PROPOSED BOARD RESOLUTION
(Long-Term Agreement)

WHEREAS the weighted average length of the termination notice required under TVA's wholesale power contracts with local power companies (LPCs) that distribute TVA power is less than 7 years; and

WHEREAS increasing the length of TVA's wholesale power contracts with its LPCs provides the best opportunity (i) to ensure that TVA has the revenue necessary to satisfy its long-term financial obligations as they come due and (ii) to provide more certainty in TVA's long-term generation and financial planning; and

WHEREAS TVA has an opportunity to extend the termination notice requirement with each LPC to 20 years, which will support TVA's mission to make life better for the people of the Valley by helping fulfill TVA's statutory obligation to sell power at rates as low as are feasible; and

WHEREAS the financial benefits from such long-term contracts can be shared with those LPCs that agree to extend the termination notice requirement to 20 years in the form of monthly bill credits equal to a percentage of the amount that distributors pay TVA through base rates that are subject to adjustment, which currently include on-peak demand, maximum demand, non-fuel energy, and grid access charges; and

WHEREAS adding certain defaults and remedies provisions to the wholesale power contract will strengthen the long-term commitments made by the parties; and

WHEREAS as set forth in a memorandum dated July 31, 2019 (Memorandum), which is filed with records of the Board as Exhibit _______, the Executive Vice President & Chief Financial Officer (CFO) has recommended, after considering TVA's financial planning needs and objectives, that the Board approve the terms of a standard long-term agreement to be entered into between TVA and interested LPCs to establish and maintain a long-term contractual arrangement;

BE IT RESOLVED, that, contingent upon satisfactory completion of any required environmental reviews, the Board of Directors hereby (i) approves the implementation of a standard long-term agreement consistent with the Standard Elements set forth in the Memorandum, and (ii) delegates authorities to the Chief Executive Officer to implement and change, with oversight, the Standard Elements for such agreements as described in the Memorandum.

July 31, 2019
Financial Services

Board of Directors

SUBJECT

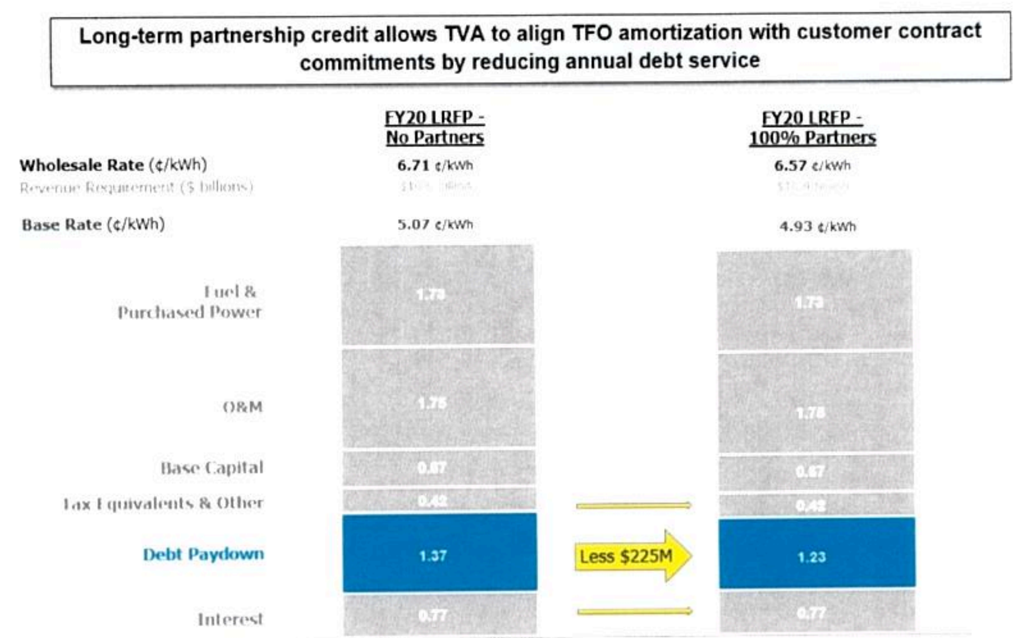
It is recommended that the TVA Board approve the terms of a standard long-term agreement with local power companies ("LPCs") that distribute TVA power and delegate authority to the Chief Executive Officer ("CEO") to implement such agreements as described below.

