

**Written Testimony of  
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President and Chief Executive Officer  
Tennessee Valley Authority  
As submitted to the  
U.S. House Committee on Oversight and Government Reform  
Subcommittee on Government Operations  
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Chairman Meadows, ranking member Connolly, and members of the Committee, my name is Bill Johnson, President and CEO for the Tennessee Valley Authority (TVA).

I appreciate the opportunity to appear before the committee to explain TVA's new policy on non-navigable houseboats and floating houses. I recognize the unique interest Chairman Meadows has in this local issue.

This December will complete my fourth year as CEO at TVA. Prior to joining TVA, I spent a few decades in the utility business in North Carolina and have a fondness for that state and its people. I have the rare distinction of being a graduate of both Duke University and the University of North Carolina-Chapel Hill, which has made for some interesting conversations during basketball season on Tobacco Road.

When I came to TVA, I quickly realized it was a unique organization with a long and rich history. While it operates and functions in many ways much like an investor-owned utility, it has statutory authority and significant responsibilities that differentiate it from other energy companies. That's because TVA's mission of service, as envisioned by Congress, is to deliver affordable, reliable power, care for our region's natural resources and create sustainable economic growth.

As an organization that has been in existence for more than 83 years, TVA is not without some legacy issues – pension funding, the occupation of public campgrounds for personal use and

others. The TVA Board has taken action to resolve many of these. The subject of today's hearing – how to address private structures on public reservoirs – is another one of these legacy issues, and like the others, it did not develop overnight and cannot be fixed overnight. But TVA and the TVA Board have a responsibility to address difficult issues on behalf of the 9 million people we serve and this nation.

Over the last few years, TVA and the TVA Board have heard from many concerned citizens about the issue of floating houses on our reservoirs, including many near TVA's Fontana Reservoir in western North Carolina. We do appreciate the manner in which most parties have approached TVA and commented on this issue, especially to those, like Mr. Wilks and Ms. Sneed, who addressed the TVA Board at our last two quarterly Board Meetings. They have been passionate and respectful in their comments.

There are many differing viewpoints of this issue. We acknowledge it is a personal and emotional experience for many. The TVA Board, using its authority in the TVA Act, believes it has struck a balance in approving a policy that represents the varying interests and seeks to protect the natural resources entrusted to TVA's care.

Before I get into the issue of today's hearing, a little bit about TVA.

### **About TVA**

TVA was created by Congress in 1933 as a corporate agency of the United States charged with a unique mission: to improve the quality of life in a seven-state region through the integrated management of the region's resources. To help lift the Tennessee Valley out of the Great Depression, TVA built dams for flood control, provided low-cost power and navigation, restored depleted lands, improved agriculture and forestry and helped raise the standard of living across the region.

Today, TVA provides electricity for business customers and local power companies serving nine million people in parts of seven southeastern states. The region covers most of Tennessee and parts of Alabama, Georgia, Kentucky, Mississippi, North Carolina and Virginia. TVA also provides power directly to large industrial customers and federal installations. Virtually all of TVA's revenues are derived from sales of electricity.

I am proud of TVA and its employees who have worked hard in recent years to improve our financial and operational health. Over the last three years, with the strong support of the TVA Board, TVA has reduced its annual operation and maintenance expense by \$600 million, reduced fuel expense by nearly \$1 billion, reduced headcount to the lowest level since 1934, reduced its debt by nearly \$1 billion, made significant investments in emission control equipment to improve air quality and improved operational performance in all key areas.

We have nearly completed the first new nuclear plant of the 21st Century, and we will fund TVA's capital plan for the next decade while simultaneously reducing our debt to about the \$20 billion level. We have accomplished this while improving our rate competitiveness – industrial rates are top quartile and retail are mid-second quartile.

TVA last received power appropriations from the Congress in 1959, and those appropriations cumulatively totaled approximately \$1.4 billion. In 2014, TVA completed repayment of \$1.2 billion in appropriation investment and has paid interest amounts totaling \$2.6 billion to date, for total payments of \$3.8 billion to the U.S. Treasury. In total, The U.S. Government has been fully repaid and now holds a \$258 million permanent equity position in TVA, on which TVA will continue to pay interest in perpetuity.

TVA makes tax equivalent payments on the order of \$500 million to the eight states, including North Carolina and Virginia, where it sells electricity or owns generating plants, transmission lines, substations or other power-related assets. In addition, tax equivalent payments are made to 146 municipalities where TVA owns property. The payments compensate state and local governments that cannot levy property or sales taxes on TVA as a federal entity.

With one very small exception, Graham and Swain county residents in North Carolina are served by utility providers other than TVA. TVA ratepayers made tax equivalent payments totaling over \$1.5 million to Graham and Swain counties last year. State and local governments distribute these funds solely based on their own formulas and discretion to support a variety of initiatives, including schools, fire departments and other emergency response agencies, tourism and recreation, and human service organizations. We believe this investment has been beneficial to this region.

TVA also has stewardship responsibility for about 11,000 miles of reservoir shoreline, approximately 293,000 acres of reservoir land, and 49 reservoirs encompassing approximately 650,000 surface acres of reservoir water used for recreation, aquatic and wildlife habitat, water supply and industrial access.

