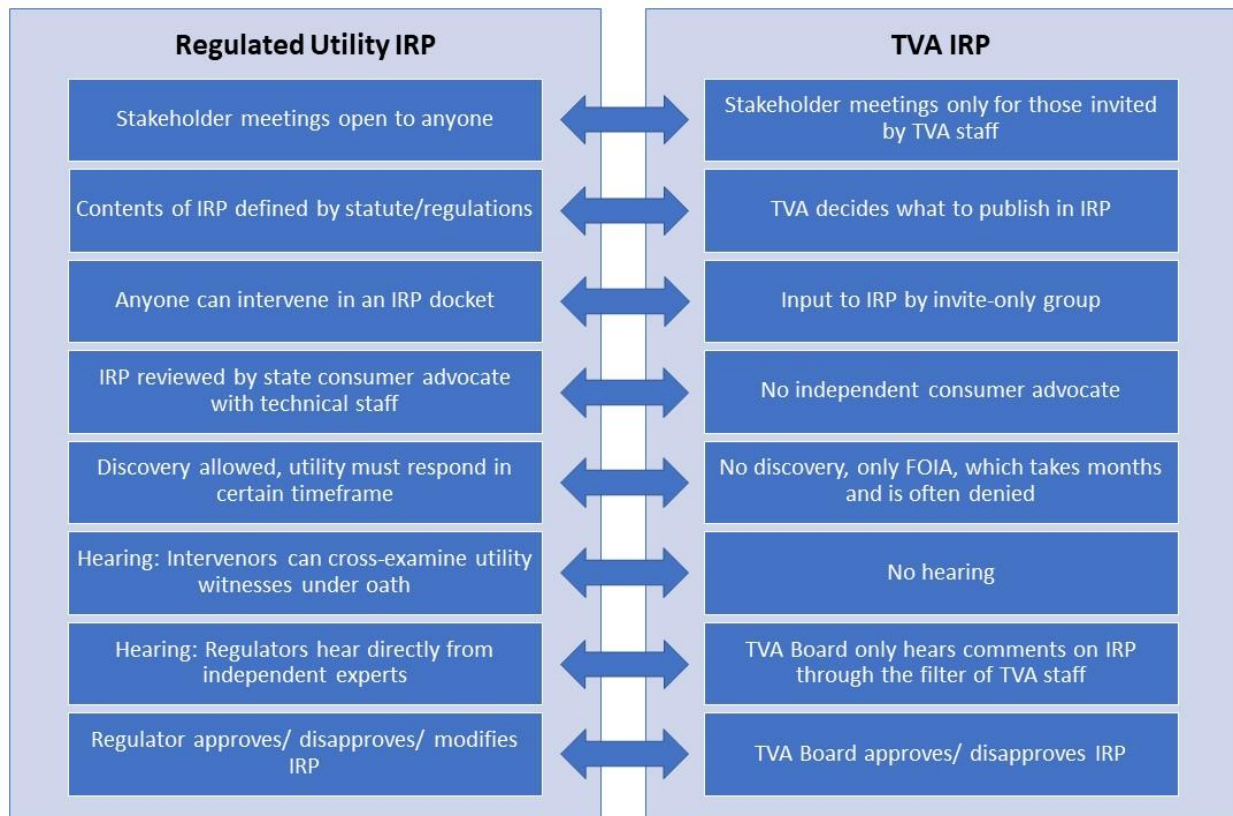


Dear TVA Board of Directors,

Integrated Resource Plans are a critical tool for meeting the long term energy needs of a utility service area. These long term plans can have a major impact on the resource decisions that TVA makes over several years to decades, which in turn affect utility bills, local and regional economies, the environment and public health. Unlike most of its neighboring utilities in the Southeast and across the country, TVA's IRP process is not subject to regulation by a state public utilities commission, which drives key differences between TVA's IRP process and those of its peers. By evaluating peer practices, we suggest the following improvements to TVA's 2024 IRP process, which would bring TVA up-to-date with stakeholder and public engagement practices across the region.