BACKGROUND

The Valley Public Power Model ("Model"), which serves as the foundation for the relationship between TVA and LPCs, is unique and has an enduring legacy of improving life in the Tennessee Valley region.

At present, there is an opportunity to secure the long-term success of the Model by lengthening and strengthening the contractual relationship between interested LPCs and TVA through the implementation of a proposed long-term agreement. These enhanced relationships will safeguard long-term access to the key elements of the Model and can materially benefit the financial profile for the TVA system, the benefits of which can be shared with participating LPCs.

Long-term power planning requires TVA to make long-term financial commitments, yet the weighted average length of the termination notice required under TVA's wholesale power contracts with LPCs is less than 7 years. In exchange for LPCs extending their contract termination notice periods to 20-years, TVA will provide a bill credit that will reflect the value received by TVA from such extensions as shown in the figure below. This will enable TVA to recover its long-term financial commitments over a commensurate period.



Key elements of the proposed long-term agreement ("Standard Elements") include:

- The termination notice provisions in a participating LPC's wholesale power contract ("WPC") with TVA would be amended, as necessary, to establish a 20-year term and termination notice requirement in the existing evergreen contract.

- The benefits to TVA's financial risk profile by the existence of such long-term relationships would be shared with participating LPCs in the form of a wholesale bill credit ("Wholesale Credit") applied to each participating LPC's monthly power invoice. The Wholesale Credit will be determined by applying a percentage determined by TVA to reflect the value of the long-term commitment to specific base rate charges. The percentage will never be less than 3.1 percent, but contracts will allow TVA to adjust that percentage in the future.
    - The Wholesale Credit will be determined by applying the applicable percentage to the adjustable charges for power supplied by TVA in accordance with the provisions of the "Standard Service" section and the provisions of the TDGSA and TDMSA schedules of the "TOU Service" section of the Wholesale Power Rate--Schedule WS/WSA ("Base Rates") (currently on-peak demand, maximum demand, non-fuel energy, and grid access charges, where applicable).
    - If a participating LPC provides termination notice under the WPC, further Wholesale Credits for that LPC will be phased out over the ten-year period following TVA's receipt of such notice.

- In the event that TVA implements rate adjustments that increase wholesale base rates by a total of more than 5% during the five-year period beginning FY 2020 and ending FY 2024, or by a total of more than 10% over any five-year period within the initial 20 year term, then the parties will attempt to re-negotiate the terms of the standard long-term agreement. If the parties do not reach agreement within a specified period of time, the LPC will have the right to elect to shorten the WPC termination notice period to a specified period of years, which will immediately terminate the long-term agreement.

- During the term of the long-term agreement, TVA may provide additional benefits to other parties to such long-term agreements. A participating LPC would be eligible to receive any such additional benefits that are applicable to it. Further, TVA will establish a process of engagement with parties to such long-term agreements for strategic resource and financial planning decisions.

- TVA will commit to negotiate in good faith with an interested participating LPC (and other similarly-situated LPCs) to provide additional power supply flexibility with pricing and planning considerations mutually agreeable between that LPC and TVA for a specified portion of LPC's energy and power load served. Any such negotiations must conclude no later than a specified date. If TVA does not fulfill this commitment to negotiate in good faith or if the LPC does not agree with TVA's proposed solution, the LPC could elect to terminate the long-term agreement.
    - Upon such termination the LPC must pay to TVA a specified amount of the Wholesale Credits that TVA had provided as of the termination date and no further Wholesale Credits will be provided; and
    - The termination provision under the prior terms of the WPC will be reinstated.

