

105TH CONGRESS  
1ST SESSION

# H. R. 2082

To establish a Commission to conduct a comprehensive legal and factual study of the navigational, flood control, economic development, recreational, and economic impacts of the future structure, competitiveness, and financial viability of TVA, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 1997

Mr. CLEMENT introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish a Commission to conduct a comprehensive legal and factual study of the navigational, flood control, economic development, recreational, and economic impacts of the future structure, competitiveness, and financial viability of TVA, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “TVA 2000 Regional  
5        Commission Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) The Tennessee Valley Authority (TVA) has  
4 been a national asset and a vital Federal agency for  
5 sixty-four years, established by President Franklin  
6 Delano Roosevelt and the U.S. Congress in 1933 in  
7 order to eliminate vast flooding and poverty in the  
8 Tennessee Valley region.

9 (2) The TVA has served the country and the  
10 citizens of the Tennessee Valley well as the Nation's  
11 largest Federal electric power utility, as a multipur-  
12 pose economic development agency, as a preventive  
13 measure against the economic losses and human suf-  
14 fering caused by the ravages of flooding, as an envi-  
15 ronmental steward for the Nation's fifth largest  
16 river watershed, and as an international leader in  
17 flood control, economic development, and power pro-  
18 duction.

19 (3) The electric power industry is undergoing  
20 sweeping changes as incentives for greater competi-  
21 tion within the industry are explored. These changes  
22 will have a profound impact on TVA and the 160  
23 municipally and cooperatively owned utilities which  
24 presently purchase power at wholesale from TVA  
25 and distribute it to eight million customers in the

1 TVA Region, and potential competitors of TVA and  
2 its wholesale customers.

3 (4) The TVA carries the Nation's largest utility  
4 debt currently exceeding \$27 billion, a debt whose fi-  
5 nancing demands over 30% of TVA's revenues each  
6 year.

7 (5) The historic mission of the TVA is now in  
8 question and TVA's Chairman has proposed a de-  
9 parture from the financing and operation of the  
10 agency's congressionally mandated functions.

11 (6) The decision-making structure for the TVA  
12 provides limited public input, oversight and account-  
13 ability, and Congress and the Administration are the  
14 only mechanisms for oversight and accountability for  
15 the TVA.

16 (7) A Federal commission should be established  
17 to conduct a comprehensive study of the Tennessee  
18 Valley Authority, its mission, structure and purpose,  
19 and to explore what changes, if any, may be nec-  
20 essary to the TVA for future operations to assure  
21 the protection of the interests of the citizens of the  
22 Tennessee Valley and the Nation.

23 **SEC. 3. THE TVA 2000 REGIONAL COMMISSION.**

24 (a) ESTABLISHMENT OF COMMISSION.—There is es-  
25 tablished a commission to be known as the TVA 2000 Re-

1 gional Commission (hereinafter referred to in this Act as  
2 “the Commission”). The Commission shall—

3 (1) be composed of 12 members appointed in  
4 accordance with subsection (b); and

5 (2) conduct its business in accordance with the  
6 provisions of this Act.

7 (b) MEMBERSHIP.—

8 (1) IN GENERAL.—The Commissioners shall be ap-  
9 pointed for the life of the Commission as follows:

10 (A) 2 shall be appointed by the President  
11 of the United States.

12 (B) 2 shall be appointed by the Speaker of  
13 the House of Representatives.

14 (C) 2 shall be appointed by the Majority  
15 Leader of the Senate.

16 (D) 2 shall be appointed by the Minority  
17 Leader of the House.

18 (E) 2 shall be appointed by the Minority  
19 Leader of the Senate.

20 (F) 2 shall be appointed by the Chairman  
21 of the TVA Caucus upon approval of a majority  
22 of the Caucus.

23 (2) PERSONS ELIGIBLE.—The members of the  
24 Commission shall be individuals who are residents of  
25 the TVA Region and who have knowledge or exper-

1       tise, whether by experience or training, in matters to  
2       be studied by the Commission under section 4. The  
3       members may be from the public or private sector,  
4       and may include Federal, State, or local officers or  
5       employees, members of academia, non-profit organi-  
6       zations, or industry, or other interested individuals.  
7       No person who is an officer, agent, or employee of,  
8       or otherwise affiliated with, an investor owned elec-  
9       tric utility shall be eligible for appointment to the  
10      Commission.

