. These savings would lessen in some measure pressures on electric power rates in the TVA area. The benefits would accrue to TVA customers, including industry, thereby easing some of the inflationary pressures on the economy.

For this reason, we recommend that the President approve the enrolled bill.

Sincerely yours,

A. J. Wagner

Aubrey J. Wagner
Chairman

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

December 12, 1974

MEMORANDUM

FOR: W. H. Rommel, Assistant Director for Legislative Reference
Office of Management and Budget

ATTENTION: Ms. Mohr

SUBJECT: H.R. 11929 (Enrolled) -- To amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments.

The Council recommends that the President veto the subject enrolled bill.

Approval would establish an undesirable precedent of imposing pollution control expenditures, the need for which is primarily within the control of the Corporation, on the Federal Treasury. Such costs should be treated as part of the costs of the power generation enterprise, which benefits from them, and should not be imposed on the general taxpaying public.

Gary L. Widman
General Counsel

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

December 13, 1974

Dear Mr. Rommel:

This letter is in response to your request for the views of the Council of Economic Advisers on Enrolled Bill H,R. 11929. This bill would authorize the Tennessee Valley Authority to deduct the costs of pollution control equipment from the payments it is required by law to make to the U.S. Treasury.

The bill should be vetoed.

The procedure authorized in the bill is inconsistent with the "polluter pays principle" which all members of OECD have agreed to as a method of coordinating environmental policies in their respective countries. It also would result in a subsidy from taxpayers in general to consumers of power supplied by TVA. I know of no justification for such a subsidy. In addition, the bill would create a strong incentive for TVA to control its pollution with capital equipment rather than utilizing process changes such as adjusting fuel mixes. The result of this incentive would be inefficiency in pollution control -- in the sense that costs would be higher than necessary to achieve the existing environmental standards.

Sincerely,

Alan Greenspan

Mr. Wilfred H. Rommel
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

DEC 16 1974

Director, Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Attention: Assistant Director for Legislative Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of H.R. 11929, "To amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments."

The enrolled enactment would amend the Tennessee Valley Authority Act of 1933 to authorize TVA, during the five year period beginning with fiscal year 1976, to the extent of its expenditures for certified pollution control facilities (1) to elect to defer the annual $20 million repayment of the appropriations investment (principal) in its electric power facilities, and (2) to credit such pollution control expenditures against the payments required as a return on the appropriations investment (interest). Principal payments deferred under (1) would be repaid during fiscal years 2015-2019.

The Department in reports to the Senate and House Committees on Public Works objected to the shift to the general public of expenses which otherwise would be borne by consumers of electricity produced by the TVA. The reports stated that the proposed set-off for pollution control capital expenditures would be an undesirable precedent for Federal absorption of pollution control costs; understate power program expenditures; inflate retained earnings; be tantamount to back-door financing; and erode the principle that the costs of pollution control should be reflected in the price of the product responsible for the pollution in order to encourage economic use of resources.

The Treasury Department also views with concern the potential implications which the enrolled enactment might have for legislative modification of the current income tax provisions permitting tax-exempt financing and rapid amortization of pollution control

facilities. That is, various taxpayers -- such as competing private utilities -- might attempt to use the benefits extended to the TVA under the enrolled enactment as precedent for a liberalization of the provisions permitting tax-exempt financing and rapid amortization of pollution control facilities. Such liberalization could result in significant Federal revenue losses and substantial increases in the borrowing costs for conventional State and local projects.

The legislative history of H.R. 11929 suggests that a substantial number of facilities which in the hands of taxpayers do not now qualify for rapid amortization would, in the hands of the TVA, qualify for the legislation's benefits. More importantly, the enrolled enactment would require the Federal government to bear a totally disproportionate share of the burden of TVA's pollution control costs as compared with present revenue losses associated with amortization of pollution control facilities. That is, as respects the portion of the TVA's payments to the Treasury that represents a return on the appropriations investment (currently about three-quarters of the total payments), pollution control expenditures would be offset dollar for dollar as a credit against the required payments, whereas under the income tax laws such expenditures give rise only to more rapid amortization as a deduction against taxable income rather than a credit against tax liability.

Both House and Senate versions of H.R. 11929 were also strongly opposed by OMB in November 27, 1974 letters to the conferees.

In view of the foregoing, the Department would concur in a recommendation that the enrolled enactment not be approved by the President.

Sincerely yours,

Richard E. Albrecht

General Counsel

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 1 9 1974

OFFICE OF THE
ADMINISTRATOR

Dear Mr. Ash:

This is in response to the request of December 11, 1974, for the views and recommendations of the Environmental Protection Agency on enrolled bill H. R. 11929 "To amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments."

This Act would:

(1) Beginning with fiscal year 1976 and for each of the next four fiscal years thereafter allow the Tennessee Valley Authority to defer payments under the annual repayment schedule if expenditures for certified pollution control facilities for the preceding fiscal year exceed the amount of the scheduled repayment. The annual repayment schedule would be suspended one fiscal year for each fiscal year for which TVA elects to defer such payments.

(2) Beginning with fiscal year 1976 and for each of the next four fiscal years thereafter entitle TVA to credit against the payments required as a return on the appropriation investment in power facilities the amount of expenditures for certified pollution control facilities in excess of the amount of any repayment deferred under the above provision.

"Certified pollution control facility" is defined as a new, identifiable treatment facility which is or will be used in connection with a plant or other property to eliminate, abate, or control water or air pollution or

contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and for which (a) the Board has made application for deferral or credit to the appropriate State certifying authority and which State authority has certified to the Environmental Protection Agency as being in conformity with State programs or requirements; and (b) the Administrator of EPA has certified to the Secretary of the Treasury, or his delegate, as being in compliance with the applicable regulations of Federal agencies and in furtherance of the general policy of the United States for cooperation with the States under the provisions of the Federal Water Pollution Control Act and the Clean Air Act.

In effect, this enrolled bill would allow the TVA to defer for any of the five fiscal years beginning with fiscal year 1976, the $20 million annual repayment of the Federal appropriations for power facilities as established in a schedule under the 1959 Bond Financing Act which amended the Tennessee Valley Authority Act of 1933. Such action would extend the repayment schedule from 2015 to 2019, but would not reduce the total repayment requirement.

In addition, the 1959 Amendments required the TVA to pay an annual return on the outstanding balance of the appropriations investment. Under the provisions of this enrolled bill, the expenditures for pollution control facilities in excess of the $20 million scheduled for repayment in each of the five fiscal years beginning with fiscal year 1976 would be credited against the annual return on the outstanding balance. The amount credited would vary according to the expenditures for certified pollution control facilities for each of the five years and the rate of interest on the United States Treasury obligations.

It is our understanding that TVA estimates pollution control expenditures would average $150 million per year, and that the credits would vary from $60 million to $70 million per year.

The Environmental Protection Agency opposed H. R. 11929 and companion bill, S. 3057, as introduced, because we believed the proposed legislation would discourage conservation and would be inequitable.

We believe that the price of energy should reflect the full cost of its production, including the costs associated with controlling the pollution generated in its production. Not factoring in all production costs results in artificially under-priced electricity, which tends to increase demand when the overall National goal is to conserve all energy to the maximum extent possible.

Moreover, on a National scale, the credit provided to TVA could lead to pressure by private utilities for a similar benefit, i.e., increased tax write-offs for pollution control expenditures. In addition, other industries now hard-pressed because of the energy crisis could argue that the costs of pollution control should also be paid by the Federal government. Therefore, a dangerous precedent would be set in that the cost of pollution control would not be borne by the polluter, where we believe it should be, but rather by the general taxpayer.

We believe it is important to encourage the use of pollution abatement equipment, and we believe appropriate economic incentives should be found. However, we defer to the Department of the Treasury as to the appropriateness and desirability of the deferral and credit provisions contained in this enrolled bill.

Sincerely yours,

John Quarles, Deputy

Russell E. Train
for Administrator

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

DEC 17 1974

Dear Mr. Ash:

This responds to your request for our views on enrolled bill H.R. 11929, "To amend section 15(d) of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments."

We recommend that the President not approve this bill.

H.R. 11929 would amend the TVA Act to provide a subsidy to power production facilities for the installation of pollution control equipment by allowing the TVA to credit pollution control expense to its yearly repayment to the government of interest and principal repayments on previous Federal investment.

This bill is undesirable in that it would shift the cost of such equipment, $80 million yearly, to the taxpayers at large, who would pay the subsidy through taxes, rather than the consumers of the power, which include many local industries. The bill would set an adverse precedent for private companies to seek government funding for their pollution control equipment. The bill negates the Administration's policy that the cost of cleaning up industrial pollution should be borne by industry and those that use the power, not the general public.

Sincerely yours,

Jack W Carlson

Assistant Secretary of the Interior

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503

TO THE HOUSE OF REPRESENTATIVES

I have today withheld my approval from H.R. 11929, "To amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments."

This bill would permit TVA to defer or offset its repayment obligations to the United States by up to $85 million per year because of expenditures required to install pollution control equipment -- and thereby enable TVA to postpone some rate increases otherwise required.

The people who are provided with electric power by the Tennessee Valley Authority have been subjected to substantial increases in power rates in recent months. I must point out, however, that consumers of electricity throughout the Nation have experienced similar rate increases for essentially the same reasons -- the rising prices of fuel and materials, the cost of installing air pollution control equipment, and the rising cost of labor.

Nevertheless, TVA customers still pay among the lowest power rates of any region in the Nation -- about 30 percent of rates in New York, 64 percent of Chicago, and 78 percent of Louisville, Kentucky.

No one likes to pay higher electric bills, but it is a well established principle that electricity should

be priced to reflect its cost of production, including the cost of pollution abatement and control. I see no basis in equity or in logic for departing from this principle in the case of the TVA, and for asking the general taxpayer to make up the difference in TVA power rates. To do so would be unfair to power consumers elsewhere in the Nation who do not have the benefit of Tennessee Valley Authority power facilities and who are required to bear the costs attributed to pollution control in their power bills.

THE WHITE HOUSE

December , 1974

MEMORANDUM OF DISAPPROVAL

I have withheld my approval from H.R. 11929, "To amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments."

This bill would permit TVA to defer or offset its repayment obligations to the United States Treasury about $85 million per year for 5 years because of expenditures required to install pollution control equipment -- and thereby enable TVA to postpone some rate increases otherwise required.

The people who are provided with electric power by the Tennessee Valley Authority have been subjected to substantial increases in power rates in recent months. I must point out, however, that consumers of electricity throughout the Nation have experienced similar rate increases for essentially the same reasons -- the rising prices of fuel and materials, the cost of installing air pollution control equipment, and the rising cost of labor.

Nevertheless, TVA customers still pay among the lowest power rates of any region in the Nation -- about 30 percent of rates in New York, 64 percent of Chicago, and 78 percent of Louisville, Kentucky.

No one likes to pay higher electric bills. But we must not allow this simple fact to result in new legislation which violates the fundamental principle that electricity should be priced to reflect its cost of production, including the cost of pollution abatement and control. My environmental advisers as well as my economic advisers agree with me that this principle must be upheld.

I see no basis in equity or in logic for departing from this principle in the case of the TVA, and for asking the general taxpayer to make up the difference in TVA power rates. To do so would be unfair to power consumers elsewhere in the Nation who do not have the benefit of Tennessee Valley Authority power facilities and who are required to bear the costs attributed to pollution control in their power bills.

Gerald R. Ford

THE WHITE HOUSE,
December 21, 1974

FOR IMMEDIATE RELEASE DECEMBER 23, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

MEMORANDUM OF DISAPPROVAL

I have withheld my approval from H.R. 11929, "To amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments."

This bill would permit TVA to defer or offset its repayment obligations to the United States Treasury about $85 million per year for 5 years because of expenditures required to install pollution control equipment -- and thereby enable TVA to postpone some rate increases otherwise required.

The people who are provided with electric power by the Tennessee Valley Authority have been subjected to substantial increases in power rates in recent months. I must point out, however, that consumers of electricity throughout the Nation have experienced similar rate increases for essentially the same reasons -- the rising prices of fuel and materials, the cost of installing air pollution control equipment, and the rising cost of labor.

Nevertheless, TVA customers still pay among the lowest power rates of any region in the Nation -- about 30 percent of rates in New York, 64 percent of Chicago, and 78 percent of Louisville, Kentucky.

No one likes to pay higher electric bills. But we must not allow this simple fact to result in new legislation which violates the fundamental principle that electricity should be priced to reflect its cost of production, including the cost of pollution abatement and control. My environmental advisers as well as my economic advisers agree with me that this principle must be upheld.

I see no basis in equity or in logic for departing from this principle in the case of the TVA, and for asking the general taxpayer to make up the difference in TVA power rates. To do so would be unfair to power consumers elsewhere in the Nation who do not have the benefit of Tennessee Valley Authority power facilities and who are required to bear the costs attributed to pollution control in their power bills.

GERALD R. FORD

THE WHITE HOUSE,

December 21, 1974.

# # # # #

To: Warren Hendriks
12-19-74
10 a.m.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 18 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 11929 - Financing of TVA pollution control expenses
Sponsor - Rep. Jones (D) Alabama and 17 others

Last Day for Action

December 23, 1974 - Monday

Purpose

Authorizes TVA to defer or write-off as much as $430 million in payments on its debt to the government as an offset to needed investment in air and water pollution control facilities.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto Message Attached)
Tennessee Valley Authority	Approval
Department of the Treasury	Disapproval
Council on Environmental Quality	Disapproval
Council of Economic Advisers	Disapproval
Department of the Interior	Disapproval
Environmental Protection Agency	Defers to Treasury
Federal Energy Administration	No Recommendation

Discussion

A 1959 Act that authorized TVA to finance its powerplant program by issuing revenue bonds also established a schedule under which $1 billion previously appropriated to TVA would be repaid to the Treasury. TVA is currently repaying

93D CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 93-1512

TENNESSEE VALLEY AUTHORITY POLLUTION PREVENTION FACILITIES

DECEMBER 3, 1974.—Ordered to be printed

Mr. JONES of Alabama, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 11929]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11929) to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the Tennessee Valley Authority Act of 1933 is amended by inserting immediately at the end of section 15d the following new subsection:

"(i) (1) Beginning with fiscal year 1976 and for each of the next four fiscal years thereafter, the Corporation may elect to defer payments under the annual repayment schedule established under subsection (e) if the expenditures of the Corporation for certified pollution control facilities for the preceding fiscal year exceed the amount of the scheduled repayment. The annual repayment schedule shall be suspended one fiscal year for each fiscal year for which the Corporation so elects.

"(2) Beginning with fiscal year 1976 and for each of the next four fiscal years thereafter the Corporation shall be entitled to credit against the payments required as a return on the appropriations investment in power facilities the amount of expenditures for certified pollution control facilities in excess of the amount of any repayment deferred under the preceding paragraph.

38-006 O

"(3) *For the purposes of this subsection, the term 'certified pollution control facility' means a new identifiable treatment facility which is or will be used, in connection with a plant or other property, to eliminate, abate, or control water or air pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and for which—*

"(A) *the Board has made application for deferral or credit to the State certifying authority having jurisdiction with respect to such facility; and which the State certifying authority has certified to the Environmental Protection Agency as being constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for elimination, abatement, or control of water or air pollution or contamination; and*

"(B) *the Administrator of the Environmental Protection Agency has certified to the Secretary of the Treasury or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention, elimination, and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of air pollution under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).".*

And the Senate agree to the same.

ROBERT E. JONES,
JOHN C. KLUCZYNSKI,
HAROLD T. JOHNSON,
WILLIAM H. HARSHA,
LAMAR BAKER,
Managers on the Part of the House.

JENNINGS RANDOLPH,
JOSEPH M. MONTOYA,
MIKE GRAVEL,
HOWARD BAKER,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11929) to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

DEFINITIONS

House bill

The term "certified pollution control facility" means a new treatment facility which is or will be used in the abatement or control of water or air pollution, which the Board of Directors of the Tennessee Valley Authority (TVA) has certified to the Environmental Protection Agency as having been constructed, reconstructed, erected, or acquired in conformity with programs or requirements for abatement or control of air or water pollution, and which the Administrator of the Environmental Protection Agency has certified to the Secretary of the Treasury as complying with applicable regulations for Federal agencies and with the policy of the Federal Water Pollution Control Act or the Clean Air Act.

Senate amendment

The definition of "certified pollution control facility" in the Senate amendment differs from the House version as follows:

(1) the facility may be used in the elimination of water or air pollution as well as in the abatement and control of these forms of pollution; and

(2) the State certifying authority having jurisdiction with respect to the facility, rather than the Board of Directors of TVA, does the certifying to the Environmental Protection Agency.

Conference substitute

The conference substitute is essentially the same as the definition contained in the Senate amendment except that the Board must make application for deferral or credit to the State certifying authority and the State certifying authority must certify to EPA that the facility is constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for elimination, abatement, or control of water or air pollution or contamination.

NATURE OF THE BENEFIT PROVIDED TO TVA

House bill

The House bill provides that TVA is entitled each fiscal year, beginning with the 1975 fiscal year, to a credit against the amounts which it is obligated to pay the Federal Government in order to reduce the amount invested by that Government in the power facilities of TVA and in order to provide that Government with a return on its investment. The credit shall be equal to the amount actually expended by TVA during the preceding fiscal year for certified pollution control facilities. The credit shall be applied first against the amount required to be paid as a return on the investment by the Federal Government. If the credit exceeds the amount required to be paid as a return, the excess is to be applied against the annual repayment which is made to reduce the investment of the Federal Government. Furthermore, if the credit exceeds both the amount required as a return and the annual repayment, the excess is to be applied to reduce the investment of the Federal Government.