- TVA and each LPC will reaffirm their commitments to an all-requirements relationship for the longer time period. To ensure that both parties receive the long-term benefits being secured by the contract amendment, new default and remedies provisions will be added to the WPC.
    - A TVA default would occur if TVA (i) sells or transfers all, or substantially all, of TVA's power properties, including generation or transmission properties, such that the LPC will then be required to pay rates that are not established in accordance with the TVA Act as it existed as of the date of the standard long-term agreement's execution; or (ii) assigns the WPC to any entity without the consent of the LPC.
    - An LPC default would occur if the LPC (i) sells or transfers all, or substantially all, of the LPC's assets that results in a reduction in load served by TVA, (ii) sells or supplies non-TVA power, or facilitates non-TVA power being sold or supplied, to any end-use customer in the LPC's service area, without the prior or future written consent of TVA, or (iii) LPC assigns the WPC to any entity without the consent of TVA.

- Uncured events of default would require financial payments from the defaulting party to the harmed party.

- In the event of a TVA default, TVA would pay the LPC actual or estimated losses directly related to TVA's default over the remaining term of the WPC due to the increased costs charged by a new wholesale power provider or as required by TVA under any new law relative to the costs that would be charged by TVA in accordance with the provisions of the TVA Act as they existed as of the date of the standard long-term agreement's execution.

- In the event of an LPC default, the LPC would pay TVA actual or estimated losses directly related to the LPC's default over the remaining term of the WPC due to loss of revenue and load.

Attached for reference is a version of such a long-term agreement developed by Management that would be consistent with the Standard Elements listed above.

ALTERNATIVES CONSIDERED

TVA considered the alternative of maintaining WPCs with existing termination notice periods that range from 5 years to 20 years, with the weighted average length of the termination period being approximately 7 years. Under this alternative, TVA's long-term planning decisions would continue to be subject to significant risk as the time needed to generate revenue needed to satisfy TVA's long-term financial commitments would exceed greatly the weighted average length of the current termination notice period. Accordingly, TVA's rates would need to be higher in order to generate sufficient revenue to satisfy its long-term financial obligations under the current weighted average. TVA also considered the alternative of offering a greater Wholesale Credit, although this option would also require TVA's rates to be higher.

ENVIRONMENTAL REVIEWS

The implementation of the proposed long-term agreement would be contingent upon the satisfactory completion of any required environmental reviews.

RECOMMENDED ACTION

TVA staff recommends that the Board approve the proposed Standard Elements of the proposed long-term agreement and delegate to the CEO the authority to enter into contract amendments to implement the agreement. In the event that the CEO determines that it is necessary or appropriate to modify any of the Standard Elements, a recommendation will be made to the Board committee with responsibility for oversight of the budget (currently, the Finance, Rates and Portfolio Committee). Following the receipt of such a recommendation, the committee will either: (i) take no action during the thirty-day period that follows the date of such receipt, in which case the recommendation would go into effect, or (ii) refer the matter to the full Board for consideration.

John M. Thomas III
Executive Vice President and
Chief Financial Officer

8/10/19
Sherry A. Quirk — Date
EVP & General Counsel

8/11/19
Jeffery J. Lyash — Date
President & Chief Executive Officer

LONG-TERM AGREEMENT

TV-__________A, Supp. No. ___

This Agreement is between the DISTRIBUTOR ("**Distributor**"), a *[State of Incorporation or Registration] & [Type of Entity]*, and TENNESSEE VALLEY AUTHORITY ("**TVA**"), a corporate agency and instrumentality of the United States of America, created and existing under and by virtue of the Tennessee Valley Authority Act of 1933, as amended.

Distributor purchases all of its power requirements from TVA for resale under contract number TV-xxxxA, effective [DATE1], as amended ("**Power Contract**").