11           (3) CONSULTATION REQUIRED.—The President,  
12      the Speaker of the House of Representatives, the  
13      Majority Leader of the Senate, the Minority Leader  
14      of the House, the Minority Leader of the Senate,  
15      and the Chairman of the Congressional TVA Caucus  
16      shall consult among themselves prior to the appoint-  
17      ment of the members of the Commission in order to  
18      achieve, to the maximum extent possible, fair and  
19      equitable representation of the complete range of  
20      Tennessee Valley interests with respect to the mat-  
21      ters to be studied by the Commission under section  
22      4. The Commission shall consist of at least 1 rep-  
23      resentative of municipal utilities, 1 residential rate-  
24      payer consumer advocate, 1 representative of Valley  
25      industrial interests, 1 rural electric cooperative rep-

1 representative, 1 environmental advocate, 1 TVA em-  
2 ployee representing labor, 1 representative of state  
3 and local governments, and 1 representative of Val-  
4 ley commercial interests.

5 (4) COMPLETION OF APPOINTMENTS; VACAN-  
6 CIES.—The President, the Speaker of the House of  
7 Representatives, and the Majority Leader of the  
8 Senate shall conduct the consultation required under  
9 paragraph (3) and shall each make their respective  
10 appointments not later than 60 days after the date  
11 of enactment of this Act. Any vacancy that occurs  
12 during the life of the Commission shall not affect  
13 the powers of the Commission, and shall be filled in  
14 the same manner as the original appointment not  
15 later than 60 days after the vacancy occurs.

16 (5) OPERATION OF THE COMMISSION.—

17 (A) CHAIRMANSHIP.—The President, the  
18 Speaker of the House of Representatives, the  
19 Majority Leader of the Senate, the Minority  
20 Leader of the House, the Minority Leader of  
21 the Senate, and the TVA Caucus Chairman  
22 shall jointly designate one member as the  
23 Chairman of the Commission. In the event of a  
24 disagreement among the appointing authorities,  
25 the Chairman shall be determined by a majority

1 vote of the appointing authorities. The deter-  
2 mination of which member shall be Chairman  
3 shall be made not later than 15 days after the  
4 appointment of the last member of the Commis-  
5 sion, but in no case later than 75 days after the  
6 date of enactment of this Act.

7 (B) MEETINGS.—The Commission shall  
8 meet at the call of the Chairman. The initial  
9 meeting of the Commission shall be conducted  
10 not later than 30 days after the appointment of  
11 the last member of the Commission, or not later  
12 than 30 days after the date on which appro-  
13 priated funds are available for the Commission,  
14 whichever is later.

15 (C) QUORUM; VOTING; RULES.—A majority  
16 of the members of the Commission shall con-  
17 stitute a quorum to conduct business, but the  
18 Commission may establish a lesser quorum for  
19 conducting hearings scheduled by the Commis-  
20 sion. Each member of the Commission shall  
21 have one vote, and the vote of each member  
22 shall be accorded the same weight. The Com-  
23 mission may establish by a majority vote any  
24 other rules for the conduct of the Commission's

1 business, if such rules are not inconsistent with  
2 this Act or other applicable law.

3 **SEC. 4. DUTIES OF THE COMMISSION.**

4 (a) Study.—

5 (1) IN GENERAL.—It shall be the duty of the  
6 Commission to conduct a comprehensive legal and  
7 factual study of the navigational, flood control, eco-  
8 nomic development, recreational, and economic im-  
9 pacts of the future structure, competitiveness, and  
10 financial viability of TVA on—

11 (A) Federal, State, and local governments;

12 and

13 (B) communities, citizens, businesses, and  
14 the environment within the TVA region.