Senate amendment

The Senate amendment differs from the House bill as follows:

(1) the period during which TVA shall be entitled to the benefits provided by the bill begins with fiscal year 1976 and ends with the completion of fiscal year 1980;

(2) TVA may defer for one fiscal year the annual repayment required to be made to reduce the investment of the Federal Government if TVA expends during the previous fiscal year an amount for certified pollution control facilities which exceeds the amount of this required repayment, and the difference between the amount expended for certified pollution control facilities and the amount of the repayment deferred shall be credited against the amount required to be paid as a return on the investment of the Federal Government; and

(3) any amount credited against the amount required to be paid as a return on the investment of the Federal Government shall be added to the total amount of that investment.

Conference substitute

This provision is essentially the same as the provisions of the Senate amendment with the exception that the requirement that any amount credited against the amount required to be paid as a return on the investment of the Federal Government shall be added to the total amount of that investment has been eliminated.

Section 15d(e) of the TVA Act (16 U.S.C. 831 n–4) requires payments into the Treasury before December 31 and June 30 of each fiscal year. The certification procedures for deferrals and credits under this new subsection (i) might not be complete before the payments are required. In the event that the certification procedures have not been complete it is the intention of the managers that the TVA Board exercise the authority provided in the last sentence of such subsection (e) to defer such payments for which bona fide applications for deferrals or credits have been initiated. At the conclusion of the certification process, the TVA Board should make timely payments of any sums not provided for through the deferrals or credits.

ROBERT E. JONES,
JOHN C. KLUCZYNSKI,
HAROLD T. JOHNSON,
WILLIAM H. HARSHA,
LAMAR BAKER,
Managers on the Part of the House.

JENNINGS RANDOLPH,
JOSEPH M. MONTOYA,
MIKE GRAVEL,
HOWARD BAKER,
PETE V. DOMENICI,
Managers on the Part of the Senate.

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93D CONGRESS 2d Session | SENATE | REPORT No. 93-1305

TENNESSEE VALLEY AUTHORITY POLLUTION PREVENTION FACILITIES

DECEMBER 3, 1974.—Ordered to be printed

Mr. BAKER, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 11929]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11929) to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the Tennessee Valley Authority Act of 1933 is amended by inserting immediately at the end of section 15d the following new subsection:

"(i) (1) Beginning with fiscal year 1976 and for each of the next four fiscal years thereafter, the Corporation may elect to defer payments under the annual repayment schedule established under subsection (e) if the expenditures of the Corporation for certified pollution control facilities for the preceding fiscal year exceed the amount of the scheduled repayment. The annual repayment schedule shall be suspended one fiscal year for each fiscal year for which the Corporation so elects.

"(2) Beginning with fiscal year 1976 and for each of the next four fiscal years thereafter the Corporation shall be entitled to credit against the payments required as a return on the appropriations investment in power facilities the amount of expenditures for certified pollution control facilities in excess of the amount of any repayment deferred under the preceding paragraph.

38-010 O

"(3) *For the purposes of this subsection, the term 'certified pollution control facility' means a new identifiable treatment facility which is or will be used, in connection with a plant or other property, to eliminate, abate, or control water or air pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and for which—*

"(A) *the Board has made application for deferral or credit to the State certifying authority having jurisdiction with respect to such facility; and which the State certifying authority has certified to the Environmental Protection Agency as being constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for elimination, abatement, or control of water or air pollution or contamination; and*

"(B) *the Administrator of the Environmental Protection Agency has certified to the Secretary of the Treasury or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention, elimination, and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of air pollution under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).*".

And the Senate agree to the same.

JENNINGS RANDOLPH,
JOE M. MONTOYA,
MIKE GRAVEL,
HOWARD BAKER,
PETE V. DOMENICI,
Managers on the Part of the Senate.

ROBERT E. JONES,
JOHN C. KLUCZYNSKI,
HAROLD T. JOHNSON,
WILLIAM H. HARSHA,
LAMAR BAKER,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11929) to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

DEFINITIONS

House bill

The term "certified pollution control facility" means a new treatment facility which is or will be used in the abatement or control of water or air pollution, which the Board of Directors of the Tennessee Valley Authority (TVA) has certified to the Environmental Protection Agency as having been constructed, reconstructed, erected, or acquired in conformity with programs or requirements for abatement or control of air or water pollution, and which the Administrator of the Environmental Protection Agency has certified to the Secretary of the Treasury as complying with applicable regulations for Federal agencies and with the policy of the Federal Water Pollution Control Act or the Clean Air Act.

Senate amendment

The definition of "certified pollution control facility" in the Senate amendment differs from the House version as follows:

(1) the facility may be used in the elimination of water or air pollution as well as in the abatement and control of these forms of pollution; and

(2) the State certifying authority having jurisdiction with respect to the facility, rather than the Board of Directors of TVA, does the certifying to the Environmental Protection Agency.

Conference substitute

The conference substitute is essentially the same as the definition contained in the Senate amendment except that the Board must make

application for deferral or credit to the State certifying authority and the State certifying authority must certify to EPA that the facility is constructed, reconstructed, erected, or acquired in conformity with the State program or requirements of elimination, abatement, or control of water or air pollution or contamination.

NATURE OF THE BENEFIT PROVIDED TO TVA

House bill

The House bill provides that TVA is entitled each fiscal year, beginning with the 1975 fiscal year, to a credit against the amounts which it is obligated to pay the Federal Government in order to reduce the amount invested by that Government in the power facilities of TVA and in order to provide that Government with a return on its investment. The credit shall be equal to the amount actually expended by TVA during the preceding fiscal year for certified pollution control facilities. The credit shall be applied first against the amount required to be paid as a return on the investment by the Federal Government. If the credit exceeds the amount required to be paid as a return, the excess is to be applied against the annual repayment which is made to reduce the investment of the Federal Government. Furthermore, if the credit exceeds both the amount required as a return and the annual repayment, the excess is to be applied to reduce the investment of the Federal Government.

Senate amendment

The Senate amendment differs from the House bill as follows:

(1) the period during which TVA shall be entitled to the benefits provided by the bill begins with fiscal year 1976 and ends with the completion of fiscal year 1980;

(2) TVA may defer for one fiscal year the annual repayment required to be made to reduce the investment of the Federal Government if TVA expends during the previous fiscal year an amount for certified pollution control facilities which exceeds the amount of this required repayment, and the difference between the amount expended for certified pollution control facilities and the amount of the repayment deferred shall be credited against the amount required to be paid as a return on the investment of the Federal Government; and

(3) any amount credited against the amount required to be paid as a return on the investment of the Federal Government shall be added to the total amount of that investment.

Conference substitute

This provision is essentially the same as the provisions of the Senate amendment with the exception that the requirement that any amount credited against the amount required to be paid as a return on the investment of the Federal Government shall be added to the total amount of that investment has been eliminated.

Section 15d(e) of the TVA Act (16 U.S.C. 831 n–4) requires payments into the Treasury before December 31 and June 30 of each fiscal year. The certification procedures for deferrals and credits under

this new subsection (i) might not be complete before the payments are required. In the event that the certification procedures have not been complete it is the intention of the managers that the TVA Board exercise the authority provided in the last sentence of such subsection (e) to defer such payments for which bona fide applications for deferrals or credits have been initiated. At the conclusion of the certification process, the TVA Board should make timely payments of any sums not provided for through the deferrals or credits.

JENNINGS RANDOLPH,
JOSEPH M. MONTOYA,
MIKE GRAVEL,
HOWARD BAKER,
PETE V. DOMENICI,
Managers on the Part of the Senate.

ROBERT E. JONES,
JOHN C. KLUCZYNSKI,
HAROLD T. JOHNSON,
WILLIAM H. HARSHA,
LAMAR BAKER,
Managers on the Part of the House.

○

Calendar No. 1180

93D CONGRESS
2d Session

SENATE

REPORT
No. 93-1247

TENNESSEE VALLEY AUTHORITY POLLUTION CONTROL FINANCING ACT

OCTOBER 8, 1971.—Ordered to be printed

Mr. BAKER, from the Committee on Public Works, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 3057]

The Committee on Public Works, to which was referred the bill (S. 3057) amending section 15(d) of the Tennessee Valley Authority Act of 1933 to provide that expenditures for certified pollution control facilities be credited against required power investment return payments and repayments having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. BACKGROUND

TVA POWER FINANCING

Prior to the 1959 amendments to the Tennessee Valley Authority Act which provided the TVA authority to finance additions to its power program through the issuance of revenue bonds, the entire power program of the TVA was financed either through Federal appropriations or through retained earnings. By 1959 the appropriations for the power program totaled approximately $1.2 billion, and retained earnings accounted for the remainder of the $1.8 billion total power program investment. There has been no significant appropriation of moneys for the TVA power program since 1959, and the bonds issued under the 1959 act authority are not obligations against the Federal Government but are secured solely by revenues from the TVA power program.

The 1959 Bond Financing Act established a sechedule for the repayment of $1 billion of the appropriation for powerplants constructed and operated by the Tennessee Valley Authoirty. The 1959 amendments provided that this would be repaid at the rate of $10

million per year for the fiscal years ending June 30, 1961 through 1965, and at the rate of $15 million per year for 1966 through 1970. Each year thereafter, the Tennessee Valley Authority is required to pay to the Federal Treasury a sum of $20 million in repayment of Federal appropriations for power facilities until the required $1 billion sum has been repaid.

In addition to the repayments of Federal appropriations, the Tennessee Valley Authority is required to pay a return on the outstanding unrepaid appropriation investment. The following table sets forth the investment return payments and repayments by the Tennessee Valley Authority for the 5 most recent years:

TABLE 1.—INVESTMENT RETURN PAYMENTS AND REPAYMENTS

[In millions of dollars]

	Repayments	Investment return	Total
Fiscal year:			
1974	20	63.4	83.4
1973	20	53.8	73.8
1972	20	55.8	75.5
1971	20	65.1	85.1
1970	15	57.6	72.6

The repayment and return payment requirement is set forth in title 16 of the United States Code, section 831 n-4, subsection (e):

(e) Payment of excess power proceeds into Treasury; deferral.

From net power proceeds in excess of those required to meet the Corporation's obligations under the provisions of any bond or bond contract, the Corporation shall, beginning with fiscal year 1961, make payments into the Treasury as miscellaneous receipts on or before December 31 and June 30, of each fiscal year as a return on the appropriation investment in the Corporation's power facilities, plus a repayment sum of not less than $10,000,000 for each of the first five fiscal years, $15,000,000 for each of the next five fiscal years, and $20,000,000 for each fiscal year thereafter, which repayment sum shall be applied to reduction of said appropriation investment until a total of $1,000,000,000 of said appropriation investment shall have been repaid. The said appropriation investment shall consist, in any fiscal year, of that part of the Corporation's total investment assigned to power as of the beginning of the fiscal year (including both completed plant and construction in progress) which has been provided from appropriations or by transfers of property from other Government agencies without reimbursement by the Corporation, less repayments of such appropriation investment made under title II of the Government Corporations Appropriation Act, 1948, this chapter, or other applicable legislation. The payment as a return on the appropriation investment in each fiscal year shall be equal to the computed average interest rate payable by the Treasury upon its total marketable public obligations as of the beginning of said fiscal year applied to said appropriation investment. Payments due hereunder may be deferred for not more than two years when, in the judgment of the Board of Directors of the Corporation, such payments cannot feasibly be made because

of inadequacy of funds occasioned by drought, poor business conditions, emergency replacements, or other factors beyond the control of the Corporation.

II. Proposed Changes in TVA's Repayment Obligation

H.R. 11929

S. 3057, as introduced, was identical to H.R. 11929 which was approved in the House of Representatives in March of this year. That bill provided direct credits for expenditures on certified pollution control facilities against the repayments and return payments established under the 1959 act, and provided further that any amount by which expenditures exceeded the required annual payment could be credited against the remaining obligation of TVA. Under the House-passed bill, TVA would rapidly retire the entire repayment obligation and under present projections would be relieved of further return payments indefinitely.

While there is substantial justification for review of the financial burdens which have been placed upon the TVA, the sponsors of S. 3057 feel that a broader and more incisive analysis of TVA's financial picture is needed before fundamental changes are undertaken. In this time of heavy inflation, however, temporary relief from the repayment schedule imposed by the 1959 act will ease the financial burden to TVA rate payers while this review is undertaken.

THE COMMITTEE AMENDMENT

S. 3057 as reported provides that TVA may defer the repayment of appropriations investment required in any of the fiscal years 1976 through 1980, in which expenditures by the Corporation for certified pollution control equipment exceed the $20 million required annual repayment. The entire schedule of repayments would be extended by an election to defer a repayment. Thus the final repayment of the $1 billion obligation established by the 1959 act could occur in fiscal year 2019 instead of fiscal year 2014 under the present schedule.

The bill as reported further provides that TVA shall be allowed to credit expenditures for certified pollution control equipment in excess of the $20 million annual repayment against the return on appropriation investment during any fiscal year for which a repayment deferral is in effect. The amount of any return foregone under this provision, however, would be treated as an investment of the Federal Government in the TVA power program, becoming a part of the total appropriations investment.

Since the projected annual pollution control expenditures of the Tennessee Valley Authority far exceed the annual payments under the 1959 act, the effect of the reported bill would be to defer repayments for 5 fiscal years and to provide total credit for the return required during that period, increasing the appropriations investment by the amount of the return payments so credited.

It is important to note that S. 3057 as reported does not diminish the obligation of the Tennessee Valley Authority to the Federal Treasury under the 1959 Bond Financing Act. It simply affords TVA the opportunity to defer these repayments during a period of heavy investment in pollution control equipment. The following table sets forth for comparison the obligation of TVA under present law, under H.R. 11929, and S. 3057 as reported:

FINANCIAL IMPACT OF S. 3057—Continued

FINANCIAL IMPACT OF S. 3057

[In millions of dollars]

	Current legislation				H.R. 11929				S. 3057				
Fiscal year	Appropriation investment	Dividend [1]	Repayment	Total	Appropriation investment	Dividend [1]	Repayment	Total	Fiscal year	Appropriation investment	Dividend [1]	Repayment	Total
1976	995	59.7	20	79.7	995.0				1976	995.0			
1977	975	58.5	20	78.5	904.7				1977	1,054.7			
1978	955	57.3	20	77.3	808.98				1978	1,117.9			
1979	935	56.1	20	76.1	707.52				1979	1,185.1			
1980	915	54.9	20	74.9	599.9				1980	1,256.2			
1981	895	53.7	20	73.7	485.9				1981	1,331.5	79.9	20	99.9
1982	875	52.5	20	72.5	365.1				1982	1,311.5	78.7	20	98.7
1983	855	51.3	20	71.3	237.0				1983	1,291.5	77.5	20	97.5
1984	835	50.1	20	70.1	220.0				1984	1,271.5	76.3	20	93.6
1985	815	48.9	20	68.9	220.0				1985	1,251.5	75.1	20	95.1
2015 [2]	220	13.2		13.2	220.0				2020 [2]	556.5	33.4		33.4

[1] Dividend calculated at an estimated rate of 6 percent.

[2] The 1st year after retirement of the repayment obligation under the respective measures. The return payments indicated remain the residual obligation of TVA.

Pollution control equipment for which expenditures are sought to be credited must be certified by the state pollution control authority and by the Environmental Protection Agency as being in conformity with State and Federal programs for elimination, abatement, or control of water or air pollution or contamination and as being in furtherance of the United States' policy for cooperation with the States in the enforcement of air and water pollution control programs. This certification will assure that the equipment and facilities which provide the basis for deferments and credits under the bill will be consistent with the Clean Air Act and the Federal Water Pollution Control Act.

The definition of "pollution control facility" in S. 3057 is drawn from the Tax Reform Act of 1969. It is the intent of the bill that the term "pollution control facilities" be subject to the same limitations for the purpose of certification under S. 3057 as certifications made for tax write-offs by private industry. The Senate report on the 1969 Tax Act (S. Rept. 91–552) further defined the term and has become the basis for regulations under that act:

> The amortization deduction is to be available only with respect to a "certified pollution control facility," which generally is defined as depreciable property which is a separate identifiable treatment facility used to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes or heat, and which is appropriately certified. A building is not a pollution control facility unless it is exclusively a treatment facility. Thus, a pollution control facility does not include any facility which serves any function other than pollution abatement. Moreover, facilities which only diffuse pollution, as distinct from abating it, are not pollution control facilities. In other words, a pollution control facility is an installation which prevents or minimizes the direct release of pollutants into the air or water in the course of manufacturing operations. For example, a smokestack on a plant whose height was increased to disperse pollutants over a broader area would not be a pollution control facility while a device which is contained in a smokestack and actually abates the emission of pollutants is to be a pollution control facility. In addition, a facility that removes certain elements from fuel (for example, sulphur which would be released as a pollutant when the fuel is burned) would not be a pollution control facility.

III. Explanation and Purpose

Since the enactment of the 1959 Bond Financing Act the Tennessee Valley Authority has made annual payments to the Federal Treasury as a repayment of $1 billion of the appropriations investment and as a return or dividend to the Federal Government on the outstanding investment. Presently the annual repayment of investment is $20 million and the return (calculated on the basis of the current "computed average interest rate payable by the Treasury upon its total marketable public obligations") has averaged about $60 million for the past 5 fiscal years.

These payments have been relatively constant during the past 5 years and projections for the next 5 years indicate that they will remain so. In fiscal year 1974 the total annual payment amounted to 9 percent of the gross operating revenues of the TVA power program. This is a substantial burden to TVA, amounting to over twice the rate of Federal taxes paid by the private electric industry. This burden is, of course, borne directly by the TVA ratepayer, since annual revenues must cover this obligation.