The parties hereby agree to amend the Power Contract to increase the length of and strengthen the contractual relationship to help ensure the long-term success of the public power model, as follows:

SECTION 1 - NOTICE OF POWER CONTRACT TERMINATION

The section of the Power Contract entitled "Term of Contract" is hereby replaced, in its entirety, with the following:

> This contract is effective as of [DATE1], and will continue in effect for an initial term of 20 years from [DATE1], provided, however, that beginning on the first anniversary of said effective date, and on each subsequent anniversary thereof (whether falling during said initial term or any renewal term as provided for herein), this contract shall be extended automatically without further action of the parties for an additional 1-year renewal term beyond its then-existing time of expiration. Notwithstanding any other provision of this section, [Cooperative/Municipality] may terminate this contract at any time upon not less than 20 years' prior written notice, and TVA may terminate this contract upon not less than 20 years' prior written notice. If [Cooperative/Municipality] delivers a notice of termination to TVA, as stated above, then from and after its date of receipt of such notice, TVA will have no obligation to make or complete any additions to or changes in any transformation or transmission facilities for service to [Cooperative/Municipality], unless (by means of a fully-executed amendment to this contract) [Cooperative/Municipality] agrees to reimburse TVA for its non-recoverable costs in connection with the making or completion of such additions or changes.

SECTION 2 - BENEFITS

Under the section of the Power Contract entitled "Power Supply," TVA commits to provide all of the power supplied to consumers in the Distributor's service area, at rates as low as feasible, consistent with the public power model. Recognizing the 20-year initial term and the 20-years' termination notice provision established in section 1 of this Agreement, and the other mutual commitments stated in this Agreement, the parties agree to the following:

(a) For purposes of this Agreement, "**Applicable Rates**" means base rates that are subject to adjustment and are supplied by TVA in accordance with: the "Standard Service" section of the Wholesale Power Rate--Schedule [WS/WSA] (currently on-peak demand, maximum demand, grid access, and non-fuel energy charges), and Schedule TDGSA and Schedule TDMSA only (currently on-peak demand, maximum demand, and all non-fuel energy charges), of the "TOU Service" section of the Wholesale Power Rate--Schedule [WS/WSA].

Beginning with the first full billing month following the Effective Date, TVA will apply a credit to the Distributor's monthly power invoice equal to 3.1% of the amount that Distributor pays TVA through the Applicable Rates ("**Wholesale Credit**").

Beginning in the TVA fiscal year during which TVA first pays the Wholesale Credit to Distributor, if both of the following conditions occur:

1) TVA increases the Applicable Rates: (i) by more than 10% (calculated based on the adjustment to Applicable Rates that is applied across all power distributors served by TVA) during any consecutive five-fiscal-year period that begins after the Effective Date and occurs within 20 years of the Effective Date, compared to the Applicable Rates that are applied as of the end of the TVA fiscal year immediately preceding that consecutive five-year period, or (ii) by more than 5% (calculated based on the adjustment to Applicable Rates that is applied across all power distributors served by TVA), compared to the Applicable Rates that applied as of the end of TVA fiscal year 2019, prior to September 30, 2024; and

2) the parties, after good faith negotiations for up to 180 days after the date that the condition described in subsection (a)(1) of this Agreement is met, fail to re-negotiate the terms of this Agreement;

then, if Distributor notifies TVA in writing within 60 days from the end of the 180 day period established in subsection (a)(2) of this Agreement, the parties will execute an amendment to the Power Contract, which reduces the termination notice period in subsection (a) of the "Term of Contract" section of the Power Contract to 10 years, and terminates section 2 of this Agreement.

(b) No calculation or determination of Applicable Rates, or any increases or adjustments to Applicable Rates, described in or occurring pursuant to subsection (a)(1) of this Agreement, will include or account for rate changes, or changes in the fuel cost adjustment, which apply to or impact Distributor during the term of the Power Contract.

(c) If Distributor delivers a notice of termination to TVA under the "Term of Contract" section of the Power Contract, then, as of the first full billing month following TVA's receipt of said notice, section 2 of this Agreement will terminate, except that the then-effective Wholesale Credit will be reduced and phased out in 10 equal percentages over each of the following 10 years, with the first equal percentage reduction beginning on the first day of the billing month immediately after Distributor delivers a notice of termination to TVA and reducing to 0% on the first day of the billing month that is 109 months after Distributor delivers such notice.