Industry representatives and advocacy organizations in the Tennessee Valley will be greatly impacted by outcomes of the upcoming IRP, and ask that the Board exercise its authority to provide oversight of TVA's IRP engagement process by implementing the transparency and engagement procedures outlined in this letter. These requests are informed by real world examples where IRPs are regulated by state statute and/or a public utilities commission.

There are substantial differences between the public engagement procedures that TVA provides during its IRP and the procedures that are available to the public in a regulated IRP process.



TVA's previous engagement with the public in its IRP are self-determined activities, such as TVA's IRP Working Group, and an environmental review procedure that is required by the National Environmental Policy Act. In contrast, a regulated IRP process allows stakeholders to opt-in to intervene or participate in IRP planning. TVA's previous structure limits input from all impacted stakeholders during the key stages of IRP development when assumptions, scenarios, and other considerations are determined. Moreover, while anyone can provide a public comment on the IRP, it is TVA staff who decide whether and how to address those comments. The appendix further describes the stark differences between TVA's and a regulated IRP process.

As outlined in the TVA Act, the Board of Directors has the authority and responsibility to guide TVA's long range planning and to conduct public hearings on issues that could have substantial effect on ratepayers and the economic and environmental well-being of the service area.<sup>1</sup> As TVA's Board of Directors, it is in your interest to hear from all interested parties and independent experts on the pros and cons of TVA's possible future resource mix in order to ensure that the utility advances its mission to improve the quality of life of its customers. For the 2024 IRP, TVA should implement procedures that are employed in regulated IRP processes to ensure equitable access to information, greater transparency in decision-making, and a bi-directional flow of information between TVA customers and stakeholders, TVA staff, and decision-makers.

We urge the TVA Board to implement the following public engagement avenues and transparency measures for the 2024 IRP process:

**1. Stakeholder Intervention & Robust Engagement: Stakeholders can intervene in the IRP process, which will include:**

- All intervenors can submit discovery requests for information pertinent to the IRP, including details about generation, modeling assumptions, and other information that informs scenario planning. TVA will respond to those discovery requests within 15 business days.<sup>2</sup>
- All intervenors can submit comments and expert testimony, including alternative IRPs, to the TVA Board.
- An independent entity or the TVA Board will preside over an IRP hearing in which:
  - TVA will present its case, with TVA witnesses sworn under oath. Intervenors can cross-examine those witnesses.
  - Intervenors will present, with intervenor witnesses sworn under oath. TVA and other intervenors can cross-examine those witnesses.
- TVA Office of Inspector General will play the role of consumer advocate for the 2024 IRP, with the goal of establishing a formal consumer advocate office for

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<sup>1</sup> The TVA Act Section 2(g) establishes these duties of the TVA Board. Available online at: [https://tva-azr-eastus-cdn-ep-tvawcm-prd.azureedge.net/cdn-tvawcma/docs/default-source/default-document-library/site-content/about-tva/tva\\_act.pdf?sfvrsn=99c2b8c4\\_0](https://tva-azr-eastus-cdn-ep-tvawcm-prd.azureedge.net/cdn-tvawcma/docs/default-source/default-document-library/site-content/about-tva/tva_act.pdf?sfvrsn=99c2b8c4_0)

<sup>2</sup> The 15 business days to respond to requests is written into the Indiana regulations governing IRP processes at 170 IAC 4-7-2.6(b). Available online at: <https://www.law.cornell.edu/regulations/indiana/170-IAC-4-7-2.6>.

future resource plans and rate changes. We strongly encourage the OIG to partner with the Department of Energy and/or National Labs for their technical expertise in engineering and energy planning.