15 (2) MATTERS TO BE STUDIED.—The matters  
16 studied by the Commission under paragraph (1)  
17 shall at a minimum include—

18 (A) a review of the TVA Act and its rel-  
19 evance for the Tennessee Valley in the 21st cen-  
20 tury;

21 (B) an assessment of the financial viability  
22 of the TVA, including its debt, its ability to  
23 compete in a deregulated utilities environment,  
24 the nature and future responsibility for its

1 “stranded costs”, and options for dissolving  
2 TVA’s debt;

3 (C) an assessment of TVA’s responsibility  
4 for flood control, navigation, and recreational  
5 management in the Tennessee Valley and the  
6 extent to which, if at all, these functions should  
7 be privatized or become the responsibility of an-  
8 other Federal agency to the extent that these  
9 programs impact TVA’s power program;

10 (D) an assessment of the structure of  
11 TVA’s Board and whether its size, selection  
12 process and organization are adequate for a  
13 utility of TVA’s magnitude;

14 (E) an assessment of the impact of con-  
15 gressional proposals for utilities restructuring  
16 upon TVA and whether the restrictions upon  
17 TVA from marketing and selling power in re-  
18 gions outside the TVA region should continue  
19 in a deregulated environment;

20 (F) an assessment of whether utilities out-  
21 side the TVA region should be permitted to  
22 market and sell power within the TVA region;

23 (G) an assessment of whether the genera-  
24 tion and transmission functions of TVA’s power

1 program should be separated in a competitive  
2 marketplace;

3 (H) an assessment of the contractual rela-  
4 tionship between TVA and its power distribu-  
5 tors;

6 (I) an assessment of TVA's regulatory  
7 role;

8 (J) an assessment of the future structure  
9 of TVA as a Federal agency; and

10 (K) an assessment of any competitive ad-  
11 vantages of TVA in a deregulated electricity  
12 market.

13 (b) VIEWS OF INVESTOR OWNED UTILITIES.—Rep-  
14 resentatives of investor owned electric utilities may submit  
15 their views to the Commission to assist the Commission  
16 in carrying out its duties under subsection (a).

17 (b) REPORT.—No later than 1 year after the date  
18 on which the Commission first meets, or by December 31,  
19 1998, whichever is later, the Commission shall submit to  
20 the President, the Congress, and state governors and leg-  
21 islatures within the TVA region a comprehensive report  
22 of the Commission's findings and conclusions, together  
23 with any recommendations of the Commission. Such re-  
24 port shall include a summary of all reports submitted to  
25 the Oak Ridge National Laboratory, as specified in Sec-

1 tion 7, or the Commission as well as a summary of any  
2 other material relied on by the Commission in the prepara-  
3 tion of its report. The report should be made available for  
4 public comment at least 60 days prior to its submission  
5 to the Congress. The staff of Oak Ridge National Labora-  
6 tory shall work at the request of the Commission and shall  
7 submit such reports to the Commission.

8 **SEC. 5. POWERS OF THE COMMISSION.**

9 (a) HEARINGS.—

10 (1) IN GENERAL.—The Commission may hold  
11 such hearings, sit and act at such times and places,  
12 administer such oaths, take such testimony, and re-  
13 ceive such evidence as the Commission considers ad-  
14 visable to carry out its duties under section 4.

15 (2) WITNESS EXPENSES.—Witnesses requested  
16 to appear before the Commission shall be paid the  
17 same fees as are paid to witnesses under section  
18 1821 of title 28, United States Code. The per diem  
19 and mileage allowances for witnesses shall be paid  
20 from funds appropriated to the Commission.

21 (b) SUBPOENAS.—

22 (1) IN GENERAL.—If a person fails to supply  
23 information requested by the Commission, the Com-  
24 mission may by majority vote require by subpoena  
25 the production of any written or recorded informa-

1       tion, document, report, answer, record, account,  
2       paper, computer file, or other data or documentary  
3       evidence necessary to carry out its duties under sec-  
4       tion 4. The Commission shall transmit to the Attor-  
5       ney General a confidential, written notice at least 10  
6       days in advance of the issuance of any such sub-  
7       poena. A subpoena under this paragraph may re-  
8       quire the production of materials from any place  
9       within the United States.

10               (2) INTERROGATORIES.—The Commission may,  
11       with respect only to information necessary to under-  
12       stand any materials obtained through a subpoena  
13       under paragraph (1), issue a subpoena requiring the  
14       person producing such materials to answer, either  
15       through sworn deposition or through written an-  
16       swers provided under oath (at the election of the  
17       person upon whom the subpoena is served), to inter-  
18       rogatories from the Commission regarding such in-  
19       formation. A complete recording or transcription  
20       shall be made of any deposition made under this  
21       paragraph.