Because the TVA is no longer financed by Federal appropriations, additions or improvements to the TVA power program must be financed either through retained earnings or through revenue obligations issued under the authority of the 1959 Bond Financing Act. Eventually 100 percent of the cost of additional facilities must be reflected in the electric rates of the TVA.

By comparison, it is estimated that over 50 percent of the additions to private power systems will eventually be reflected in a reduction of Federal income taxes. Thus a large portion of the financial burden of capital improvements on private systems is distributed through the tax system to the taxpayers of the Nation, while TVA ratepayers, who as taxpayers share in the added burden created by rapid amortization of pollution control facilities, must also assume the entire burden of capital additions to the TVA system.

The result of this situation over the past several years has become critical. The TVA residential electric rate for 1,000 kWh increased 73.15 percent between 1967 and 1973, while private electric rates in the southeast region increased only by about 29.6 percent in the same period. The increase for 1,000 kWh was $1.97 higher for residential consumers of TVA power during that 7-year period than for consumers of private power ($6.48 compared to $4.51). Earlier this year TVA announced yet another rate increase amounting to 14 percent in the average residential rate. And in June TVA put into effect a fuel adjustment clause which has already resulted in a further increase in the average family's bill amounting to about 6 percent.

As substantial as the increases in TVA electric rates have been the rapid increase in capital requirements for pollution control equipment (from $25 million in 1972 and $31 million in 1973 to $136 million in 1974, $183 million in 1975, and an estimated $150 million or more thereafter) and the rapid increase in the price of coal (TVA's average cost per ton was $4.73 in 1970, $8.61 in 1974, and new purchases have been at prices in excess of $20 per ton) indicate that rate increases over the next several years could be even greater.

S. 3057, as reported from the Committee on Public Works would not end this inflationary trend, but it should ease the rate of increase. It would do this by affording temporary relief from the annual repayments of the federal appropriations investment during a period of heavy capital expenditures. Unlike tax write-offs for private industry, which eliminate a portion of the obligation which would otherwise be due the federal treasury, under S. 3057 the obligation of TVA would remain payable. Only the interest on the Federal investment during the period for which the repayment is deferred would be credited—and that credit would become an investment in the power program, yielding interest to the Federal Government in perpetuity. At the present return rate of 6.1 percent the TVA will pay in returns on the addition to appropriation investment an amount equal to such credits in the first 17 years of the 40-year repayment period.

The increasing capital burden of environmental programs has in recent years spurred the Federal Government to provide financial aid in various forms to assist in meeting both State and Federal environmental standards. Direct appropriations are provided for Federal installations such as military bases, naval vessels, government building, and recreation areas. Federal grants are provided to State and local governments for many pollution control activities. Private industry is afforded various tax relief devices to ameliorate the cost of pollution equipment. The Tax Reform Act of 1969 specifically provides relief to private industry in the form of accelerated amortization of "certified pollution control equipment."

S. 3057, as reported, does not seek to establish an analogy with the tax write-offs afforded private industry. Such write-offs abate the tax obligation of the industry; S. 3057 only defers the repayment obligation of TVA and converts the statutory return into owner equity. The most appropriate analogy applicable to this arrangement would be the issuance of common shares in lieu of a dividend.

It is the purpose of S. 3057 to provide temporary relief to the TVA from the repayment obligation established by the 1959 Bond Financing Act during a period of heavy inflationary pressures. By doing so the sponsors of the measure hope to ease the rapid inflation of TVA power rates and to afford Congress an opportunity to review TVA power financing. The measure will also ease somewhat the tremendous demand pressure on capital markets and prevent the debt-equity ratio of the TVA from slipping further below the general industry standard during the temporary period.

Hearings

The Public Works Committee conducted 1 day of hearings on S. 3057. A total of 14 witnesses including Members of Congress and representatives of environmental associations, private electrical companies, consumers of TVA power, and the Tennessee Valley Authority testified or presented statements. Several additional and supplemental statements were received.

The hearing was held on June 19, 1974.

Costs of the Legislation

Under the reported bill, TVA would be able to defer repayments of appropriations investment over the next 5 fiscal years (fiscal years 1976–80) amounting to $100 million. Additionally, if pollution control expenditures meet projections the TVA would receive credits amounting to approximately $330 million (assuming the average cost of Federal borrowings, presently about 6.1%, remains about 6%).

TVA's entire obligation, including both payments deferred and return on the appropriations investment, will be paid as provided in the 1959 act after the period of deferral. In addition, TVA will be required to pay interest, as a return on appropriations investment, on any returns foregone by the government during the period of the deferral. Thus over the period of repayment of the remaining obligation created by the 1959 Act, TVA will pay to the treasury more than $800 million in additional return or dividend.

Rollcall Votes During Committee Consideration

Pursuant to section 133 of the Legislative Reorganization Act of 1970 and the rules of the Committee on Public Works, rollcall votes are hereinafter announced. There were no rollcall votes during the committee's consideration of this bill. The committee ordered the bill reported by a voice vote.

Changes in Existing Law

In compliance with subsection (4) of the rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Tennessee Valley Authority Act of 1933

PUBLIC LAW 17, 73D CONGRESS, MAY 18, 1933, 48 STAT 58

* * * * * * *

Sec. 15. (d)

* * * * * * *

(i)(1) Beginning with fiscal year 1976 and for each of the next four fiscal years thereafter, the Corporation may elect to defer payments under the annual repayment schedule established under subsection (e) if the expenditures of the Coproration for certified pollution control facilities for the preceding fiscal year exceed the amount of the scheduled repayment. The annual repayment schedule shall be suspended one fiscal year for each fiscal year for which hte Corporation so elects.

(2) Beginning with fiscal year 1976 and for each of the next four fiscal years thereafter, the Corporation shall be entitled to credit against the payments required as a return on the appropriations investment in power facilities in the amount of expenditures for certified pollution control facilities in excess of the amount of any repayment deferred under the preceding paragraph.

(3) For the purposes of this subsection, the term 'certified pollution control facility' means a new identifiable treatment facility which is or will be used, in connection with a plant or other property, to eliminate, abate or control water or air pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

(A) The State certifying authority having jurisdiction with respect to such facility has certified to the Environmental Protection Agency as being constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for elimination, abatement or control of water or air pollution or contamination; and

(B) The Administrator of the Environmental Protection Agency has certified to the Secretary of the Treasury or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being furtherance of the general policy of the United States for cooperation with the States in the prevention, elimination, and abatement of water pollution under the Federal Water Pollution

Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of air pollution under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

TITLE 16, UNITED STATES CODE—"CONSERVATION"

* * * * * * *

Subchapter I—Regulation of the Development of Water Power and Resources

* * * * * * *

Sec. 831n–4. Bonds for financing power program

* * * * * * *

(e) Payment of excess power proceeds into Treasury; deferral.

From net power proceeds in excess of those required to meet the Corporation's obligations under the provisions of any bond or bond contract, the Corporation shall, beginning with fiscal year 1961, make payments into the Treasury as miscellaneous receipts on or before December 31 and June 30, of each fiscal year as a return on the appropriation investment in the Corporation's power facilities, plus a repayment sum of not less than $10,000,000 for each of the first five fiscal years, $15,000,000 for each of the next five fiscal years, and $20,000,000 for each fiscal year thereafter, which repayment sum shall be applied to reduction of said appropriation investment until a total of $1,000,000,000 of said appropriation investment shall have been repaid. The said appropriation investment shall consist, in any fiscal year, of that part of the Corporation's total investment assigned to power as of the beginning of the fiscal year (including both completed plant and construction in progress) which has been provided from appropriations (from credits against the return on the appropriation investment), or by transfers of property from other Government agencies without reimbursement by the Corporation, less repayments of such appropriation investment made under title II of the Government Corporations Appropriation Act, 1948, this chapter, or other applicable legislation. The payment as a return on the appropriation investment in each fiscal year shall be equal to the computed average interest rate payable by the Treasury upon its total marketable public obligations as of the beginning of said fiscal year applied to said appropriation investment. Payments due hereunder may be deferred for not more than two years when, in the judgment of the Board of Directors of the Corporation, such payments cannot feasibly be made because of inadequacy of funds occasioned by drought, poor business conditions, emergency replacements, or other factors beyond the control of the Corporation.

MINORITY VIEWS OF MR. BUCKLEY

I dissent from the majority view in reporting S. 3057 as amended because I believe that the subsidy which this bill provides to the Tennessee Valley Authority for the construction of pollution abatement facilities undermines two fundamental public policy objectives which this committee has historically supported: the "polluter pays" principle and energy conservation. It sets a lamentable precedent for Federal subsidization of pollution control costs: for TVA now and in the future, for other electric utilities and, utlimately, for all classes of industry. Finally, the bill is not justified in order to achieve "equity" for TVA with various tax advantages available to private utilities. TVA pays no taxes.

POLLUTER PAYS

According to the testimony of TVA Chairman Wagner, the principal effect of the proposal to credit expenditures for pollution control against TVA's payments to the Treasury will be to make cash available for investments (in pollution control) that would otherwise have been financed with borrowed money (bonds). TVA, in short, would save the interest costs on $430 million in pollution control capital borrowings from fiscal year 1976 to fiscal year 1980. In return, the committee amendment would require TVA to increase its dividend payments to the Treasury by about $26 million/year beginning in fiscal year 1981 (assuming a 6 percent average yield U.S. obligations is applied to TVA's fortified "appropriation investment"). This obligation is not unlike a long-term 6 percent loan, payable beginning 5 years after the loan is made, to finance the interest cost for 5 years. In addition, TVA must pay the $100 million of deferred repayment of appropriation investment. However, since the entire payment schedule is shifted 5 years into the future, the payments of $20 million a year which would have been due from fiscal year 1976 to fiscal year 1980 will not be due until fiscal year 2015–fiscal year 2020. The present value of $20 million some 40 years hence is a small fraction of what that $20 million is worth to TVA next year.

Compared to the 8 percent or so bonds which TVA would otherwise need to float, the scheme provided in this bill does represent a subsidy. Since the payments foregone to the Treasury must be financed by additional U.S. obligations, the subsidy will certainly be inflationary.

The polluter pays the principle means that the user of the polluting activity must bear the full cost of reducing that pollution. If someone else pays, the user has no incentive to abate pollution or to abate his demand for the polluting activity (in this case, generating electricity). If Congress begins here to finance pollution controls instead of allowing the costs to be passed on to the customer, distortions will begin to proliferate. Those responsible for pollution will not be held accountable, inefficient solutions will be encouraged, and the entire pricetag on this crucial task of environmental protection will increase substantially (perhaps unacceptably).

ENERGY CONSERVATION

For a variety of reasons, TVA customers have always paid, and continue to pay much less for electricity than the customers of private utilities. For instance in 1973 the average residential consumer in the TVA system paid 1.30 cents per kWh, compared to a national average of 2.38 cents per kWh and 2.54 cents per kWh for investor-owned utilities. Not surprisingly, then, the average consumption of electricity by TVA customers is about double the national average.

If TVA power rates are kept artificially lower than they would be if pollution capitals were financed in the marketplace, TVA consumers will continue to have little incentive to take steps to conserve energy. The decisions to insulate homes, schools and other public buildings will continue to be delayed. And with every year of delay, the generating capacity and the pollution abatement requirements associated with that capacity will grow apace.

PRECEDENT

The distortions and inefficiencies described above will be compounded beyond repair should similar subsidies be requested and granted to others which also face the formidable capital costs of pollution control. The financial problems facing the electric utility industry have been the subject of recent Senate hearings under the National Fuels and Energy Policy Study. I am confident that the federal government will be asked to rescue this industry from the high costs of environmental controls and fuels. Others will undoubtedly follow suit.

The relief being offered to TVA is explicitly a temporary measure to ease the burden to its rate payers while a broader analysis of TVA's financial situation is undertaken.

Clearly, the subsidy provided here will not be the last. It is unfortunate that this committee, which pioneered federal efforts in environmental pollution control, is also initiating the Federal subsidization of these vital investments.

EQUITY

Virtually every witness testifying before the committee in support of S. 3057 claimed that the customers of investor-owned utilities enjoy financial benefits in the form of tax advantages which are not available to TVA customers.

Supporters of a TVA subsidy claim that private utilities can reduce their income tax obligation by over 50 percent of their investment in a pollution control facility within 5 years through the use of accelerated depreciation.

An analysis of the use of accelerated depreciation, however, would indicate that the tax break is vastly overstated. If a utility spent $150 million on capital for pollution control, without accelerated depreciation it might amortize its investment over 15 years at $10 million/year, The effect of accelerated depreciation is to increase the depreciation to $30 million per year in the first 5 years, and eliminate it in the next 10 years. Using a discount rate of 5 percent, the effective subsidy is

about $13.5 million—the private utility gets tax savings with a present value of $35.5 million, in return for future tax obligations with a present value of about $32 million. The actual subsidy is less than 10 percent, not 50 percent. It is an error to look only at the first 5 years.

Furthermore, TVA does not and has never paid Federal income taxes. In determining what TVA would have to earn on its investment to cover its costs, it does not need to charge its customers in order to pay for income taxes.

It also does not need to earn money to pay dividends to investors (akin to TVA's payments of interest on appropriations investment) at anywhere near the rate which private utilities must earn to cover the equity capital it must raise. Private companies must sell stock. In order to pay dividends to stockholders they must make a profit and these profits are taxable.

Furthermore, because TVA is a quasi-government agency it can raise money by issuing bonds at very favorable rates compared to private utilities. To illustrate, TVA could currently issue, say, $100 million in 20-year bonds at 7½ to 8 percent; whereas the typical investor-owned utility would have to pay close to 10.5 percent. While superior TVA management might be credited with this advantageous rate, it is more likely that bondholders believe it to be much less risky to lend to TVA, knowing that the Federal Government can be counted on to keep TVA solvent (irrespective of the fact that TVA bonds are not a legal obligation of the Treasury.)

In general, TVA customers enjoy the use of electricity at much lower rates than customers of private utilities, regardless of any breaks those utilities might get on their federal income taxes, simply because TVA has purchased capital out of appropriations from the Treasury and can raise new money at very favorable interest rates.

To illustrate: Even though the residential rate for 1,000 kWh increased $6 or 73.15 percent from 1967 to 1973 for TVA customers compared to an increase of $4 or 29.5 percent for private electric rates in Alabama and Georgia, TVA customers' total bill in 1973 for 1,000 kWh was $14.58 whereas the Alabama-Georgia private customers paid $36.34 for the same amount of electricity. In New York City, Manhattan customers of Con Ed paid $33.73 in 1973 for 1,000 kWh.

The supporters of S. 3057 ask "only" that TVA customers be treated equally with other consumers across the country. I would suggest that TVA customers enjoy many more advantages than others and have for many years. The need for subsidy simply cannot be justified on the basis of equity.

The committee substitute is an improvement over S. 3057 (identical to the House-passed version), in that it permits deferals rather than credits against payments due to the Treasury.

However, the bill contradicts important principles of environmental protection and opens the door for further, potentially very inflationary, subsidies.

I urge its rejection.

JAMES L. BUCKLEY.

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Union Calendar No. 403

93D CONGRESS, 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 93-891

TENNESSEE VALLEY AUTHORITY POLLUTION CONTROL FACILITIES

MARCH 12, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BLATNIK, from the Committee on Public Works, submitted the following

REPORT

together with

SUPPLEMENTAL AND MINORITY VIEWS

[To accompany H.R. 11929]

The Committee on Public Works, to whom was referred the bill (H.R. 11929) to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 3, line 9, after "is" insert "or will be".

Page 3, line 15, strike out "having been" and insert in lieu thereof "being".

SUMMARY AND BACKGROUND OF H.R. 11929

I. SUMMARY

Energy is a vital part of man's life. As he has replaced his own energy and that of his domesticated animals with the energy which powers machines, man has been able to increase his productive capacity, enlarge his discretionary time, expand his cultural horizons and provide himself a safer, more comfortable personal environment.

Man's freedom from a constant effort merely to gain enough food for himself has been made possible by his skillful engagement of the various energy producing resources he found around him. To a significant degree, man's speed in lifting the burdens of back-breaking

drudgery has been measured by extent to which he has been able to find and substitute ample, low-cost energy.

Electric power, a transportable form of easily useable energy produced from the conversion of other more basic forms of energy such as falling water, coal or oil, is an important part of the energy utilized in this country. The nation's use of electricity has increased at a compound annual rate of 7.4 percent for the past 10 years. Production in 1971 came to 1.617 trillion KWH, or approximately 2.23 trillion horsepower.

In the home, electricity lightens the workload of the housewife and contributes to the comfort, health and safety of all members of the family. In all business and industry, electricity makes possible increases in productivity. It is a factor in the cost of most items man produces. The availability of low-cost electric power has fostered the development and manufacture of a vast array of appliances and equipment the sale of which accounts for billions of dollars each year. There is some expectation that electricity will gain an important role in transportation as means are sought to reduce the forms of pollution associated with present internal combustion engines.

In the Tennessee River basin, electricity is a major source of energy and has been replacing other sources such as petroleum products. The source of the electricity is the Tennessee Valley Authority, a corporation owned by the United States.

This amendment to the Tennessee Valley Authority Act of 1933 is intended to place the Tennessee Valley Authority, the largest producer of electric power in the U.S., on a similar footing with other power producing systems in the U.S. with regard to high-cost pollution control and other facility investments.

The Tennessee Valley Authority, like other power producing organizations, is being required pursuant to the air pollution and water pollution control laws to make huge investments in pollution control equipment. In this regard, the Tennessee Valley Authority, like all other power producing organizations, is required to make extensive borrowings of capital for these huge investments.