(d) During the term of this Agreement, TVA will notify Distributor in writing of additional benefits that TVA elects, in its sole discretion (for example but without limitation, adjustment of the Wholesale Credit percentage above 3.1%), to offer to other distributors of TVA power because they have executed a similar long-term agreement. Distributor will receive the additional benefits, unless Distributor declines by written response to TVA within 90 days of Distributor's receipt of TVA's notice. TVA will establish a process of engagement with Distributor for strategic resource and financial planning decisions.

(e) In addition, TVA commits to collaborating with Distributor (and other distributors of TVA power who have executed a similar long-term agreement) to develop and provide enhanced power supply flexibility, with mutually agreed-upon pricing structures, for 3-5% of Distributor's energy, by no later than December 31, 2021. If in either of the following cases: (i) TVA does not fulfill its commitment to propose a power supply flexibility solution by October 1, 2021; or (ii) Distributor does not agree to the TVA-proposed power supply flexibility solution, then, upon Distributor's payment to TVA of an amount equal to 50% of the sum of all Wholesale Credit amounts received by Distributor pursuant to subsection 2(a), Distributor may elect, by written notice to TVA not later than 90 days from the TVA Board approved implementation date, to terminate this Agreement. The payment amount due from Distributor to TVA under this subsection 2(e) will be calculated as of the date Distributor delivers a notice of termination to TVA under the "Term of Contract" section of the Power Contract.

SECTION 3 - <u>EVENTS OF DEFAULT AND REMEDIES</u>

(a) **Assignment.** "**Assign**" or "**Assignment**" means a party's transfer or disposal of this Agreement, in whole or in part, or any interest in it, to any person or entity that is not a party, including use of this Agreement or any payment or performance obligations under it as collateral.

(b) **Distributor Events of Default.** An event of default, with respect to Distributor, means one or more of the following:

1) A sale or transfer of all, or substantially all, of Distributor's tangible or intangible assets that results in a reduction in load served by TVA;
2) Distributor's sale or supply of power not supplied by TVA, or Distributor's facilitation of the sale or consumption of power not supplied by TVA by any Distributor affiliate or third party, to or by any end-use customer in Distributor's service area, without TVA's advance written consent, prior to or after the Effective Date; or
3) Distributor's Assignment of the Power Contract without TVA's prior written consent.

(c) **TVA Events of Default.** An event of default, with respect to TVA, means one or more of the following:

1) TVA's breach of its obligations or commitments in subsection 5(a) of this Agreement; or
2) TVA's Assignment of the Power Contract without Distributor's prior written consent.

(d) **Notice.** If an event of default occurs, and the defaulting party does not cure its event(s) of default within 60 days of receipt of written notice from the non-defaulting party, then (as applicable) the non-defaulting party may exercise any of the remedies stated in subsection 3(e) of this Agreement, in addition to those remedies available under the Power Contract or pursuant to Applicable Laws.

"**Applicable Laws**" means those U.S. federal and state laws, regulations, and judicial or administrative decisions, orders (including, without limitation, administrative authority or commission consent orders and confirmatory orders) or injunctions, or any other legal pronouncements of a U.S. federal governmental authority that have the force or effect of law; provided, however, that in no event shall this provision be interpreted as subjecting TVA to any state or federal laws, including any remedies available under such laws, that otherwise do not apply to TVA by virtue of its status as a corporate agency and instrumentality of the United States of America.

(e) **Remedies.**

1) Distributor must pay TVA an amount equal to TVA's losses of revenue and load served, and for all actual expenses incurred by TVA and resulting from Distributor event(s) of default (subsection 3(b) of this Agreement), including attorneys' fees and other regulatory or administrative costs, measured from the date that any event of default first occurs, and over the remaining term of the Power Contract.