22               (3) CERTIFICATION.—Each person who submits  
23       materials or information to the Commission pursu-  
24       ant to a subpoena issued under paragraph (1) or (2)  
25       shall certify to the Commission the authenticity and

1 completeness of all materials or information submit-  
2 ted. The provisions of section 1001 of title 18, Unit-  
3 ed States Code, shall apply to any false statements  
4 made with respect to the certification required under  
5 this paragraph.

6 (4) TREATMENT OF SUBPOENAS.—Any sub-  
7 poena issued by the Commission under paragraph  
8 (1) or (2) shall comply with the requirements for  
9 subpoenas issued by a United States district court  
10 under the Federal Rules of Civil Procedure.

11 (5) Failure to obey a subpoena.—If a person or  
12 entity refuses to obey a subpoena issued by the  
13 Commission under paragraph (1) or (2), the Com-  
14 mission may apply to a United States district court  
15 for an order requiring that person to comply with  
16 such subpoena. The application may be made within  
17 the judicial district in which that person is found,  
18 resides, or transacts business. Any failure to obey  
19 the order of the court may be punished by the court  
20 as civil contempt.

21 (c) INFORMATION FROM FEDERAL AGENCIES.—The  
22 Commission may secure directly from any Federal depart-  
23 ment or agency such information as the Commission con-  
24 sidered necessary to carry out its duties under section 4.  
25 Upon the request of the Commission, the head of such

1 department or agency may furnish such information to the  
2 Commission.

3 (d) INFORMATION TO BE KEPT CONFIDENTIAL.—

4 The Commission shall be considered an agency of the Fed-  
5 eral Government for purposes of section 1905 of title 18,  
6 United States Code, and any individual employed by an  
7 individual, entity, or organization under contract to the  
8 Commission under section 7 shall be considered an em-  
9 ployee of the Commission for the purposes of section 1905  
10 of title 18, United States Code. Information obtained by  
11 the Commission, other than information available to the  
12 public, shall not be disclosed to any person in any manner,  
13 except—

14 (1) to Commission employees or employees of  
15 any individual, entity, or organization under contract  
16 to the Commission under section 7 for the purpose  
17 of receiving, reviewing, or processing such informa-  
18 tion;

19 (2) upon court order; or

20 (3) when publicly released by the Commission  
21 in an aggregate or summary form that does not di-  
22 rectly or indirectly disclose—

23 (A) the identity of any person or business  
24 entity; or

1           (B) any information which could not be re-  
2           leased under section 1905 of title 18, United  
3           States Code. Information from public power en-  
4           tities and rural electric cooperatives which are  
5           distributors of TVA power or their customers  
6           shall not be deemed to be information available  
7           to the public.

8 **SEC. 6. COMMISSION PERSONNEL MATTERS.**

9           (a) COMPENSATION OF MEMBERS.—Each member of  
10          the Commission who is not an officer or employee of the  
11          Federal Government, or whose compensation is not pre-  
12          cluded by a State or local government position, shall be  
13          compensated at a rate equal to the daily equivalent of the  
14          annual rate of basic pay prescribed for Level IV of the  
15          Executive Schedule under section 5316 of title 5, United  
16          States Code, for each day (including travel time) during  
17          which such member is engaged in the performance of the  
18          duties of the Commission. All members of the Commission  
19          who are officers or employees of the United States shall  
20          serve without compensation in addition to that received  
21          for their services as officers or employees of the United  
22          States.

23          (b) TRAVEL EXPENSES.—The members of the Com-  
24          mission shall be allowed travel expenses, including per  
25          diem in lieu of subsistence, at rates authorized for employ-

1 ees of agencies under subchapter I of chapter 57 of title  
2 5, United States Code, while away from their homes or  
3 regular places of business in the performance of service  
4 for the Commission.