- 2. Accessibility: Multiple public comment forums for the IRP are held throughout the TVA region, with at least one in each state and multiple in Tennessee.<sup>3</sup>**
  - The forums will be held on days and times that do not conflict with regular working business hours, such as evenings or weekends.
  - TVA will provide the public with an easy way to provide written comments directly to the IRP team throughout the process, before a draft IRP is published.
  - Virtual public hearings will be held for those who cannot physically attend in person.
  - Public comments will be visible online within 5 business days of their receipt.<sup>4</sup>
- 3. Transparency: IRP hearings, forums, and working group meetings are open to the public and streamed live.<sup>5</sup>**
  - Agendas of IRP working group meetings, hearings and forums will be posted online at least one week before the meeting.
  - Video of and presentations from all IRP working group meetings, hearings and forums will be posted within a day of the conclusion of the meeting. A summary and minutes from the working group meeting are posted within a week of the conclusion of the meeting.<sup>6</sup>
- 4. Equity and Environmental Justice:** TVA will consult the Biden 2021 Executive Order on agency equity action plans and the RERC statement on Environmental Justice to ensure inclusive and meaningful engagement of environmental justice and disadvantaged communities throughout the IRP process.<sup>7</sup>
- 5. Independent Administration and Advice:**
  - An independent entity will provide oversight on public comments provided outside the NEPA process, and advise TVA on whether and how those comments inform the final IRP.
  - The TVA Board will be provided expert staff to support their engagement in the IRP process.<sup>8</sup>

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<sup>3</sup> An example of this in a similar jurisdiction is the Northwest Power and Conservation Council, which does electric resource planning for a region that includes the Bonneville Power Administration, held eight public hearings across four states during the drafting of its Seventh Power Plan in 2015:

[https://www.nwcouncil.org/7thplan\\_hearings/](https://www.nwcouncil.org/7thplan_hearings/).

<sup>4</sup> There are several examples of this kind of process at the federal level, including dockets at the Federal Energy Regulatory Commission (FERC) and through the regulations.gov portal.

<sup>5</sup> If needed, confidential information can be handled in closed sessions similar to the way it is done at state commissions.

<sup>6</sup> As examples for how utilities have posted materials online, see Duke Energy's Integrated Resource Planning in the Carolinas page: <https://www.duke-energy.com/our-company/about-us/irp-carolinas>, and

<sup>7</sup> Executive Order on Further Advancing Racial Equity and Support for Underserved Communities Through The Federal Government, February 16, 2023, available online at: <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/02/16/executive-order-on-further-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

<sup>8</sup> The Charter of the Operations and Nuclear Oversight Committee of the TVA Board, the Committee tasked with overseeing the IRP process, states that among the Committee's "activities, examinations, and recommendations," are to "Engage assistance and insight from subject matter experts as needed to

We appreciate the Board's attention to this important matter, and look forward to a response to this request by July 21, 2023. Points of contact for the undersigned organizations are Bri Knisley, Appalachian Voices, [brianna@appvoices.org](mailto:brianna@appvoices.org); and Maggie Shober, Southern Alliance for Clean Energy, [maggie@cleanenergy.org](mailto:maggie@cleanenergy.org).

Sincerely,

Appalachian Voices  
Center for Biological Diversity  
Energy Alabama  
QCells USA Corporation  
Sierra Club  
Southern Alliance for Clean Energy  
Southern Renewable Energy Association  
Sunrise Movement Nashville  
Vote Solar

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support the activities of the Committee.” Charter approved August 30, 2021 and available online at: [https://tva-azr-eastus-cdn-ep-tvawcm-prd.azureedge.net/cdn-tvawcma/docs/default-source/about-tva/board-of-directors/governance/operations\\_and\\_nuclear\\_oversight\\_charterc0433232-4dbd-4743-bb3f-e422b7517684.pdf](https://tva-azr-eastus-cdn-ep-tvawcm-prd.azureedge.net/cdn-tvawcma/docs/default-source/about-tva/board-of-directors/governance/operations_and_nuclear_oversight_charterc0433232-4dbd-4743-bb3f-e422b7517684.pdf).