In addition, TVA manages over 170 agreements with private entities for commercial recreation (such as commercial campgrounds and marinas), manages 130 agreements with public agencies for public recreation (such as public parks, day use areas, boat launches, and swimming areas) and is responsible for over 80 public recreation areas throughout the Tennessee Valley.

TVA funds all its water and land stewardship activities from power revenues, user fees and other non-appropriated sources. No appropriations have been received by TVA for these

activities since fiscal year 1999. TVA has implemented stewardship projects near Fontana Reservoir totaling over \$1 million in investment of electric ratepayer funds.

### **TVA Governance**

TVA is governed by its Board of Directors, which has nine part-time members when fully constituted, at least seven of whom must be legal residents of the TVA service area. The TVA Board members are appointed by the President with the advice and consent of the U.S. Senate. Their responsibilities include, but are not limited to: formulating broad strategies, goals, objectives, long-range plans and policies for TVA; stewarding TVA's natural resource portfolio; reviewing and approving TVA's overall energy resource and transmission portfolio; shepherding the financial health of TVA; reviewing and approving annual budgets; setting and overseeing electricity rates; and establishing a compensation plan for employees.

### **Floating House history**

When looking at the issue before us today, a little history might be helpful. First, TVA never invited or encouraged the construction of non-navigable houseboats or floating houses on its reservoirs. In fact, TVA has never granted rights or sold property for the construction or use of floating houses on its reservoirs at all.

What we did do in the 1970s was grandfather existing structures, known as non-navigable houseboats, "after the fact" by issuing them permits so they did not have to be immediately removed. When TVA gave these structures permission to remain on the reservoir nearly 40 years ago, it also prohibited any new structures. This was done through rulemaking and is published in the Code of Federal Regulations at 18 C.F.R. Section 1304.

The permits issued in the 1970s gave no permission or right to remain on the reservoir in perpetuity. Instead, TVA provided a revocable permission for these structures to be an

obstruction in the reservoir, much like a dock or marina. At the time, TVA believed the permitted non-navigable houseboats would slowly disappear over time as they deteriorated. This was clearly an incorrect assumption, and it was a mistake by TVA to not implement a sunset provision on these structures then.

In 2006, the TVA Board approved its Land Policy, which was developed after significant public involvement. The Land Policy governs the management of public lands to maximize public enjoyment, flood control, navigation, power production and economic growth and includes a prohibition on using TVA lands for residential use. It specifically states “TVA shall not allocate lands or landrights for residential use or dispose of reservoir properties for residential use.” The Land Policy goes on to add that “TVA leases or easements for commercial recreation areas will contain restrictions against residential use, and no long-term accommodations or individually owned units will be permitted.”

Today, many of those 1978 non-navigable houseboats have since been transferred to new owners or modified. Some owners have obtained updated TVA permits and some have not. Over time, the problem has been compounded by inconsistent and sometimes lax enforcement of the existing TVA policy that has allowed new, unpermitted structures to proliferate.

### **Floating House policy**

TVA’s care of the region’s natural resources often requires us to deal with challenging issues. Part of that responsibility is to safely manage the river system and other resources to provide the greatest good for the people we serve in the TVA region and the nation.

That question was at the heart of the study we conducted more than two years ago on how to address these privately owned “floating houses” on TVA reservoirs, structures people have built to live part of the year or treat as rental property. TVA had also discovered plans by developers

to build nearly 200 floating houses in sub-divisions on TVA's reservoirs. It's a brazen plan that amounts to the commercial development of entire private communities on public waters. The growing trend over time is the modification or construction of structures more like houses that are then argued to be boats.

As a result, TVA began a thorough policy review and public-input process under the National Environmental Policy Act after identifying more than 1,800 of the structures on 16 TVA reservoirs. The environmental review process included numerous public meetings and opportunities for stakeholders to provide their views regarding TVA's future management of floating houses. During the final environmental impact statement, TVA received more than 151 separate comment submittals and 434 individual comments.

We took great care to consider all perspectives on this issue, as well as the environmental and safety impacts of floating houses.

Some lake users and shoreline residents urged TVA to remove the structures immediately and did not believe it appropriate for a private individual to commandeer the public lake for residential type use. Like national and state parks and forests and other federally managed lands, which all prohibit private residential use of public resources, the lands and waters we manage are owned by the public. If a citizen tried to build a vacation home in Smoky Mountain National Park or a hunting lodge in Cherokee National Forest, the Park Service and Forest Service would stop those actions.

Many commenters also expressed concerns that the growing presence of house-like structures was causing greater safety and environmental issues such as the discharge of greywater, underwater electrical supply and unsafe anchoring cables.

Numerous federal and state agencies, including the U.S. Department of Interior and the North Carolina Wildlife Resources Commission, also weighed in to support the TVA Board policy.

Structure owners and marina operators generally were supportive of better regulation and standards, but argued against removal.