It has been estimated that the annual expenditures by the Tennessee Valley Authority for pollution control equipment will be approximately $150 million a year for a number of years to come. H.R. 11929 recognizes this large demand for capital and the increasing difficulty that the Tennessee Valley Authority is encountering in financing huge capital investments at reasonable interest rates.

The nationwide shortage of fuels and the need to conserve petroleum has further increased the need for capital expenditures. It is now clearly recognized that the basis for a long term solution to the energy crisis is exploitation of our nation's huge reserves of coal and increased use of nuclear power. This increases the need for capital.

The Tennessee Valley Authority recognized the utility and availability of coal and over three-fourths of the Authority's power generating capacity is coal fired. Most of the remainder is hydro-generating capacity. The nuclear generating capability also is growing. This capability to utilize coal is a national asset at a time of energy shortages and is consistent with national objectives. However, the concomitant is that the Tennessee Valley Authority is faced with high environmental control costs, higher than many other power producing organizations, because of the high cost of sulfur-dioxide and particulate control facilities.

It must be recognized that the credits for environmental control equipment will not only accrue to the customers of the Tennessee Valley Authority. The benefits go far beyond the Tennessee Valley region. For example, it would not have been possible to construct the nationally important Oak Ridge and Paducah nuclear facilities without the assured source of power provided by the Tennessee Valley Authority. Further, practically all power systems east of the western United States, with the exception of those systems in Texas, and systems covering much of Canada are linked together by a large network of interconnections. Since the Tennessee Valley Authority constitutes a sizeable portion of this network, the Tennessee Valley Authority power system adds substantially to the reliability of the nation's power supply. Power can flow back and forth when needed to meet varying peak seasonal power requirements and to help relieve emergency situations that sometimes threaten the reliability of electric power service. The Tennessee Valley Authority also participates in and contributes to major national energy projects such as the liquid metal fast breeder project. The Tennessee Valley Authority is a national asset. Prior appropriations for power production have been well justified.

The 1959 amendments to the Tennessee Valley Authority Act established a schedule for the repayment of $1 billion of the appropriation for power plants constructed and operated by the Tennessee Valley Authority. The 1959 amendments provided that this would be repaid at the rate of $10 million per year for the fiscal years ending June 30, 1961 through 1965, and at the rate of $15 million per year for 1966 through 1970. Each year thereafter, the Tennessee Valley Authority is required to pay to the Federal Treasury a sum of $20 million in repayment of Federal appropriations for power facilities until the required $1 billion sum has been repaid.

In addition to the repayments of Federal appropriations, the Tennessee Valley Authority is required to pay a return on the outstanding unrepaid appropriation investment. The following table sets forth the investment return payments and repayments by the Tennessee Valley Authority for the 5 most recent years:

TABLE 1.—INVESTMENT RETURN PAYMENTS AND REPAYMENTS

[In millions of dollars]

	Repayments	Investment return	Total
Fiscal year:			
1974	20	63.4	83.4
1973	20	53.8	73.8
1972	20	55.8	75.5
1971	20	65.1	85.1
1970	15	57.6	72.6

On the assumption that the Tennessee Valley Authority invested, from its own resources, $150 million a year or $750 million over the next five years for certified pollution control facilities, the enactment of this legislation would result in an estimated $394.5 million which

would otherwise be paid by TVA to the Treasury being retained by the Authority for use in the system over a five-year period.

H.R. 11929 as reported provides that beginning with fiscal year 1975, and every year thereafter, the Tennessee Valley Authority is entitled to credit payments for certified environmental control equipment during the preceding year against both the required $20 million per year annual repayment and the annual payments as return on the appropriation investment.

In any year where expenditures for pollution control equipment exceeds the payments required as a return on appropriation investment for the next fiscal year, the amount in excess of the repayments shall be applied against the $20 million annual repayment.

In those years where the investment for certified pollution control equipment exceeds the sum of the $20 million per year annual repayment and the return on appropriation investment for the next year, such excess sums would be credited against the outstanding unrepaid appropriation.

Credits against the return on appropriation investment or repayment of the appropriation investment shall be applied against the return or repayment sums as if they were payments in cash.

In order for pollution control expenditures to be eligible to be credited against annual repayments or payments as return on appropriation investment, such expenditures must be for certified pollution control facilities. For a facility to qualify as a "certified pollution control facility", the Board of the Tennessee Valley Authority must first certify to the Environmental Protection Agency that the environmental control facility has been or is being constructed, reconstructed, erected, or acquired, in conformity with programs and requirements for abatement and control of water or atmospheric pollution or contamination. The Administrator of the Environmental Protection Agency, in addition, must then certify to the Secretary of the Treasury or his delegate that the facility in question is or will be in compliance with the applicable regulations of Federal agencies, and is in furtherance of the general policy of the United States for cooperation with the states in the prevention and abatement of water pollution under the Federal Water Pollution Control Act or in the prevention or abatement of atmospheric pollution or contamination under the Clean Air Act.

By crediting expenditures for pollution control facilities against Treasury repayments, cash will be available for investments that would otherwise have to be made with borrowed money. Therefore, the Tennessee Valley Authority would have to borrow less and thereby obtain a savings in interest costs. This reduction in interest costs would further reduce the need for borrowing and expand the benefits to the Tennessee Valley Authority.

It is intended that eligible facilities to abate or control water or atmospheric pollution or contamination shall include all new or reconstructed facilities that are either required pursuant to existing schedules of compliance or which will be required at a future time pursuant to the Federal Water Pollution Control Act and Clean Air Act.

It is intended that partial expenditures for pollution control facilities, the construction of which will extend over more than one fiscal year, may be credited against payments and repayments as they accrue

and prior to the actual completion of construction. Such partial expenditures may be certified prior to the time the environmental control equipment is actually put into operation.

Certain environmental control facilities utilized by the power industry such as cooling towers, electrostatic precipitators and stack-gas cleaning facilities require significant quantities of electric power for their operation. It has been estimated that in certain new power plans with high performance precipitators, SO_2 scrubbing devices, and forced-draft cooling towers, 10 percent or more of the power generating capacity of the new plant would be required to operate the environmental control devices. It is the intent of H.R. 11929 that that added increment of power producing capacity which is required in new facilities to operate certified environmental control devices would also be considered to be a certified pollution control facility. Thus, the cost of this added increment of power producing capacities would be eligible to be credited against the repayments and investment return payments.

It is to be noted that the Federal Water Pollution Control Act and the Clean Air Act both utilize or direct the States to set pollution control standards. It is intended that the facilities installed pursuant to such State pollution control standards shall also be eligible for certification as certified pollution control facilities.

II. Background

A. General

Pollution control financing

In recent years a number of national requirements have been placed on various private and public activities for control of air and water pollution. The requirements have been established by legislation such as the Water Pollution Control Act, the Clean Air Act, the Solid Waste Disposal Act, the National Environmental Policy Act, amendments to the acts, Executive Orders, and regulations to implement the acts.

Improvement of the environment is a significant enough national goal to merit national financial support through various means:

1. Direct Federal appropriations are provided for pollution control at many federal installations. These include military bases, industrial production facilities, naval vessels, GSA buildings, and recreational areas.
2. Federal grants are provided to state and local governments for many pollution control activities. (Presently, water pollution abatement facilities are eligible for 75 percent federal grants.)
3. Private industry is provided with various tax relief devices to ameliorate the cost of pollution control equipment as well as other investments in facilities. In a panel discussion February 7, 1973, before the Ways and Means Committee considering possible tax changes, Dr. Pierre A. Rinfret of Rinfret-Boston Associates estimated that a private firm can recapture, through various tax provisions, within five years, 57.7 percent of a $10 million investment in a new facility. This is not the maximum possible

recovery but is a theoretical projection based on investment of $800,000 in land, $3,200,000 in buildings, $5,400,000 in production equipment, $500,000 in office fixtures, and $100,000 in transportation equipment. Non-building equipment and facilities were depreciated by sum-of-the-years digits method. Buildings were depreciated by straight-line method. The Asset Depreciation Range (ADR) was utilized. The investment tax credit was taken in the 1st year.

The value and details of various tax incentives in the electric power industry are discussed in the following subsequent section and section G.

Tax relief for investments

The tax provisions related only to pollution control equipment include the five-year amortization provided for facilities installed in existing plants and tax-exempt status for state and local revenue bonds used for pollution control. Other provisions of the tax law provide for investment credits for new plant (7 percent for most industry, 4 percent for regulated utilities) and various liberalized depreciation procedures such as Asset Depreciation Range (ADR—which provides for a 20 percent alteration of the depreciation life of equipment) which would be available for new plants regardless of whether for pollution control or production.

Each firm makes its own decision as to which tax procedures, if any, will be most beneficial to use in accounting for new investments or additions to old facilities. The sum of all the available tax provisions can be large. The data published in *Moody's Public Utility Manual, 1973*, indicates the Federal Tax Code changes can have a significant impact on individual electric systems. The comparative consolidated income account for the American Electric Power Co., Inc., shows 1966 operating revenue of $488.2 million, net operating income of $118 million, and Federal tax payments of $60 million which was lessened somewhat by pro rata credit of $7.6 million from accelerated amortization accumulations transferred to the income account. Operating revenues increased by 1972 to $860 million, net operating income to $244 million yet federal income taxes declined over the years until this entry showed a credit of $5.6 million. Credits of $6.7 million were shown from accelerated amortization accumulations and $984 thousand from liberalized depreciation. Through various recovery provisions of the tax laws, Consolidated Edison Co. of New York, Inc., reported to stockholders for 1970 credits in the federal income tax entry of $19.9 million, credit of $900 thousand from provision for deferred income tax and investment tax credit of $2.4 million. For 1971 the firm reported credit of $3 million in the federal income tax item, credit of $3 million from the provision for deferred income tax and an extraordinary item of $53 million credit from recalculation of earlier tax liabilities. For 1972 the federal income tax item was a credit of $1 million and credit of $2.2 million was shown from the deferred tax entry. This indicates that in place of payments of federal income taxes in the past three years, the system has received credits from taxes paid earlier. In both cases, other provisions of the tax law may have been employed to achieve tax credit status. Not all firms are in this situation.

Other types of federal assistance have been authorized by the Congress. For example, a Small Business Loan program to aid private firms in meeting pollution control requirements was established by the Federal Water Pollution Control Act of 1972 P.L. 92–500. The same legislation established an Environmental Financing Authority to assist local governments in financing the 25 percent local funds required under the act.

All citizens share in cost of pollution controls

Because of the national requirements for and the national benefits from the enhancement of the environment, all the people share in the attaining of the goal through tax advantages granted to industry and through other programs. In theory, an industry is able to make the required control improvements, without the total cost being passed on to either the owners, workers, or customers of the particular firm.

House Report 91–413 (Ways and Means Committee, for P.L. 91–172 which provided the 5-year write-off for certain pollution control expenditures, stated:

> Congress has addressed itself to the air and water pollution problem in legislation which it has passed in recent years. This legislation has laid a foundation for dealing with the pollution problem. * * * In effect, private industry is being asked to make an investment which in part is for the benefit of the general public. * * * At the present time, companies which install anti-pollution equipment involving property of a type for which the investment credit is available receive, in effect, an incentive through the investment credit for dealing with the pollution problem. * * * In view of the possible undesired effect on pollution control of repealing the investment credit and the increasing magnitude of the air and water pollution problem facing the Nation today, your committee believes it is appropriate to provide an incentive to private industry for antipollution efforts. However, it believes it is more appropriate to permit the rapid recovery of the costs involved, rather than to permit a return in excess of total cost. Accordingly, your committee's bill provides that the costs of new pollution control facilities (which are appropriately certified by the relevant State and Federal authorities) may be amortized over a 5-year period.

A significant and unintentional inequity in the sharing of costs exists for at least one group of citizens—the consumers of electric power produced by the Tennessee Valley Authority (TVA).

Inasmuch as the TVA power consumer is the sole source of revenues for operation and improvement of the system, the TVA consumer has been burdened with the total cost of attaining the degree of water and air pollution control imposed by national requirements. These are nonrevenue producing expenditures for the TVA system as well as for private firms.

On the other hand, a similar investment requirement on a private firm has opportunities for recapture of a portion, if not all, of the cost through various tax laws. The capital fund requirements of local governments are lessened by federal grants for water pollution control.

Most other federally owned installations are provided with pollution control facilities through direct appropriations. Because of the unique charter, purpose, and function of TVA, none of the previously discussed investment recovery provisions apply to this system. Additional discussion of tax credits for investment is given in section G.

TVA—A unique national asset

The TVA electric power system has some characteristics of privately owned power systems and some of publicly owned systems such as co-ops and municipals but is not exactly comparable to either.

A privately owned system is organized and operated as a profit-making venture. Its management selects areas of service and establishes rates to maximize this objective.

An electric co-operative is owned by the people it serves and its objective is to maximize the availability of its service at the lowest possible cost to the consumer-owner.

A municipal system is owned by the people of the city being served and its operational objectives are established by the people through their local government organization.

In the event any of these three kinds of systems are liquidated, those who have paid for the system, as stockholders or as consumer-owners, share in the proceeds from the sale after debts are satisfied. This is not the case with the TVA.

The TVA was organized by the federal government, through the Congress, to achieve certain national objectives as stated in the TVA Act, that is, to provide for the national defense and enhance the nation generally through the physical, social, and economic development of the area in which it operates (Public Law 17, Seventy-third Congress).

TVA sells electric power to distributors, a few large industries and government and, since 1959, financing of the system has been entirely by the consumers of the power. Yet those who are paying for the system through the consumption of power would not share in proceeds of liquidation or in any appreciation of the system as would stockholders of a private system or the consumer-owners of a cooperative.

The federal government is the total owner of the TVA system and is the beneficiary as generating facilities financed by bonds are repaid by the consumers of the power.

In addition, the Congress has established the bounds of the TVA service area, has set out the power rate objectives as well as the rate level policy, decisions in which other systems have flexibility.

As a by-product of this federally established and owned system, the consumers in the TVA service area, as directed by the rate level policy, have realized slightly lower electric rates made possible by the efficiencies in operation of the system.

National benefits from TVA

The nation, outside the service area, has benefitted considerably and continues to realize advantages from the TVA system. Electric bills throughout the nation are lower because the TVA demonstrated the possibilities of economies through greater volume of use.

TVA provides the organizational structure which makes possible extremely rapid expansion of generating capacity to meet U.S. energy

requirements for national defense such as was accomplished during World War II.

Through interchange agreements, both TVA and other systems with differing peak demand requirements are able to provide necessary electric energy at maximum operating efficiency and minimum investment cost to all. All the nation benefits from the TVA's tests and demonstrations of new procedures and facilities for production and transmission of electric power. TVA provides the nation with a practical laboratory to enhance the environment.

In times of crisis, from natural or manmade disasters, TVA has been able to transfer essential amounts of electric power to other regions of the country to prevent collapse of other systems and thus prevent economic disaster of serious proportions outside the TVA service area.

At this time, as severe energy problems are often expected in many parts of the nation, the TVA has the capacity, by alteration of government loads, to transfer power, under direction of federal energy policies, to areas short of oil or other fuels necessary for production of electricity.

Just as the national objectives in establishing the TVA involved intangibles, many of the national benefits of the TVA system involved intangibles. It is difficult to put a price on lives and dollars saved because the TVA was able to produce power for the critical defense effort in World War II. Likewise, it is difficult to compute in exact dollars the value of the extra electricity TVA was able to make available to the Northeast and Midwest during the power crisis of 1970.

On a more tangible monetary basis, the TVA electric system has already proven to be an excellent investment for the people of all the United States. The total appropriations for the power system have amounted to $1.404 billion. Total payments to the Treasury have amounted to $.992 billion.

The system, however, was valued at $4.507 billion (December 31, 1973) and the outstanding long-term debt was $2.535 billion, which is being repaid by the users of the system. The difference represents a capital asset of the United States which has been provided by the income for sale of electric power in the Tennessee Valley.

As these national benefits demonstrate, the foresight and wisdom of the Congress in establishing the TVA has been clearly proven and the investment in the system has been amply justified.

B. THE TENNESSEE VALLEY AUTHORITY POWER PROGRAM

The Tennessee Valley Authority power program, the nation's largest, supplies power in most of Tennessee, in northern Alabama, in northeastern Mississippi, in southwestern Kentucky and in small portions of Georgia, North Carolina and Virginia. This area of approximately 80,000 square miles, has a population of about 6,000,000. Within this area, TVA furnishes power to 160 municipal and cooperative electric systems. TVA, as the wholesaler of power to these distributors, provides the generation and transmission sytems while local systems provide the distribution facilities and handle the resale of the power

to the ultimate consumers. In addition, TVA serves directly 48 industrial customers having large or unusual power requirements and several Federal installations including AEC facilities at Oak Ridge and Paducah, NASA's Marshall Space Flight Center at Huntsville and the Air Force's Arnold Engineering Development Center at Tullahoma.

TVA supplies power to the distributors under standard form power contracts. The contracts contain standard provisions specifying the wholesale rates, resale rates, and conditions under which the power is to be distributed. The standard wholesale rate schedule includes a demand charge, an energy charge, and a minimum bill charge. It also includes load density and industrial sales adjustment clauses. Under the contracts, TVA determines and makes quarterly such adjustments, if any, as may be required in the demand and energy charges of the wholesale rate schedule and corresponding adjustments in other rate schedules to enable TVA to meet all requirements of the TVA Act and the tests and provisions of its bond resolution. The resale rates under which the distributors serve the ultimate consumers are stipulated in the power contracts and are revised from time to time to reflect changes in cost, including changes in the wholesale cost of power.