## Appendix: Comparison of a Typical Regulated Utility IRP Process to TVA's 2019 IRP Process

Typical Regulated Utility IRP Process	TVA 2019 IRP Process
<p>1. Initial stakeholder process</p> <ul style="list-style-type: none"> <li>– One to eight meetings, open to anyone, usually by topic</li> <li>– Lately has been entirely virtual</li> <li>– Facilitated by third party</li> <li>– Results in report to independent regulator</li> </ul>	<p>1. Initial stakeholder process</p> <ul style="list-style-type: none"> <li>– Closed-door meetings with TVA's hand-picked stakeholders</li> <li>– Written comments through NEPA process only</li> <li>– Results in report for TVA's own staff</li> </ul>
<p>2. Utility files draft IRP with regulator</p> <ul style="list-style-type: none"> <li>– What is in IRP filing is defined in the state's IRP regulations, updated regularly by regulators</li> </ul>	<p>2. TVA publishes IRP and draft EIS</p> <ul style="list-style-type: none"> <li>– TVA staff determine what gets published in IRP document, and can withhold key assumption or method details</li> </ul>
<p>3. Intervention, discovery, written testimony and comments</p> <ul style="list-style-type: none"> <li>– There is a set timeframe by which anyone with an interest in the IRP can file to intervene. Some states require legal representation from the state, others do not require legal representation.</li> <li>– Multiple public comment forums are held in-person across the state and virtually for any member of the public to make comments about the draft IRP directly to the utility's regulating body</li> <li>– Intervenors can file discovery, with the utility required to respond within a certain number of days. Some discovery responses require intervenors to sign NDAs. Utility is also able to file discovery on intervenors.</li> <li>– A state appointed consumer advocate is automatically an intervenor in the docket.</li> <li>– Intervenors file comments and/or testimony from experts with the utility's regulator</li> <li>– Usually there is a chance for the utility to file additional comments and/or testimony in response to intervenors' comments and testimony.</li> </ul>	<p>3. NEPA comment period on draft IRP and EIS</p> <ul style="list-style-type: none"> <li>– Comments on the IRP and DEIS are open for 60 days</li> <li>– TVA staff have historically rejected requests to extend this comment period</li> </ul>

Typical Regulated Utility IRP Process	TVA 2019 IRP Process
<p>4. Hearing</p> <ul style="list-style-type: none"> <li>- Regulators preside over a hearing in which the utility presents its case, with witnesses sworn under oath, and where intervenors may cross-examine utility witnesses. Then intervenors present their cases with witnesses sworn under oath, and the utility and other intervenors may cross-examine intervenor witnesses.</li> <li>- Utility and intervenors file a brief, which can contain a proposed order with recommendations on how the regulator decides.</li> </ul>	<p>4. TVA staff update IRP and EIS behind closed doors.</p> <ul style="list-style-type: none"> <li>- TVA staff compile the comments into an appendix in the final EIS where they say whether/how the comment is addressed in the final EIS. Note that it is TVA staff, not an independent regulating body, that decides whether/how to address comments.</li> </ul>
<p>5. Regulator decision</p> <ul style="list-style-type: none"> <li>- The regulating body publishes an Order that can either approve, disapprove, or modify the IRP.</li> <li>- If disapproved, the regulator typically describes what the utility needs to change and a timeline for making those changes and filing another IRP.</li> <li>- These orders typically include a short-term action plan that is based on both the utility's draft IRP and intervenor testimony.</li> <li>- These orders also typically include direction for the utility's next IRP.</li> </ul>	<p>5. TVA publishes final IRP and EIS, TVA Board votes to approve/disapprove</p> <ul style="list-style-type: none"> <li>- The TVA Board has not historically directed TVA to change its IRP before voting to approve.</li> </ul>