We also received input from the Regional Resource Stewardship Council, a Federal Advisory Committee that advises TVA on resource management. Council members represent stakeholders across the region, and the Council encouraged public comment as part of its own look at the question of floating houses. The Governor of each state touched by TVA has an appointed member to the Council.

A few Council members voiced concerns, but the Council's official advice to TVA on this topic said that:

- No new floating houses should be allowed;
- All existing floating houses should be removed in less than 30 years; and
- TVA should implement and enforce regulations to this effect.

After consideration of these perspectives, the TVA Board directed staff to establish standards for permitting existing floating houses so they meet safety and environmental standards. It also prohibits new floating houses from being permitted, and all floating houses including non navigable houseboats must be removed from TVA reservoirs within 30 years.

TVA believes giving compliant homeowners until 2046 to continue enjoying their homes during the extensive sunset period helps mitigate the impact on floating house owners. It should be noted that the concerns Chairman Meadows and other Members of the TVA delegation



expressed to me and the TVA Board were instrumental in extending the sunset period from 20 to 30 years.

Alternatives to the sunset provision imply indefinite personal property rights for a select few people on reservoirs that TVA manages for the general public. Unlike manufactured houseboats, floating houses generally cannot be removed from the water and, once constructed, the owners desire them to remain in place forever. TVA and the TVA Board recognized that without TVA action, floating houses were, in effect, personal property rights in perpetuity. Neither TVA nor the TVA Board has the authority to create a permanent personal property right in publicly owned resources, and we believe that the creation of such a private right is the purview of Congress.

### **TVA Authority**

In previous correspondence and conversations, Chairman Meadows expressed concern that the TVA Board does not possess the authority to take these actions. On this question, we may have to agree to disagree.

TVA's floating house policy fits squarely within the bounds of the TVA Act, which charges TVA with the unified development and regulation of the Tennessee River System. This authority gives TVA discretion to approve the construction and operation of obstructions that affect navigation, flood control and public lands. The U.S. District Court for the Western District of North Carolina has held that TVA's regulation of non-navigable floating structures is consistent with Section 26a of the TVA Act.

As noted earlier, TVA permits do not create property rights, as TVA's regulations make clear. The Board's policy is an exercise of TVA's authority to place reasonable limits on floating houses.

**Next Steps**

After the Board approved its policy this past May, it directed TVA staff to continue to meet with local communities and property owners affected before finalizing the implementation guidelines. TVA staff has done that and continues to meet with interested parties on the issue to ensure we have identified all concerns.

We have also reached out to owners affected by the sunset provision and are open to hearing proposed ideas for a balanced solution to address the range of concerns TVA has heard. While we continue that dialogue, any proposed solution by those affected must address the issue of private use of a public resource.

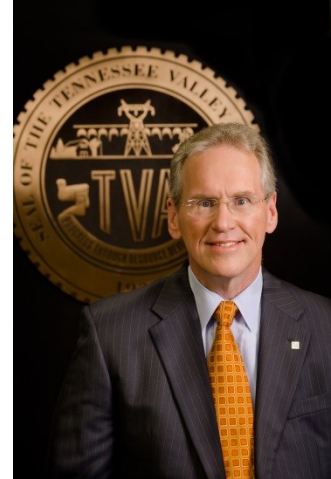
TVA staff is preparing to finalize the implementation guidelines sometime within the next few months, unless directed otherwise by Congressional action. TVA will continue to work with all parties in a fair and reasonable manner to ensure we manage our nation's resources for the benefit of everyone.

Thank you for the opportunity to address the Committee, and I look forward to your questions.



## William (Bill) D. Johnson

### President and Chief Executive Officer



Bill Johnson is President and Chief Executive Officer of the Tennessee Valley Authority. Appointed by the board of directors in November 2012, Johnson is responsible for leading the nation's largest public utility in its mission of providing energy, environmental stewardship and economic development for the Tennessee Valley region.

Before joining TVA, Johnson was chairman, president and CEO of the Raleigh, N.C.-based Progress Energy Inc. from 2007 to 2012, and served as the company's chief operating officer from 2005 to 2007. His career at Progress began in 1992 and included leadership roles of increasing responsibility, including group president for energy delivery, president and chief executive officer for Progress subsidiary Progress Energy Service Company, and general counsel and secretary for Progress Energy Inc.

Before joining Progress, Johnson was a partner with the Raleigh law office of Hunton & Williams, where he specialized in representing utilities. He previously served as a law clerk to Judge J. Dickson Phillips Jr. of the 4th U.S. Circuit Court of Appeals.

Johnson served as vice chairman and on the executive committee of the Edison Electric Institute and was chairman of the board of directors of the Nuclear Energy Institute. He was also a member of the boards of directors of the Institute of Nuclear Power Operations, Nuclear Electric Insurance Limited and other community and charitable organizations.

Johnson is currently serving as chairman of the World Association of Nuclear Operations' Atlanta Centre Governing Board. He has held many leadership positions at the state and local level, including serving as chairman of the North Carolina Chamber.

He graduated from Duke University summa cum laude with a bachelor's degree in history, and received a law degree with high honors from the University of North Carolina at Chapel Hill. The UNC School of Law honored him with its Distinguished Alumni Award in 2011.