As a supplier of power, TVA's objective is the advancement of the national defense and the physical, social, and economic development of the area in which it conducts its operations by providing that area with an ample supply of electric power. In providing this ample supply of power, it has been necessary for TVA to add substantially to the 800,000 kW of generating capacity that served the area in 1933. TVA's power generating facilities now include 29 hydro plants, 12 steam plants (including the Allen Plant leased from Memphis) and two gas turbine installations. Twelve hydro plants owned by subsidiaries of the Aluminum Company of America also are operated as part of the TVA system, and 8 hydro plants of the United States Corps of Engineers are operated in coordination with the TVA system. In addition to the power generation facilities, the TVA power system includes over 16,500 miles of transmission lines and 630 substations. Approximately 1,500 miles of these transmission lines are extra-high-voltage (500,000 volt) lines.

TVA's present generation capacity of 22,039,015 kW is composed of 3,192,630 kW from hydro facilities, 17,749,585 kW from fossil fueled steam plants, and 1,096,800 kW from combustion turbines. The capacity from Alcoa and the Corps of Engineers adds 423,715 kW and 819,666 kW, respectively, of additional capacity, making a system total of 23,282,396 kW. In addition, to meet the growing power requirements of the Tennessee Valley area, 17,830,960 kW of additional capacity is now under construction or authorized. This includes 1,530,000 kW from a pumped storage hydro facility and 16,300,960 kW from nuclear plants. The nuclear capacity being added represents 13 generating units of more than a million kilowatts each.

Commercial operation of the first of these, Browns Ferry Unit 1, will begin soon. The above generating plant additions are scheduled to increase system capacity to above 41 million kW by the end of 1982. Thus, to continue to provide ample power to meet the region's growing requirements, TVA must almost double its generating capacity in less than 10 years.

Although nuclear power plants will supply most of the additional power needed in the region over the next 10 years, coal presently accounts for about 80 percent of system power generation. During fiscal year 1973, coal-burning plants generated 84.4 billion kilowatt hours out of a system total of 109.1 billion kilowatt hours. This required the use of 37.5 million tons of coal. The average cost per ton of coal burned in 1973 was $7.46, up 95 cents from the previous year, thus adding $34 million to TVA's overall fuel bill. However, the average cost per ton shown above does not fully reflect current increases in market price, since it includes coal delivered under long-term contracts entered into several years ago when prices were much lower. For example, the price of the Tennessee Valley Authority's most recent coal purchase was $11.30 a ton and recently reports have been published that some buyers are paying between $20 and $30 a ton for coal. Substantial increases in the cost of coal was the most significant factor necessitating the January, 1974, rate adjustment for TVA, the Authority reported.

The following statistics help to highlight the results of TVA's efforts in providing low cost power to area consumers. TVA power sales in fiscal year 1973 set a new record, topping 100 billion kilowatt hours for the first time. Power deliveries in 1973 were 63,822 million kilowatt hours, a 10-percent increase, to municipalities and cooperatives; 21,865 million kilowatt hours, a 12-percent increase, to the large industries TVA serves directly; and 17,694 million kilowatt hours, a 35-percent increase, to Federal agencies. An additional 92 million kilowatt hours was sold to electric utilities, bringing total TVA sales to 103,473 million kilowatt hours. Whereas the average home use of electricity was about 600 kWh per year in 1933, it has grown to 15,340 kWh as of the 12 months ended November 30, 1973. This use reflects the fact that one-third of all homes in the region are electrically heated, and more than half are partially or completely air-conditioned. For this use, the average residential rate was 1.32 cents per kWh. Corresponding national average figures for the same period of time were 8,099 kWh of use at a cost of 2.36 cents per kWh.

Throughout the years, TVA has engaged in a continuing effort to develop and put into practice advanced technologies that will lower costs and improve system efficiencies and technologies. A prime example of this effort is the new underground Power System Control Center near Chattanooga that is expected to be completed this summer. From the control center, the entire power system—all generation and transmission facilities—will be constantly monitored, controlled and activated as necessary. Through computer technology, mathematical problems that would normally take a man 40 hours to solve will be solved in less than a second. For example, every five minutes the computer will "read" the generation in order to select the most economical power source, determining the need for a generation change and sending control signals to the generating plants to bring about the required change.

The importance of TVA's power program is not limited to the Tennessee Valley region. TVA's electric power system is interconnected with surrounding electric power systems through a number of high capability transmission lines. TVA has entered into contractual arrangements with a number of privately owned utility companies and cooperatives whereby various services are reciprocally provided the

respective parties through these interconnections. One of the important services included is the provision for diversity capacity exchange which allows TVA and other systems to exchange power on a seasonal basis thereby eliminating the need for an equivalent amount of additional generating capacity on each system. TVA is currently exchanging about 2,060,000 kw of power on a seasonal basis with systems to the south, west and northwest. Peaks occurring in fiscal year 1973 graphically illustrate the utility of the exchange arrangements. TVA's summer peak use of 15,276,000 kW occurred July 26, 1972, but its peak generation, which occurred July 18, 1972, was 17,009,000 kW, when the TVA system was delivering exchange power. On the other hand, the peak winter use on the TVA system occurred January 12, 1973, and amounted to 18,888,000 kW. But the winter generation peak was 16,883,000 kW on January 29, 1973, over 2,000,000 kW less, when TVA was receiving exchange power.

These contractual arrangements between TVA and other electric power systems also include such services as the concurrent exchange of power and provisions for furnishing maintenance energy and emergency assistance. Emergency assistance between interconnected systems is quite important since power can flow back and forth when needed to help relieve emergency situations that sometimes threaten the reliability of electric power service.

Practically all power systems east of the western United States, with the exception of those systems in Texas, and systems covering much of Canada are linked together by a large network of interconnections. Since TVA constitutes a sizeable portion of this network, the TVA power system adds substantially to the reliability of the nation's power supply.

To help assure adequate electric power not only for the consumer of the Tennessee Valley region but also for the entire country TVA participates in many electric power utility industry activities, such as the National Electric Reliability Council (NERC), North American Power Systems Interconnection Committee (NAPSIC), Electric Power Research Institute (EPRI), Atomic Industrial Forum (AIF), and many other such activities that influence the country's power industry and electric power service to the nation's citizens and industries.

One cooperative effort in which TVA is a leading participant is the Liquid Metal Fast Breeder Reactor (LMFBR) project. TVA is participating with the AEC, Commonwealth Edison Company of Chicago, Breeder Reactor Corporation, and Prject Management Corporation in the construction and operation of this nation's first large-scale demonstration project of this type. The plant, which will be in the range of 350–400 megawatts, is presently proposed to be located on the TVA system near Oak Ridge, Tennessee. The project is estimated to cost about $700 million with pledges amounting to about $250 million to be obtained from all segments of the utility industry, including privately, publicly, and cooperatively owned companies. Of this amount, TVA has pledged about $22 million over a 10-year period on behalf of itself and its distributors and will provide approximately $2 million in non-reimbursable services to the project. Since liquid metal fast breeder reactor technology appears to have the best potential for meeting future energy requirements in an economical and environmentally acceptable manner the experience and knowledge gained through work on this project should be quite beneficial to TVA and the nation.

The 1959 amendment to the TVA Act provided that TVA shall charge rates for power which will produce gross revenues sufficient to cover all costs of operation, maintenance, and administration; to make payments to state and local governments in lieu of taxes; to pay the debt service on borrowings; to make repayments to the Treasury of the appropiation investment plus payments as a return on such outstanding investment; and to provide such additional margin as the Board may consider desirable for investment in power system assets and for other purposes connected with TVA's power business, having due regard for the primary objectives of the TVA Act, includuing the objective that power shall be sold at rates as low as feasible.

Revenues from the sale of power continue to pay for all the system's operating expenses and for some construction, but proceeds from borrowings provide the substantial portion of the capital needed for new facilities.

The current investment in TVA power assets as of December 31, 1973, was approximately $4,507.9 million, made up of $1,035 million of appropriations, $808.4 million of retained earnings, and $2,535 million of outstanding borrowings. Since December 31 the outstanding borrowings have increased to $2,565 million. This includes $2,125 million power revenue bonds sold to the general public, $340 million of short-term notes sold to the general public, and $100 million of short-term notes payable to the Treasury.

When the first bonds were issued under the 1959 amendment, the interest cost of TVA was 4.44 percent. However, for several years such interest costs have almost doubled that earlier interest cost. During fiscal years 1973 and 1974 the interest costs to TVA on 7 bond issues have ranged from a low of 7.39 percent to a high of 8.10 percent. Similarly, the interest cost on short-term power notes has increased substantially, reaching an all-time high of 9.55 percent on a $60 million issue sold in August 1973.

These high interest rates, rising construction costs and the large additional investments required to build power system facilities that will provide sufficient capacity have contributed to a rapidly increasing interest expense. Interest charges have grown from $39 million five years ago to an estimated $183 million this year. In addition to increased fuel cost, greater interest expense has been one of the major factors requiring adjustments to TVA's power rates.

In discussing the financing of TVA's power system, it should be noted that for this fiscal year, 1974, the payments to the Treasury which TVA is required to make under the 1959 amendment, will total about $83.4 million. This represents $20 million as the annual repayment of Federal appropriations used in the past to build the power system, plus approximately $63.4 million as the return or dividend on the remaining appropriation investment.

Although the appropriation investment has been reduced through repayments each year, the annual payment which TVA is required to make as a return on the remaining investment has increased substantially because the average interest rates payable by the Treasury, on

which the payment is based, are now much higher. For example, in 1961, the first year in which a payment was made, the payment was only $41.1 million based on an average rate of 3.449 percent. However, for this fiscal year the $63.4 million payment was based on a rate of 6.129 percent.

This rate may be higher next year. In all, by the end of the current fiscal year, TVA will have paid from the power program approximately $891 million to the Treasury since the enactment of section 15d. This represents $205 million in repayment of the appropriation investment and $686 million as a return on the appropriation investment. Earlier payments to the Treasury amounted to $185 million.

C. TVA AND NATIONAL FUELS USE

As indicated in the General section, the entire nation has received benefits from the creation of the Tennessee Valley Authority since its establishment in 1933. National benefits were anticipated by those who supported the authorizing legislation.

Because of the greater engagement of electric power as an energy source within the Tennessee Valley Authority's service area, the per capita consumption of petroleum products, such as fuel oil and natural gas, items of short supply, is considerably less in the Valley than in other sections of the nation. An unexpected benefit was realized during the winter of 1973–74 when the TVA area's fuel use patterns made it possible for homes in every part of the nation to be a little warmer.

The use of alternative fuels, primarily coal, as a source of steam for generation of electriicty means more of the scarce fuel oil and natural gas is available to other parts of the nation than would be the case if normal usage patterns were followed in the TVA area.

Steam-Electric Plant Factors, 1973, published by the National Coal Association, indicates that nationally coal accounted for 54.3 percent of the fuel consumed by steam-electric power generating plants in 1972 while oil supplied 18.7 percent of the power and gas 27.0 percent. On the TVA system, coal accounted for 97.4 percent of the steam-generated power, while gas and oil accounted for 2.6 percent. Some of the latter was used for startup purposes.

The state of Tennessee, which is provided electricity almost entirely by TVA, presents a startling contrast to the national averages in percentage of the various fuels consumed. *Energy in Tennessee*, the Report of the Governor's Task Force on Energy, November 19, 1973, indicates that the state's use of coal, an energy resource of abundance, is 100 percent greater than in the total United States. Coal comprises 39 percent of all energy in Tennessee, while only 19 percent of the nation's energy consumption (in BTU's). Petroleum products (including transportation use) make up 30 percent of the Tennessee energy picture compared to 45 percent for the nation. Natural gas supplies 25 percent of Tennessee energy requirements in contrast to the 34 percent nationally. Hydro-generation of electricity accounts for 6 percent of Tennessee's energy and less than 2 percent for the nation. Nuclear energy was not in production by TVA when the survey was made.

The northern third of Alabama is served by TVA and a pattern similar to Tennessee for the use of the various fuel sources was reported for Alabama by the Energy Economics Division of the Alabama Energy Management Board.

The President's proposal for achieving Project Independence by 1980 anticipates coal as a major fuel source for the United States. Such a goal will require tripling of coal production and also expansion of transportation systems. The TVA electric system, with almost total use of coal for steam generation of electric power, has already achieved this important part of the Project Independence goals.

Energy use in the TVA region

In carrying out the Congressional mandate of 1933 to follow policies to "permit domestic and rural use at the lowest possible rates and in such manner as to encourage increased domestic and rural use of electricity" the TVA has provided a source of energy which considerably lessens requirements in the 80,000 square mile area for fuel oil and natural gas which is used extensively in other parts of the country.

Natural gas, fuel oil, and liquified petroleum gas have had a decreasing role in the heating of homes and businesses in the TVA area as the use of coal, converted to electricity, becomes more significant.

About a third of the homes in the TVA area are warmed by electric space heating. The 775,000 homes using electric heat in the TVA area is an important element in reducing national demand for fuels in short supply. If these homes had used fuel oil for space heating, the national demand for this project could have been 620 million gallons greater during the winter of 1973–74.

Last year approximately 75 percent of the 80,000 new homes in the TVA area installed electric heat. This in turn would worsen the already severe problems in the shortages of petroleum products and impede the realization of the President's goals for Project Independence.

Even if the Congresses of 1933 and 1959 could have anticipated the petroleum supply problems of 1974, they could hardly have devised a better policy than that set for the TVA in the program of encouraging low-cost electric power as the basic energy for a significant region of the country.

TVA's energy conservation measures

While the nation has huge supplies of coal in the earth, the supply is not unlimited and it is costly to extract and transport to generating facilities. Energy conservation measures are receiving renewed attention throughout the TVA and the Authority is making a positive effort to reduce total demand of individual homes and businesses.

The TVA also recognizes and is affected by the nationwide shortages of fuels

The Tennessee Valley Authority is not a new comer to problems of energy supply and the need for conservation. The annual report of the TVA for the fiscal year ending June 30, 1972 stated:

"Even with higher prices being paid, there is a growing concern over the future availability of fuels for power generation. Coal reserves are plentiful, but producers appear hesitant to increase production and open new mines because of the uncertainty over proposed sulfur dioxide emission standards which might leave them with a product that has no market.

"Natural gas is already in short supply and its use is being restricted in some parts of the Nation. Oil supply also is limited and growing demands are being placed on this fuel; much of it is imported, prices are rising rapidly in response to the demand, and there is concern that this supply might, at some time, be interrupted.

"TVA awarded a contract during the year for a one-year supply of fuel oil for the eight gas-turbine units at Colbert. The cost is estimated to be about 83 cents per million Btu, or two to three times as much as comparable costs for coal.

"The Nation's known uranium reserves that are economically recoverable will last only a few decades if used in today's light water reactors. But if the breeder reactor is developed successfully, uranium reserves will be extended for centuries."

Business and industry account for more than half the electric power consumption in the Tennessee Valley region, and power use specialists for TVA and local power distributors are working to help conserve energy in factories, stores, and institutional buildings across the region.

In Nashville, for example, a major grocery chain was advised on how to recover enough waste heat from refrigeration motors to handle most of the winter's heating requirements of a large store, so that other heating is needed only when outside temperatures are below 30 degrees.

Investigation of high power consumption in a school building showed that a ventilation system was improperly controlled, causing unnecessarily high use of electricity. Correcting the controls, plus other conservation measures suggested by TVA, will save over a million kilowatt-hours a year at this one school—enough to provide all the electricity used in 67 average homes in the TVA area.

A TVA portable power-factor demonstration is proving effective in showing industrial plant officials throughout the region how they can reduce a plant's level of power demand (and the facilities required to serve it) by the installation of capacitors. At one plant in Alabama, for example, this released 7,000 kilowatts of power system capacity—enough to supply the demand requirements of 1,160 typical homes.

These power use specialists also show how proper building insulation can produce big savings in heating commercial and industrial buildings. And they show how infrared "people heaters" can be used to heat only small work areas in large open buildings such as warehouses, rather than heating the whole building.

TVA also works with manufacturers whose product designs influence power consumption. To help assure adequate insulation and other standards for mobile homes produced in the area, for example, TVA is represented on the standards committee of the manufacturers' regional organization.

TVA databooks on power-related commercial and industrial requirements are made available to more than 400 architects and engineers throughout the region to assist them in designing these installations.

Although TVA has offered help to business and industry for years on making more efficient use of electricity, this program is getting special emphasis now as part of a broad effort to encourage maximum power conservation.

D. FINANCING UNDER THE 1959 AMENDMENT TO THE TVA ACT

The current method of financing capital investments in the TVA power system, which utilizes the sale of bonds to the general public, was established in 1959 by enactment of the present section 15(d) of the TVA Act.

As originally passed, section 15(d) authorized TVA to have outstanding at any one time $750 million in bonds. As time passed and needs for power financing increased, this ceiling was raised by the Congress to $1.75 billion in 1966 and $5 billion in 1970. Interest on the bonds is subject to Federal income taxes.

In addition to authorizing issues of a specific amount of bonds, this section contains several other items, some of which are not directly related to bond financing. For example, with certain specific exceptions, the 1959 amendment requires that TVA make contracts for the sale or delivery of power which would make it or its distributors directly or indirectly, a source of power supply outside the area for which TVA or its distributors were the primary source of power supply on July 1, 1957. The exceptions involve exchange power arrangements, certain additional designated cities, and the filling of emergency defense needs.

Section 15(d) provided that the bonds would be payable solely from net power proceeds. Basically, net power proceeds are defined as net income before depreciation and interest, plus net proceeds from the sale of facilities. The section also authorizes TVA to enter into covenants with bondholders, a power which is essential if bonds are to be well received in the market place. Proceeds from the sale of bonds are authorized by the amendment to be used, among other things, for the addition of generating units to existing power producing projects and the construction of new power producing projects.