5 (c) STAFF.—

6 (1) IN GENERAL.—The Chairman of the Com-  
7 mission may, without regard to the civil service laws  
8 and regulations, appoint and terminate an executive  
9 director for the Commission from among the person-  
10 nel of the Oak Ridge National Laboratory detailed  
11 to the Commission by the Secretary of Energy under  
12 paragraph (2). The employment and termination of  
13 an executive director shall be subject to confirmation  
14 by a majority of the members of the Commission.

15 (2) DETAIL OF GOVERNMENT EMPLOYEES.—  
16 Any employee of the Oak Ridge National Labora-  
17 tory, with the approval of the Secretary of Energy  
18 (and any other Federal Government employee, with  
19 the approval of the head of the appropriate Federal  
20 agency) may be detailed to the Commission, and  
21 such detail shall be without interruption or loss of  
22 civil service status, benefits, or privilege. The Com-  
23 mission shall reimburse the Secretary of Energy (or  
24 other appropriate Federal agency) for the costs of  
25 all salary and overhead incurred by the Secretary (or

1 other agency) in connection with the detail of such  
2 employees.

3 (d) **PROCUREMENT OF TEMPORARY AND INTERMIT-**  
4 **TENT SERVICES.**—The Chairman of the Commission may  
5 procure temporary and intermittent services under section  
6 3109(b) of title 5, United States Code, at rates for individ-  
7 uals not to exceed the daily equivalent of the annual rate  
8 of basic pay prescribed for Level V of the Executive Sched-  
9 ule under section 5316 of such title.

10 **SEC. 7. CONTRACTS FOR RESEARCH.**

11 (a) **THE OAK RIDGE NATIONAL LABORATORIES.**—

12 (1) **IN GENERAL.**—In carrying out its duties  
13 under section 4, the Commission shall contract with  
14 the Oak Ridge National Laboratory for—

15 (A) an executive director for the Commis-  
16 sion;

17 (B) staffing of the Commission; and

18 (C) assistance in conducting and compiling  
19 the studies required by the Commission;

20 (2) **REPORT REQUIRED.**—The contract entered  
21 into under paragraph (1) shall require that the Oak  
22 Ridge National Laboratory submit reports and up-  
23 dates to the Commission, as the Commission deems  
24 necessary, detailing the results of its efforts under  
25 the contract. A final report shall be issued by the

1 Commission no later than 12 months after the date  
2 upon which the Commission first meets.

3 (b) OTHER ORGANIZATIONS.—Nothing in this section  
4 shall be construed to limit the ability of the Commission  
5 to enter into contracts with other entities or organizations  
6 for research necessary to carry out the Commission’s du-  
7 ties under section 4.

8 **SEC. 8. DEFINITIONS.**

9 For the purposes of this Act:

10 (1) THE TENNESSEE VALLEY AUTHORITY.—  
11 The term “Tennessee Valley Authority”, or “TVA”,  
12 means the Federal agency authorized to serve the  
13 United States and the Tennessee Valley region  
14 under the TVA Act of 1933.

15 (2) STATE.—The term “State” means each of  
16 the several States of the United States, the District  
17 of Columbia, the Commonwealth of Puerto Rico, the  
18 Virgin Islands, Guam, American Samoa, and the  
19 Commonwealth of the Northern Mariana Islands.

20 (3) THE TVA REGION.—The term “The TVA  
21 Region” means each of the areas served by TVA in  
22 the seven States of Tennessee, Alabama, Virginia,  
23 Georgia, Mississippi, North Carolina, and Kentucky.

1           (4) **THE TVA CAUCUS.**—The term “the TVA  
2       Caucus” means the Members of Congress from the  
3       States served by the TVA.

4 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

5       (a) **IN GENERAL.**—There are authorized to be appro-  
6       priated to the Commission, the Oak Ridge National Lab-  
7       oratory, and other organizations appointed under section  
8       7(c) \$2,000,000 dollars to carry out the purposes of this  
9       Act. Any sums appropriated shall remain available, with-  
10      out fiscal year limitation, until expended.

11      (b) **LIMITATION.**—No payment may be made under  
12      section 6 or 7 of this Act except to the extent provided  
13      for in advance in an appropriation Act.

14 **SEC. 10. TERMINATION OF THE COMMISSION.**

15      The Commission shall terminate 60 days after the  
16      Commission submits the report required under section  
17      4(b).

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