An interesting feature of section 15(d), and one which is not usually applicable to bonds issued by a Federal agency, is contained in section 15(d)(b). Under this provision bonds issued by TVA under section 15(d) shall not be obligations of, nor shall payment of principal or interest be guaranteed by, the United States. The effect of this provision is that bonds issued by TVA do not increase the national debt. Purchasers of TVA bonds are, in effect, told to look to the TVA power system's revenues for their security and no further.

Under section 15(d) most details relating to the form of the bonds and their issuance are left to TVA discretion. TVA, however, is required to furnish the United States Treasury with the details of any proposed bond issue which will have a term of more than one year. The Treasury then has the right of approval as to the date the issue is to be sold and the maximum interest rates to be paid. If the Treasury disapproves an issue, it is required to purchase interim obligations up to a maximum amount of $150 million.

The 1959 modification in financing for the TVA power system included a requirement that TVA repay the major portion of the balance of the appropriations invested in the power system. In addition, TVA is required to pay an annual return on the outstanding appropriation investment. This return, which is paid semi-annually, is based upon the Treasury's computed average interest rate upon its total market-

able obligations as of the beginning of the fiscal year for which the return is paid.

By June of this year, TVA will have paid a total of over $891 million under these two provisions. This sum includes more than $686 million as a return on appropriation investment and $205 million as repayment of appropriation investment. Payment to the Treasury under earlier law amounted to $185 million.

The 1959 amendment also placed certain requirements on TVA as to the rates charged for electric power. Essentially these provisions are (1) rates for power must be sufficient to produce revenues to pay all expenses, debt service, the payments to the Treasury, and provide additional margin as the Board of Directors may consider desirable for investment in power system assets, and (2) in order to protect the investments of bondholders and the appropriation investment, the Board must assure that all power proceeds for each successive 5-year period, at least equal to depreciation and amortization accruals and proceeds from sale of facilities, be applied to either investment in power system assets or reduction of capital obligations.

The overall intent of section 15(d) is to aid TVA in obtaining funds sufficient to assure an ample supply of power. This intent has so far been achieved. The TVA power area has so far not suffered from a shortage of power during the current energy shortage because sufficient generation has been built to meet both the residential and industrial growth of power demand.

E. TVA POWER PROGRAM IS UNIQUE

The Tennessee Valley Authority and its electric power operations are a source of confusion and misunderstanding to many people. The confusion arises from the attempts to compare TVA to other types of systems and the corresponding failure to recognize the uniqueness of the TVA's concept and purpose, management, and operations.

Although TVA is unique, publicly owned electric systems have been a part of the American scene since the earliest days of the industry. Whether an area is served by a private or a public system is a public question decided by citizens within that area. While this question is never finally answered, the percentage of power produced under the two types of ownership has remained relatively stable in recent years.

In 1971, privately owned systems produced 77.5 percent of the electricity generated in this country. In 1961, privately owned systems produced 76.4 percent. During this period the share of electricity produced by the federal government decreased 2.1 percent and municipals by .4 percent. Cooperative and state generation increased 1.4 percent.

All electric utility systems are regulated as territorial monopolies due to the nature of their function and hence do not compete against each other within each service area.

All utilities exercise certain public functions. For example, private corporations engaged in the electric business enjoy privileges granted by the public through law, franchise, or license. They use the public streets and roads as rights of way for poles, lines, and underground circuits; they are permitted to exercise the sovereign right of eminent domain to secure land and right of way for their plants and facilities; regulatory bodies established by law are commissioned to sanction financial arrangements that assure them a reasonable level of earnings. None of these privileges or prerogatives is granted by the public to electric corporations as a mark of favor. They are granted in order that the companies as a vehicle for prudent investment may perform a public service efficiently.

Concept and purpose

TVA differs from other utilities in that it was established by the Congress in 1933 as a multipurpose resource development and conservation agency. In a message to the Congress April 10, 1933, President Franklin Roosevelt embraced the long-time dreams of Senator George Norris of Nebraska and others in urging creation of a Tennessee Valley Authority.

President Franklin Roosevelt said the new agency "should be charged with the broadest duty of planning for the proper use, conservation, and development of the natural resources of the Tennessee River drainage basin and its adjoining territory for the general social and economic welfare of the Nation." TVA, then, has been much more than an electric power generation and transmission system, although its electric power program has contributed substantially to the Tennessee Valley's economic development. TVA has been a multipurpose resource agency, working at reforestation, watershed development, better land use, and other conservation-related programs. Electricity is a vital element of the total program.

The original funds provided for development of the hydro-electric facilities, 20 percent of the TVA's present generating capacity, were provided by Congress, not as a loan, but as an investment in regional resource development.

TVA, as a Federally-owned resource development agency, has a concern with air and water pollution control that goes beyond meeting the requirements of the air and water quality laws of the land. The private power companies must comply with these laws. But TVA was taking environmental protection actions of considerable importance two decades ago, because it had a Congressional mandate for resource development and conservation. While ownership of the TVA is by the public it differs in concept and purpose from most other public utilities in the United States as well as from the major segment of the industry in private ownership. Although all the TVA's assets are held in the name of the United States, it is important to keep in mind, revenues for building of these assets come primarily from the users of electric power in the Tennessee Valley, not from Federal appropriations or grants.

The electric cooperatives (mostly rural) and municipal systems are the most widely known of the publicly owned systems. Cooperatives and municipals are operated according to the objectives established by their user-owners, generally to provide electric service at the lowest possible rate. Such systems earn no "taxable income" as defined by the Federal tax law.

Private utility systems differ in a most important regard. The objective of a privately owned utility system is to make a profit for the owners to the extent allowed by the various regulatory agencies. The management of a private system keeps the objective in mind when decisions are required concerning operations of the utility.

Management

The nation, through the Congress, has acted as an ultimate board of directors for the TVA in establishing broad policy directions which, in some matters, normally would be management decisions.

The Congress has set the TVA policy in regard to power rates, the power rate level, the service requirements, the territorial limits, labor costs, the dividend payments and, under conditions most regulatory agencies would reject, the terms for recovery of the capital investment.

These policies are subject to change and have been altered through the years. The original TVA Act in 1933 established the policy for operation of the power system as follows:

> The net proceeds derived by the board from the sale of power and any of the products manufactured by the Corporation, after deducting the cost of operation, maintenance, depreciation, amortization, and an amount deemed by the board as necessary to withhold as operating capital, or devoted by the board to new construction, shall be paid into the Treasury of the United States at the end of each calendar year.

This was altered slightly in 1935 to provide:

> * * * the proceeds for each fiscal year derived by the board from the sale of power or any other products manufactured by the Corporation, and from any other activities of the Corporation including the disposition of any real or personal property, shall be paid into the Treasury of the United States at the end of each calendar year, save and except such part of such proceeds as in the opinion of the board shall be necessary for the Corporation in the operation of dams and reservoirs, in conducting its business in generating, transmitting, and distributing electric energy and in manufacturing, selling and distributing fertilizer and fertilizer ingredients * * *

Another change in requirements of the TVA power program was made through Title II of the Government Corporations Appropriation Act of 1948. This called for amortization over 40 years of the appropriated funds invested in power facilities.

The Congress changed this arrangement in the 1959 amendments to the TVA Act.

Operations

Virtually all privately owned electric utilities handle both the generation and distribution of power. Some cooperatives and municipalities handle both but most are involved in the distribution to the ultimate consumer.

In the Tennessee Valley area, the TVA is a wholesaler of power. Distribution to customers is through 160 municipal and rural electric cooperative systems. The TVA also sells to 48 large industrial users and to the federal government.

Private utilities, municipals and cooperatives, and the TVA have retained earnings, depreciation and long-term borrowing as sources of

funds for building and improvement of their systems. In 1971 the average cost of long-term borrowing for private firms was 5.5 percent; for TVA 7.2 percent. Private firms also issue stock, common and preferred, to obtain funds. Municipal systems may require investment of tax revenues as capital.

The operation of TVA is similar to private utilities in many regards. This is certainly the case in the case of the major factor in determination of rates. While many factors go into the rate consumers pay for electricity, differences in the cost of fuel probably account for most of the disparities.

In reality, rates for electric power have never been equal among various parts of the country. Ironically, calculations on rates published in Moody's Public Utility Manual, 1973, indicates that the disparity of rates among privately owned electric systems is greater than the difference between the rates paid by private power consumers and TVA consumers.

F. TVA ENVIRONMENTAL PROGRAMS AND COSTS

Early environmental initiatives

From the very start, the Tennessee Valley Authority has been concerned with the environment and the quality of life for the people of the region and elsewhere. The concern is in response to the Congressional manadate to encourage conservation and wise use of resources.

TVA has demonstrated its belief in environmental quality in many ways. For example, although the Valley is much more heavily populated than in 1933, and although there has been extensive industrial growth along the waterway, the river's waters are generally of higher quality than they were before the reservoirs were created. Only a few years after TVA was in operation, TVA surveyed the waters of the Valley to determine their quality and to identify problem areas that existed. Based in part on the results of the survey, the Authority determined that anti-pollution covenants should be contained as a condition in deeds in which TVA transferred land to others for developmental purposes.

Coal, even before TVA, was a major source of home and industrial energy for the people of the Tennessee River Valley. Before TVA, the winter skies of the cities were dark with the smoke and soot from thousands of individual home fires and scores of industrial facilities.

Coal is still the primary fuel for the energy produced by the TVA but the difference is a cleaner environment.

The polluting effects of burning coal at central power stations can be attacked in ways that would be impossible if this coal were still burned in thousands and thousands of individual homes and businesses. From the standpoints of technology and economy, it is far more environmentally advantageous to have the required amounts of energy from coal consumed at large central facilities such as provided by TVA.

In the 1940's, before becoming a major coal purchaser, TVA surveyed the effects of strip mining in the Valley area. Using this information, initial experiments and demonstrations of reclamation techniques were established. State action to control and regulate strip mining was urged on a comprehensive basis by state and Federal legis-

lation. In 1965, TVA adopted a policy requiring reclamation under its coal purchase contracts. TVA took this action to demonstrate the effectiveness of reclamation requirements and to assure the reclamation of all areas being surface mined to supply coal to TVA. Through the years TVA has strengthened these contract provisions.

New environmental requirements

In recent years, the need to assure a quality environment has given rise to new laws and regulations which evidence the nation's environmental concern. They set forth a number of new requirements which will result in substantial investments in pollution control facilities at electric power generating plants. Because they are relatively new these laws are subject to a variety of interpretations.

Until these new laws concerning environmental controls have been further interpreted by the courts and regulatory agencies, it is not possible to precisely establish the costs which will be incurred by TVA for pollution control at its steam plants. Nevertheless, based upon the TVA's best interpretation of the laws and discussions with state pollution control agencies, the authority has planned a TVA program for environmental controls.

The capital costs involved in the TVA program are outlined as well as potential costs should the TVA be required to expand upon the planned program. The difference in cost is substantial. The capital investment for the total planned TVA program, including investments made to date, would be $570 million. Capital costs for controls which the TVA believes are not needed, and which the Authority is resisting, could add as much as $1.65 billion to this program.

Air pollution control

Air pollution control at TVA steam plants has to date required large amounts of capital investment. The air pollution control effort centers on two key concerns: first, controlling particulate emissions; and, second, assuring that emissions of sulfur oxides from TVA steam plants are not a danger to public health and welfare. Control of particulates, the residue from burning coal which becomes entrapped in the stack gases emitted from the plant, is and will be generally accomplished through the installation of electrostatic precipitators.

TVA's experience with efforts to reduce smoke stack emissions of particulates started with the early steam plants and involved the use of mechanical ash collectors. As electrostatic precipitators developed as an adequate pollution control technique, TVA installed them at several plants. These early installations were not as efficient as the Authority expected. As precipitator design improved, TVA has utilized newer high-cost designs and is now achieving much better results. Many of the earlier precipitators are being replaced or supplemented by additional precipitator units in order to meet current air quality standards. Despite the improvements in precipitator technology, the Authority still reports problems with operation.

The Bull Run Steam Plant has experienced a problem associated with low-sulfur coal. The initial precipitator installation adequately handled the particulate problem before TVA shifted to lower sulfur coal to minimize sulfur dioxide emissions. It is now recognized that precipitators attain much better particulate removal efficiencies when small amounts of sulfur *tri*oxide gas are present. Only a small amount

of sulfur trioxide is produced in the combustion process but this small amount is essential. When lower sulfur coal was used to reduce sulfur dioxide emissions, smaller amounts of sulfur trioxide were also produced and the precipitator efficiency was dramatically reduced. To overcome this problem, TVA installed equipment to inject small quantities of sulfur trioxide into the flue gas. However, when this equipment was ready to operate, TVA found that the company, which was to supply the liquid sulfur dioxide, could not produce an adequate supply. TVA is still trying to obtain an adequate supply of liquid sulfur dioxide for the Bull Run plant.

The capital cost of the precipitator control program to date has been $62 million. Present cost projections for completion of this program indicate that at least another $200 million will be spent before it is completed.

The control of particulates presents no basic conflicts in interpretation of applicable law. However, for sulfur dioxide control, there is some conflict of interpretation. It is clear that the Clean Air Act intends that the Federal Government assure that control of sulfur dioxide will be sufficiently stringent to protect human health and public welfare. Congress, however, recognized the need for solutions adopted to the specific and differing problems of different parts of the country, and left it up to each state to select the specific methods by which public health and welfare would be protected.

Consistent with this, TVA has designed and is implementing a Sulfur Dioxide Emission Limitation program or SDEL program. This program is designed to assure that TVA steam plants will not be the cause or violation of national ambient sulfur dioxide standards. Compliance with the standards assures that the air that people breathe will be sufficiently clean as to pose no danger to health. The SDEL program is based upon the fact that at TVA steam plants national ambient sulfur dioxide standards can be met except under adverse weather conditions which occur at relatively rare intervals—5 percent of the time at the "worst" TVA plant. Investigations around these plants have shown that the particular weather conditions which would interfere with adequate dispersion of sulfur dioxide can be predicted and an advance reduction in generation or shift in fuel can be instituted in time to prevent violation of national ambient air quality standards. At some plants, TVA will add new tall stacks to increase the dispersion of sulfur dioxide and lessen the times when emissions would have to be reduced.

The total cost of this SDEL program is estimated to be about $100 million. This cost includes several new tall stacks, fuel switching facilities, monitoring equipment, additional computers and one limestone scrubber. The scrubber will be installed on one unit at the Widows Creek Steam Plant in Alabama. Although the TVA feels that scrubbers are not the universal answer for sulfur dioxide control on existing power plants, the Authority is determined to be a leader in the program to help advance scrubber technology by designing and installing a scrubber on a relatively large unit. The cost of this one scrubber is estimated at $42 million.

Some interpretations of the Clean Air Act would prevent TVA from being able to use the SDEL program as a permanent method of controlling sulfur dioxide emissions at *existing* plants. With such an

interpretation, an SDEL program might be allowed as an interim measure, but scrubbers or low sulfur fuel would eventually be required for all coal fired steam plants.

If TVA were required to install scrubbers on all steam plants, a capital investment, in current dollars, of at least $1.2 billion would be required. In the TVA's opinion, this investment cannot be justified. The Authority also rejects low sulfur fuel as a possible alternative at most plants considering the energy problems facing the nation today.

Water pollution control

The other major area which will require investments in pollution control equipment is the protection of water quality, specifically protection from thermal discharges. Currently, TVA is installing or has made commitments to install cooling towers to reduce the temperature of heated water at Browns Ferry, Sequoyah, and Watts Bar nuclear plants which are under construction. The capital cost of these cooling towers is estimated to be $140 million. In addition, cooling towers may be required at the large nuclear plants which will be constructed in the future.

At existing TVA steam plants, TVA may be able to obtain exemptions under section 316(a) of the Water Pollution Control Act Amendments of 1972, P.L. 92–500, which provides that thermal discharge limitations may be relaxed if local water quality requirements can be met. These exemptions would enable continued operation at existing TVA steam plants without the addition of cooling towers. If section 316(a) exemptions are not granted, cooling towers could be required at all existing TVA steam plants. The additional cost for cooling towers at all existing TVA plants would be at least $450 million.

In addition to the above, TVA expects to invest as much as $70 million in capital improvements to comply with effluent limitations being proposed for non-thermal liquid wastes from steam plants.

Environmental program costs

TVA's currently planned environmental control program will require capital investments of about $570 million. This would include about $360 million for air pollution control and $210 million for water pollution control.

If the Clean Air Act provisions are interpreted as some are now suggesting, the air pollution control investments could add $1.2 billion to this cost without adding benefits to the public. In addition to this, if application of section 316(a) is substantially different, the TVA expects the investment for water pollution control could increase by $450 million. Therefore, the possible pollution control bill for existing TVA facilities and those now under construction could total $2.2 billion.

Facilities which are not now under construction but will be needed to meet the power needs of the TVA region will add additional millions of dollars to the pollution control bill. No estimate of these figures is available at this time because a variety of factors cannot be resolved until relatively detailed site-related conditions are examined.

Total annual expenditures for the next few years is estimated to be $150 million. Estimated environmental expenditures by TVA for the fiscal year ending June 30, 1974, include:

Pollution control facilities at new plants, $102,138,000. Much of this total is for continuing work on cooling tower systems required to meet state standards for control of heated water discharges at TVA nuclear power plants now under construction.

Pollution control improvements at existing plants, $37,992,000. The bulk of this amount is for continuing work on TVA's $270 million program of air pollution control improvements at coal-burning power plants. Work is under way on major projects to add new electrostatic ash collectors at the John Sevier and Johnsonville plants, and other projects are scheduled to begin this fiscal year at the Kingston plant (including two new 1,000-foot chimneys), Colbert plant Unit 5 (larger ash collector), and Paradise plant (preheating coils). In addition to power facilities, the total also includes $1,407,000 for continuing work on water pollution abatement at the National Fertilizer Development Center.

Power system operating and maintenance costs for existing pollution control facilities, $3,704,000.

Research, development, and demonstration projects, $23,421,000. Over $14 million of this amount is for continuing work on research facilities for control of sulfur dioxide from coal-burning power plants, principally the experimental full-scale limestone wet scrubber system under construction on a large generating unit at Widows Creek Steam Plant. About $4.5 million is for environmental projects financed by the Environmental Protection Agency, including TVA research studies on sulfur dioxide control and the biothermal research facility TVA is building at Browns Ferry Nuclear Plant to learn more about water temperature effects on aquatic life. Another $4.5 million (including equipment costs) is for a variety of TVA research and demonstration projects involving many aspects of air and water quality, solid waste disposal, and environmental improvements in electric power operations.

Monitoring and surveillance of pollution sources, $2,638,000. Part of this is for TVA's regional programs of air and water quality monitoring and research, part for monitoring at its own power facilities. This total also includes technical support by TVA specialists for state, local, and interstate pollution control agencies.

G. FOSTERING NATIONAL OBJECTIVES THROUGH TAX CREDITS

To encourage various national objectives, reductions in liabilities for taxes have been provided for private industry investments through three basic programs—accelerated depreciation, liberalized depreciation and investment tax credits.

The encouragement of capital expansion, the creation of new jobs, and the sharing by the general public of the nationally required improvements to control pollution are the reasons which have been cited as these various incentives were approved.

Although investments by a public facility, such as the Tennessee Valley Authority, achieve the same desirable goals as those by private industry, there has been no recognition of the investment made by the TVA.

While this would be no cause for concern if the investment for the public facility were from appropriated funds, a different situation exists in regard to TVA. In the same manner as a privately owned electric system, the TVA must charge to the users of electricity the total cost of production of power, including the cost of the investment in new facilities.

The facilities being paid for by TVA power customers are owned by the United States. On the other hand, for private power systems, part of the cost of all investment in facilities, including pollution control equipment, is being shared by all the people of the nation, through reductions in tax liabilities. The ownership of such facilities is retained by the private firm.

The investments being paid for by TVA customers is no less valuable to achieving national objectives than that paid for by consumers of power produced by a private firm.

The decrease in the payments of federal income taxes by private utilities illustrates the significance of tax law changes to achieve national objectives. As a percent of operating revenues, federal taxes for electric systems decreased for 12.0 percent in 1955 to 3.5 percent in 1972. Had the federal tax payments been the same percent as in 1955, federal receipts from this industry would have been $2 billion greater for 1972.

Some of the tax code changes relating to these reductions are discussed below.

Early accelerated depreciation and liberalized depreciation were provided by the Internal Revenue Code of 1954. Section 167 provided liberalized depreciation by allowing a faster rate of depreciation during the early years of life of facilities. This applies to all new facilities at the option of the company.

Section 168 of the 1954 Code provided for an accelerated 60-month depreciation for the facilities constructed under the emergency legislation to encourage private firms to expand to provide electric power during the Korean Conflict. The Office of Defense Mobilization certified facilities valued at $1.777 billion eligible for Section 168 which allowed the companies to depreciate these facilities over 5 years in place of the 33⅓-year life which was normally used.

The accumulated accelerated amortization at the end of 1972 amounted to $682,916,000. This account is decreasing as credit is transferred to the income account of the firms over the pro rata life of the equipment involved. The accumulations also exclude the credits which accrued to the firms using the flow-through system of accounting. Approximately 30 percent of the firms were using flow-through in 1971.

The next liberalization of depreciation rules was provided by Revenue Procedure 62–21, issued by the Treasury Department July 12, 1962, to spur business investment. This allowed electric utilities to depreciate facilities over 28 years in place of the former guideline life of 33⅓ years.

The investment tax credit was authorized by P.L. 87–834, to provide credit for investment in certain depreciable property, signed October 16, 1962, as part of a program to stimulate the future economic growth of the United States and lessen the chances for recessions. For privately owned electric utilities this provided a 3 percent credit against tax liabilities for new investments in facilities. For unregulated industries, the credit was 7 percent.

P.L. 90–364 of June 28, 1968, the Revenue and Expenditure Control Act, included facilities for pollution control in a category for special tax treatment. Although the legislation ended the existing tax exemption on the interest from industrial development bonds of more than $1 million, exemptions were retained for air or water pollution control abatement facilities and for certain other facilities. As all interest rates have accelerated, this provision is getting renewed attention from electric utilities and other industry.

Under certain conditions a firm can obtain the interest savings attributed to the tax free bonds and also claim the amortization advantages consistent with ownership of the pollution control facility.

The investment tax credit was repealed by the Tax Reform Act of 1969, P.L. 91–172, but the Congress recognized the need for special consideration of pollution control expenditures by allowing a five-year amortization of such investments.

The amortization provision is available for a five-year period for pollution control equipment installed at existing facilities. Other incentives have been more widely engaged by industry.

Problems in the economy during 1971 resulted in additional changes in the tax procedures for private firms that year.

The Administration adopted new liberalized depreciation schedules (Asset Depreciation Range—June 22, 1971) for business property and equipment which allowed alteration by 20 percent of the minimum guideline life rules for property which had been shortened in 1962.

The accumulations of the liberalized depreciation provision increased $242,748,000 from 1970 to 1971. From 1971 to the end of 1972, the increase was $366,992,000 or more than 51 percent above the increase of the previous year.

The total accumulations of liberalized depreciation procedures for the electric power industry amounted to $2,024,519,000 plue $86,070,000 in accumulations which were unidentified at the end of 1972. As in the case of the accumulations from accelerated amortization, the total accumulation does not include sums which were treated under the flow-through system of accounting nor the credits transferred on the basis of the pro rata life of the equipment.

At the time the Tax Reform Act of 1969 was considered, the Ways and Means Committee was concerned about the revenue reducing results from expanded use of the flow-through system for dealing with accelerated depreciation in the utility industry. The legislation fixed the existing system for utilities and set rules for changing from one system of accounting to another.

Because flow-through reduces operating income requirements and becomes the base for further reductions in rates, thus reducing again taxable income and income tax, the Committee was advised that the trend toward flow-through treatment of accelerated depreciations could shortly reduce tax revenues by as much as $1.5 billion to $2 billion a year. (House Report 91–413)

In response to Administration requests, the Congress adopted the Revenue Act of 1971, P.L. 92–178, which was signed Dec. 10, 1971.

This reinstated the investment tax credit with an increase of 33⅓ percent for electric utilities—from 3 percent credit to 4 percent credit. House Report 92–533 states:

> Your committee's bill raises the rate for public utility property to 4 percent. In part, this is provided because of the

increasing problem many utilities are encountering in raising the capital required for modernization and expansion.

The Report states the general purposes of the legislation as:

> Put our present lagging economy on the high growth path. Increase the number of jobs and diminish the high unemployment rate.
>
> Relieve the hardships imposed by inflation on those with modest incomes.

The investment tax credit has amounted to $1.186 billion for the electric power industry at the end of 1971. The accumulations in this account at the end of 1972 amounted to $796,272,000.

The use of increased depreciation for tax purposes has two other beneficial results for private utilities. Distributions of profits to stockholders can be up to 100 percent tax-free in certain situations.

The accumulations of the taxes and credits can be invested in the property to save the interest which would be paid if equal sums were borrowed. On the basis of $3.5 billion accumulations at the end of 1972, the interest benefit at 8 percent would be $280 million a year.

Questions about the appropriateness of federal policies for increased depreciations, other investment credits and other incentives should not be at issue in the consideration of the proposals for credit for TVA pollution control expenditures.

The national policies of incentives for certain expenditures in the private sector are a fact. H.R. 11929 addresses the differences such policies introduce into the rate results for consumers of power through private investment in contrast to those through public investment.

In a statement before the Ways and Means Committee, March 15, 1973, Mr. Gordon R. Corey, vice-chairman of the Commonwealth Edison Company of Illinois, said, "The lower carrying charges associated with improved cash flow under ADR, accelerated depreciations methods and investment credits do help add to utility expenditure (for equipment) whether they remove difficulties in financing expenditures or add inducements."

Mr. Corey indicated the ultimate cost of a $100 investment in a fossil-fired electric power plant by his company was $166 including cost of the money, income taxes, depreciation or amortization. The effective of the existing tax procedures would amount to a 19 percent purchase discount on the total $166 or approximately 31 percent of the $100 investment. This considers the total equipment investment while the proposal for TVA credits considers only the pollution control investment.

Mr. Corey's information results from application of the Sum of Years Digits depreciation, the 28-year guideline life rule, the Asset Depreciation Range and investment credit of 4 percent.

Such discounts in the cost of investment accrue to either the stockholder or consumer or both. The stockholder might realize increased dividends, greater tax-free distributions, or increased value of his equity which might also be liquidated at lesser income tax liability. To the degree provided by the regulatory agencies, the consumer might realize lower power rates as a result of the reduced cash requirements for externally raised funds for construction or operations.

Investments by the Public sector of the economy (such as TVA) have exactly the same beneficial result as investments by the private sector for such things as pollution control, providing employment, improving safety or other objectives of the incentives.

In the case of the TVA, the cost of the investments is a direct charge to the consumer just as the costs of investment in facilities are reflected in the rates paid consumers of power produced by a private utility.

H.R. 11929 recognizes that the pollution control investments by the consumer of TVA power have the same beneficial national objectives as investments by the private sector.

H.R. 11929 considers TVA's uniqueness

While the propsal to credit TVA with pollution control expenditures has been patterned after similar incentives already provided to private firms for pollution control and other investments, the differences in the nature of the two types of systems make exact parallels impossible.

Estimates vary as to the value of the tax laws concerning investment credits, accelerated amortization and liberalized depercation to private firms. A spokesman for the private utility industry suggested the value to be 50 percent of the cost of investment. This would include pollution control equipment as well as income producing facilities such as generators.

The result of these incentives would vary from firm to firm according to the tax situation of each. The results can even be different for adjacent systems within the same ownership.

In 1971, before the full effect of the most recent tax laws changes was realized, at least 10 percent of the Class A and B electric utilities reported federal income tax refunds rather than payments. For 126 of the 206 systems in Class A and B, 1971 federal taxes were less than the previous year.

While the incentives available to private systems apply to 100 percent of their investments in equipments, whether for pollution control or not, the legislation, H.R. 11929, as reported, would apply only to the TVA pollution control investments, which account for about 20 percent of the Authority's total investments in facilities.

Neither does the legislation provide a means of credit for all past or future pollution control investments by TVA. The legislation ignores investments made before fiscal year 1974. The credits will be available so long as there is an appropriated balance against which to apply the credit.

In that sense, the proposal only provides a solution to the problem of environmental investment costs for a short time.

To a degree, the suggestion that private utility firms be accorded a 100 percent credit presents questions as to the applicability to such systems. For example, the total federal tax payments of all private electric utilities in 1972 was $889 million. The estimate of the cost of pollution control to the industry [1] the same year was $1,144 million—$255 million more than the total tax liability.

[1] "Public Utilities Fortnightly," Feb. 1974, p. 41. Other sources place the estimates at a higher level.

There is a likelihood that the systems with heavy environmental costs would be the same firms with a heavy rate of general investment which would already have reduced or completely eliminated the tax liabilities.

In any event, the proper place for the examination of the possible ramifications of any alterations in treatment private firms should receive is in the Committee with jurisdiction over such matters.

Cost to the United States

Rule XIII(7) of the Rules of the House of Representatives requires a statement of the estimated costs to the United States which would be incurred in carrying out H.R. 11929, as reported in fiscal year 1974 and each of the following 5 years.

Enactment of this legislation will result in the following additional cost to the United States based upon estimated payments to the Federal treasury by the Tennessee Valley Authority which would be retained by the Tennessee Valley Authority as credits. The estimate was prepared by the committee based upon testimony by TVA.

	Millions
Fiscal year:	
1974	$0
1975	82.9
1976	79.7
1977	78.5
1978	77.3
1979	76.1
Total	394.5

Vote

The committee with a quorum present ordered the bill reported by a voice vote.

Executive Communications

The reports of the Tennessee Valley Authority, Environmental Protection Agency, and the Department of the Treasury on H.R. 11929 or H.R. 11824, an identical bill, as introduced, are set forth in full below:

Tennessee Valley Authority,
Office of the Board of Directors,
Knoxville, Tenn., February 21, 1974.

Hon. John A. Blatnik,
Chairman, Committee on Public Works, House of Representatives, Washington, D.C.

Dear Mr. Blatnik: This is in response to your letter of December 12, 1973, requesting our views on H.R. 11824, amending section 15d of the Tennessee Valley Authority Act of 1933.

The bill would amend section 15d of the TVA Act by adding a new subsection (i) which would provide that expenditures for certified pollution control facilities would be credited against payments TVA makes to the Treasury as a return on the appropriation investment in power facilities and as repayment of the appropriation investment in power facilities. Both of these payments are required by subsection (e) of section 15d.

In order to obtain the credit, TVA would be required to certify to the Environmental Protection Agency that the pollution control facility was built or acquired in conformity with programs or requirements for abatement of water or atmospheric pollution or contamination. In addition, before the credit is allowed, EPA would have to certify to the Secretary of the Treasury that the facility is in compliance with applicable regulations of Federal agencies and is in furtherance of the general policy of the United States for cooperation with the states in the prevention or abatement of air or water pollution under the Federal Water Pollution Control Act or the Clean Air Act.

TVA now bears the full cost of pollution control facilities for its power plants required by these two acts. The proposed legislation would benefit TVA by allowing it to invest in pollution control facilities money which would otherwise be used as a return of and on the amount of appropriation which has been put into power facilities. This would reduce the need to borrow money, thereby producing a saving in interest costs. Interest savings to TVA over the next ten years would result in an approximately 10 percent reduction of the expected interest charges.

TVA believes the proposal set forth in H.R. 11824 would relieve the burden of pollution control expenditures to TVA.

The Office of Management and Budget advises that while it has no objection to the presentation of this report, enactment of this proposal would not be in accord with the President's program for the reasons set out in the Department of Treasury's report.

Sincerely yours,

Aubrey J. Wagner,
Chairman.

U.S. Environmental Protection Agency,
Washington, D.C., February 28, 1974.

Hon. John A. Blatnik,
Chairman, Committee on Public Works,
Washington, D.C.

Dear Mr. Chairman: This is in response to your request for the views of the Environmental Protection Agency on H.R. 11824 and H.R. 11929, identical bills "To amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment payments and repayments."

The proposed legislation provides that beginning with fiscal year 1975, the Corporation (the Tennessee Valley Authority) would be entitled to a credit against the payments required as a return on the appropriation investment in power facilities and the annual repayment sum established for each fiscal year in an amount equal to that expended for any certified pollution control facility in the preceding fiscal year. Such a credit would be equal to a cash payment. If such a credit exceeded the payments required as a return on the appropriation investment (interest) for the next fiscal year, the amount in excess of such requirement would be applied as a credit to the same extent as if it were a repayment in cash against the annual repayment sum (payment on principal) required for the next fiscal year. If the

amount expended for certified pollution control facilities exceeded both the interest and return on principal established for a fiscal year, the excess would be applied as a further reduction of the principal.

"Certified pollution control facility" is defined as a new identifiable treatment facility which is used, in connection with a plant or other property, to abate or control water or atmospheric pollution or contamination which (1) the Board of the Corporation has certified to EPA as being in conformity with water and air abatement requirements, and (2) the Administrator of the EPA has certified to the Secretary of the Treasury, or his delegate, as being in compliance with applicable regulations of Federal agencies and as being in furtherance of the general policy of Federal cooperation with States in the prevention and abatement of pollution under the Federal Water Pollution Control Act and the Clean Air Act.

The Environmental Protection Agency recommends against the enactment of H.R. 11824.

A number of the Tennessee Valley Authority facilities require substantial expenditures for the installation of pollution control equipment to meet air and water quality standards. Although some form of relief might be considered appropriate to aid TVA in meeting these standards, its rates establish a yardstick for setting the rates of the electric power industry as a whole. We, therefore, believe that the true cost of producing power (including the costs of abating pollution caused by generating facilities) should be reflected in TVA's rates.

Until 1959, TVA financed the construction of generating facilities through the Federal appropriation process. At that time, legislation was passed which provided that the future expansion of generating facilities would be financed through the sale of bonds in the private market and the utilization of retained earnings. It is the intent of the Act that TVA be self-supporting and self-liquidating. TVA's outstanding obligation to the Federal Treasury is presently about $800 million, and the annual payments amount to approximately $75 million.

Under the provisions of H.R. 11824, TVA's expenditures for pollution control equipment to comply with Federal laws would, in effect, be free to TVA and its customers, and the cost would be borne by the Federal Treasury, i.e., the Federal taxpayers in general.

Since the cost of electricity to TVA's customers would be lower than the true cost of producing the electricity, the result could be an increased demand for its electricity. In turn, this could be an increased demand for fossil and nuclear fuels, augmenting the long-range environmental and resource demands associated with TVA's operations.

A further point of particular relevance at this time is that artificially low-priced electricity could increase demand when the overall National goal is to conserve all energy to the maximum extent possible and when the cost to most consumers of all forms of energy is rising.

We also believe that passage of this legislation could lead to pressure by private electric utilities for a similar benefit, e.g., a 100% tax write-off for pollution control expenditures. In addition, other industries now hard-pressed because of the energy crisis could argue that the costs of pollution control should be paid by the Federal Government. Therefore, a dangerous precedent would be established by passage of H.R. 11824 in that the cost of pollution control would not be borne by those responsible for it, but would be borne by the general taxpayer—such costs, in effect, would be subsidized.

For these reasons, EPA recommends against the enactment of H.R. 11824.

Nonetheless we are told that TVA might possibly be disadvantaged as compared to private utilities in terms of bearing the full cost of pollution abatement equipment. We would not want Federal policies to discriminate against customers served by TVA any more than we would want such customers to enjoy special advantages over consumers in other parts of the Nation. Accordingly, it would appear desirable to investigate the differences between TVA's net cost of investment in pollution control equipment and that of utilities using investment tax credits or rapid amortization.

We urge that the Committee take these views into consideration in its deliberations. The proposed legislation, as it is now structured, would not be consistent with the Administration's program related to private and public sector financing of pollution control equipment. The Office of Management and Budget advises that there is no objection to the submission of this report.

Sincerely yours,

RUSSELL E. TRAIN,
Administrator.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., March 6, 1974.

Hon. JOHN A. BLATNIK,
Chairman, Committee on Public Works, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 11824, "To amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments." These views also apply to H.R. 11929, an identical bill.

The bills would amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that beginning in fiscal year 1975 expenditures by the TVA for pollution control facilities be credited against the semi-annual payments it is required to make to miscellaneous receipts of the Treasury from proceeds of the TVA power program (as a return on the Federal appropriation investment).

While we fully appreciate and can sympathize with the motivation of this legislation, unavoidably its effect would be to shift to the general public expenses which otherwise would be borne by consumers of electricity produced by the TVA, and we have to regard this as an undesirable precedent for Federal absorption of pollution control costs generally. You recall that the intent of the TVA Act was to make the power program of the Corporation self-supporting. This important concept would change if this legislation were enacted since the effect of the set-off for pollution-control capital expenditures would be to understate power program expenditures and inflate retained earnings.

In essence, this failure to disclose a cost of operations would be tantamount to back-door financing and appears to be the kind of procedure which the Congress itself is attempting to eliminate in proposed legislation to control expenditures and establish national priorities soon to be considered in the Senate.

A further difficulty is that Federal absorption of the cost of TVA pollution control facilities would create inequities among electric power users in different parts of the country, and also would erode the principle that the costs of pollution control should be reflected in the price of the product responsible for the pollution in order to encourage economic use of resources.

Nevertheless, we are told that TVA might possibly be disadvantaged as compared to investor owned utilities in terms of bearing the full cost of pollution abatement equipment. We would not want Federal policies to discriminate against customers served by TVA anymore than we would want such customers to enjoy special advantages over consumers in other parts of the Nation. Therefore, it would seem desirable to study the difference between TVA's net cost of investment in pollution control equipment and that of other utilities using investment tax credits or rapid amortization.

We recommend that the Committee take the above into consideration in its deliberations. For the reasons stated, we regret that the proposed legislation as now structured is not reconcilable with the Administration's program related to private and public sector financing of pollution control equipment.

The Office of Management and Budget advises that there is no objection to the submission of the report.

Sincerely yours,

EDWARD F. SCHMULTS,
General Counsel.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

Section 15d of the Tennessee Valley Authority Act of 1933

SEC. 15d. (a) * * *

* * * * * * *

(e) From net power proceeds in excess of those required to meet the Corporation's obligations under the provisions of any bond or bond contract, the Corporation shall, beginning with fiscal year 1961, make payments into the Treasury as miscellaneous receipts on or before December 31 and June 30, of each fiscal year as a return on the appropriation investment in the Corporation's power facilities, plus a repayment sum of not less than $10,000,000 for each of the first five fiscal years, $15,000,000 for each of the next five fiscal years, and $20,000,000 for each fiscal year thereafter, which repayment sum shall be applied to reduction of said appropriation investment until a total of $1,000,000,000 of said appropriation investment shall have been

repaid. The said appropriation investment shall consist, in any fiscal year, of that part of the Corporation's total investment assigned to power as of the beginning of the fiscal year (including both completed plant and construction in progress) which has been provided from appropriations or by transfers of property from other Government agencies without reimbursement by the Corporation, less repayments of such appropriation investment made under title II of the Government Corporations Appropriation Act, 1948, this Act, or other applicable legislation. The payment as a return on the appropriation investment in each fiscal year shall be equal to the computed average interest rate payable by the Treasury upon its total marketable public obligations as of the beginning of said fiscal year applied to said appropriation investment. Payments due hereunder may be deferred for not more than two years when, in the judgment of the Board of Directors of the Corporation, such payments cannot feasibly be made because of inadequacy of funds occasioned by drought, poor business conditions, emergency replacements, or other factors beyond the control of the Corporation.

* * * * * * *

(i) (1) Beginning with fiscal year 1975, and each fiscal year thereafter, the Corporation shall be entitled to a credit against the payments required as a return on the appropriation investment in power facilities and the annual repayment sum established for such fiscal year in the first sentence of subsection (e) of this section in an amount equal to the amount actually expended by the Corporation during the preceding fiscal year for any certified pollution control facility. The return on the appropriation investment in the Corporation's power facilities required to be paid by such first sentence of subsection (e) shall be reduced in an amount equal to such credit in the same manner and to the same extent as if such credit were a payment in cash. In any fiscal year when the amount expended by the Corporation for a certified pollution control facility or facilities exceeds the payments required as a return on the appropriation investment for the next fiscal year, the amount in excess of such payment requirement shall be applied, as a credit against the annual repayment sum for the next fiscal year and the appropriation investment required to be repaid by such first sentence shall be reduced in an amount equal to such credit in the same manner and to the same extent as if such credit were a repayment in cash. In any fiscal year in which the amount expended by the Corporation for a certified pollution control facility or facilities exceeds both the payments required as a return on appropriation investment for the next fiscal year and the annual repayment sum established for such fiscal year, the amount in excess of such return payments and annual repayment sum shall be applied to the reduction of the appropriation investment required to be repaid by such first sentence in addition to both the credit against the appropriation investment return payment for such fiscal year and the reduction in such investment required as a result of the credit against the annual repayment sum for such fiscal year.

(2) For purposes of this subsection, the term "certified pollution control facility" means a new identifiable treatment facility which is or will be used, in connection with a plant or other property, to abate

or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

(A) the Board has certified to the Environmental Protection Agency as being constructed, reconstructed, erected, or acquired in conformity with programs or requirements for abatement or control of water or atmospheric pollution or contamination; and

(B) the Administrator of the Environmental Protection Agency has certified to the Secretary of the Treasury or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

SUPPLEMENTAL VIEWS

Our views are not in opposition to H.R. 11929 but are observations that H.R. 11929 merely treats the symptoms of over-zealousness in adopting and administering various environmental laws. It does not examine the roots of the problem by looking behind the huge expenditures from which relief is sought on behalf of TVA and its customers. But the problem is much larger than the symptoms addressed by H.R. 11929. The real problem involves this Nation's future economic and social welfare.

During the past few years, Congress adopted a series of environmental laws. Such measures, admittedly long overdue, resulted from growing public awareness and heated demands for action. In retrospect, as so often happens when legislating in the heat of emotion and with inadequate or inaccurate information, such enactments and their enthusiastic implementation by the newly formed Environmental Protection Agency may be viewed as over-reaction. Single-purpose laws with tight deadlines and inadequate provision for consideration of economic, social and interrelated environmental effects, it is now apparent, can have expensive consequences with small commensurate benefits.

TVA and other electric systems, public and private, are being forced to spend many billions to comply with pollution control regulations which may be based on questionable data and assumptions. It behooves Congress to investigate and evaluate, in the overall public interest, the values to be reaped from such expenditures.

The Federal Water Pollution Control Act Amendments of 1972 and the Clean Air Act of 1970 set many stringent new environmental control requirements. Now, a reasonable period after their enactment, we have the opportunity to evaluate the impact of these new laws. It is becoming apparent, particularly at a time of energy shortages, that the costs may exceed the benefits to be achieved in certain instances.

H.R. 11929 perhaps is one of the first examples of legislation that will be introduced and enacted to provide relief in some form from the very high cost of environmental control facilities.

If we are to meet the environmental goals that our Nation requires and deserves, we must make sure that the goals are consistent with our ability to meet them, and, even more important, with the willingness of our taxpayers and consumers to foot the bill. We believe the time has arrived for an evaluation of the goals and objectives and the costs and impacts of new environmental legislation. We should do this before too much time passes and costs and impacts increase and become more severe than expected. We hope this will not be the case; however, prudence dictates that we find out.

We on the Committee on Public Works of the House of Representatives clearly recognize the possibility that the costs and impacts of water pollution control legislation and particularly the requirements

for 1983, may exceed the benefits to be obtained. The Committee on Public Works recognized problems with the Senate-passed water bill and worked very hard both in our Committee and in the Committee on Conference with the other body to achieve a reasonable balance between the environmental goals to be achieved and the costs and undesirable impacts of achieving these goals.

We were criticized when we were developing the House bill. The environmentalists stated that we were detracting from the "environmentally perfect" Senate bill. We knew at the time that this was nonsense. We knew that environmental legislation must be balanced. Time has proven us to be correct.

Provisions in the original House bill which subsequently led to section 315 of P.L. 92–500 establishing the National Commission on Water Quality were an indication that we on the Committee on Public Works and in the House of Representatives were concerned about not knowing the full costs and impacts of such extensive new environmental legislation as the requirements for 1983. Now, with energy shortages, inflation, and a better idea of costs, there appears to be a realization by everyone knowledgeable in the area of environmental affairs that the National Commission on Water Quality has an important task to accomplish.

For example, a study for EPA [1] estimates that compliance with only the thermal pollution requirements of P.L. 92–500, the Federal Water Pollution Control Act Amendments of 1972, will be $24.2 billion by 1983. Another study, financed by the electric industry,[2] places the estimate at $31.3 billion in the same period. By 1990—just 16 years from now—the cost of electric service will have been raised about $100 billion just to cool the water that is discharged from generating plants.

Similarly, the Clean Air Amendments of 1970 (P.L. 91–604), are requiring expenditure of vast sums that might well be put to more effective and socially desirable purposes. As it is being administered, the Clean Air Act requires more than "clean air", which Congress directed should be defined by EPA in the national primary and secondary ambient air quality standards. Such standards are to protect fully both public health and welfare, but many of the regulations adopted pursuant to the Act (some of which were required by court interpretation of the statute) bear little relationship to air quality needs, and little consideration was given to social, economic and total environmental impact of the requirements.

We believe continuation of oversight hearings in the Committee on Public Works of the House of Representatives on water pollution and initiation of hearings by other committees with jurisdiction over environmental control laws is necessary. We need a timely evaluation of achievements and urge our colleagues on other committees in the House to initiate similar reviews of environmental control programs under their jurisdiction.

While the total bill for meeting existing air and water pollution control requirements cannot be calculated precisely, it is apparent

[1] "Economic and Financial Implications of the Federal Water Pollution Control Act of 1972 for the Electric Utility Industry," Temple, Barker and Sloane, Inc., Wellesley Hills, Mass., Sept. 7, 1973.

[2] National Economic Research Associates, economic report on thermal pollution control, prepared for the Utilities Water Act Group.

that it will be tremendous. The Council on Environmental Quality [3] estimated it will amount to $226.9 billion by 1981. This will result in increased prices of everything, since costs for abatement expenditures must be reflected in the consumer's bill for goods and services. Employment and convenience aspects cannot be disregarded.

The chairman of the Public Service Commission warned recently of a possible doubling of electric utility rates in New York State in the next decade, based on environmental considerations alone. The economic and social implications of this could be huge.

It must be remembered that costs increase exponentially with the stringency of pollution control requirements. For example, while 90 or 95 percent of a certain pollutant may be removed at a reasonable cost, the necessary expenditure may double or quadruple if 97 or 99 percent removal is required. Hence, careful balancing of costs and benefits is essential if available resources are to be used efficiently and for the optimum public good.

Evironmental laws were adopted amidst great emotion, at the crest of the wave of public concern. Undoubtedly, many of the requirements are extreme, unnecessary, and not in the public interest. Now, in the cold light of reality, faced as we are with continuing inflation and energy shortages, is the time for Congress to evaluate the consequences of its actions. The Nation can ill afford the "overkill" in environmental requirements, and we must return to a more reasoned approach for making decisions which so intimately involve all our citizens and the Nation's development.

In some respects, it is fortunate that a measure such as H.R. 11929 has arisen, early enough along the course we are pursuing in environmental programs, to jolt us back to the practical realities of energy needs, economic limitations, and social goals. We can and will have an environment that is well within the bounds of capability, without adverse health and welfare effects, if more careful advance consideration is given to *why* we are doing certain things and less intrigue is devoted to *what* we are doing.

DON H. CLAUSEN.
JOHN PAUL HAMMERSCHMIDT.
JAMES ABDNOR.
ROBERT P. HANRAHAN.

[3] Council on Environmental Quality, Fourth Annual Report, September 1973.

MINORITY VIEWS

We recognize that the Tennessee Valley Authority, not unlike other power producing organizations, is being required pursuant to the water pollution and air pollution control laws to make huge investments in pollution control equipment. We further recognize that the Tennessee Valley Authority, also not unlike other power producing organizations, has to make extensive borrowings of capital for these huge investments. Finally, we recognize that it is reasonable to place the Tennessee Valley Authority on a similar financial basis with regard to high-cost pollution control investment as the other power producing organizations in the United States. The actual effect of H.R. 11929, however, is to provide financial credits to the Tennessee Valley Authority which exceed and are therefore not similar to the Federal financial benefits available to other power producing organizations.

If the effect of H.R. 11929 truly would be to put the Tennessee Valley Authority on the same basis with regard to high-cost pollution control investments as the other power producing organizations in the United States, there would be no need for our dissenting views. However, the clear effect of H.R. 11929 is to provide that the Federal Government would pay 100 percent of the cost of environmental control equipment installed by the Tennessee Valley Authority pursuant to air and water pollution control laws. No similar benefit is available to other power producing organizations. The consumer outside the Tennessee Valley Authority service area would pay for pollution control equipment from his supplier of electric current through increased rates charged and would also pay for the Tennessee Valley Authority pollution control equipment since this bill would allow the Tennessee Valley Authority to deduct 100 percent of the cost of the equipment from its repayment to the United States Treasury.

This bill would relieve the Tennessee Valley Authority of paying into * * * serve as a basis for the electric power industry to request immediately that the Congress provide the same benefits via tax loopholes for the power industry, the net effect of which would be for the Federal Treasury to pay 100 percent of the power industry's cost of required environmental control equipment. This could be an unintended and unreasonable side effect of H.R. 11929.

Even though it is argued that the Tennessee Valley Authority does not pay Federal income taxes, and that, therefore, the provisions of the Internal Revenue Code for private industry are not relevant arguments for giving credits to the Tennessee Valley Authority, we believe the net effect of the Internal Revenue Code is to provide that the Federal Government pays a significant percentage of the cost of environmental control equipment installed by private industry. We believe the Tennessee Valley Authority is somewhat disadvantaged as compared to private utilities in terms of bearing the full cost of environmental control equipment.

We believe it would be reasonable to provide for credits at a level similar with those of utilities which may utilize investment tax credits or rapid amortization. Considering the basic 48 percent corporate tax rate, the 4 percent investment credit available to power producing companies, and the accelerated depreciation schedules available on environmental control equipment, we believe it would be appropriate to provide that the Tennessee Valley Authority could credit 50 per centum of the annual certified costs for pollution control facilities against the required annual repayments and payments as return on the appropriation investment. This is in lieu of the 100 per centum credits which would be available under H.R. 11929.

We believe the consumer of electric power should pay a fair share of the environmental controls and believe further that the 50% credit we suggest is consistent with this belief.

JAMES C. CLEVELAND.
GENE SNYDER.

○

H. R. 11929

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-first day of January, one thousand nine hundred and seventy-four

An Act

To amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Tennessee Valley Authority Act of 1933 is amended by inserting immediately at the end of section 15d the following new subsection:

"(i)(1) Beginning with fiscal year 1976 and for each of the next four fiscal years thereafter, the Corporation may elect to defer payments under the annual repayment schedule established under subsection (e) if the expenditures of the Corporation for certified pollution control facilities for the preceding fiscal year exceed the amount of the scheduled repayment. The annual repayment schedule shall be suspended one fiscal year for each fiscal year for which the Corporation so elects.

"(2) Beginning with fiscal year 1976 and for each of the next four fiscal years thereafter the Corporation shall be entitled to credit against the payments required as a return on the appropriations investment in power facilities the amount of expenditures for certified pollution control facilities in excess of the amount of any repayment deferred under the preceding paragraph.

"(3) For the purposes of this subsection, the term 'certified pollution control facility' means a new identifiable treatment facility which is or will be used, in connection with a plant or other property, to eliminate, abate, or control water or air pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and for which—

"(A) the Board has made application for deferral or credit to the State certifying authority having jurisdiction with respect to such facility; and which the State certifying authority has certified to the Environmental Protection Agency as being constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for elimination, abatement, or control of water or air pollution or contamination; and

"(B) the Administrator of the Environmental Protection Agency has certified to the Secretary of the Treasury or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention, elimination, and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of air pollution under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).".

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

December 11, 1974

Dear Mr. Director:

The following bills were received at the White House on December 11th:

S. 2193	H.R. 7730
S. 2363	H.R. 8352
S. 3906	H.R. 8824
S. 4040	H.R. 11929
H.R. 6274	H.R. 14214
H.R. 6925	H.R. 17026

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D.C.