2) TVA must pay Distributor an amount equal to the increase in Distributor's actual costs paid for electric power production and transmission (including wheeling, if applicable), plus the additional costs (if any) incurred by Distributor because of the difference between the rates TVA charges pursuant to the TVA Act and comparable increased rates charged to Distributor by its new electric power provider or TVA, plus Distributor's actual expenses including attorneys' fees and other regulatory or administrative costs resulting from TVA event(s) of default (subsection 3(c) of this Agreement), provided that: (i) all of the foregoing amounts will be measured from the date that any event of default first occurs, and over the remaining term of the Power Contract, and (ii) Distributor's claims to payment of any such amounts upon a TVA event of default are subordinate to TVA's prior satisfaction of any and all obligations it has to the holder of any bonds or other financing obligations issued or entered into by TVA, either before or after the Effective Date.

3) The non-defaulting party may, by separate written notice to the defaulting party, terminate this Agreement if one or more of the defaulting party's event(s) of default occurs.

(f) **Mutual Waiver.** Neither party's waiver of the other party's breach of the Power Contract, or failure to claim or enforce its remedies upon an event of default in this Agreement, will be construed to waive any other or subsequent breach or right to claim or enforce an event of default. Neither party's acceptance nor consideration of any untimely notice or information from the other party waives any time limits or schedule deadlines stated in, or issued, or agreed upon pursuant to the Power Contract.

(g) **Rights and Remedies Cumulative.** Either party has the right to pursue any and all rights available under Applicable Laws in the event the other party fails to perform or otherwise breaches any term of the Power Contract not specifically referenced above. Except for the remedies upon event(s) of default, established in subsection 3(e) of this Agreement, all rights and remedies afforded either party under this Agreement are cumulative, in addition to every other right and remedy provided under the Power Contract, by law, or in equity.

SECTION 4 - SUPERSEDING AND VOIDING OF PRIOR AGREEMENTS

As of the Effective Date:

(a) In the event that the terms of this Agreement conflict with existing agreements between Distributor and TVA, the terms of this Agreement control; and

(b) the following sections are of no further force and effect:

1) Section 5 of TV-________A, Supp. No. __, dated October 1, 1989; and
2) Section 2 of Supplement No. ___ to the Power Contract, dated October 1, 1997.

SECTION 5 - CHANGES TO APPLICABLE LAWS

(a) During the term of the Power Contract, TVA commits that, in the case of a disposal of any substantial portion of TVA's power generation or transmission properties, Distributor will not be charged rates for energy or transmission that are not established in accordance with the Tennessee Valley Authority Act, 16 U.S.C. § 831, *et seq.*, as amended and in effect on the Effective Date (specifically, but without limitation, Section 15d(f) of that statute) ("**TVA Act**").

(b) Nothing in this Agreement will be construed to limit the sovereign authority of the United States Congress, amend the TVA Act, or impair TVA's obligations under its bonds or other financing obligations, including its obligations under the Basic Tennessee Valley Authority Power Bond Resolution, as amended ("**Basic Bond Resolution**"). The charges for electric service under the Power Contract are currently established to recover the costs and financial obligations associated with investment to provide wholesale power service as required by the TVA Act, and the Basic Bond Resolution. In the event that a change in Applicable Laws impairs any contractual right, benefit, or interest of either party, or imposes any material increase in cost, or reduction in allocation of capacity or energy, or otherwise materially changes an obligation on either party under the Power Contract, the parties shall promptly meet and discuss in good faith regarding possible changes to the Power Contract to mitigate the impact of the change in Applicable Laws.

SECTION 6 - NOTICES

The parties will deem any notice required by this Agreement to be properly given if the required notice is delivered in writing to the address specified below: personally, by recognized overnight courier service, by United States Mail, postage prepaid, or by electronic mail.

To Distributor:	
To TVA:	Director, Power Customer Contracts, WT 9D-K Tennessee Valley Authority 400 West Summit Hill Drive Knoxville, Tennessee 37902-1401 contractnotices@tva.gov

Any party may change either the designation of any person or the address of any such person at any time and from time to time by similar notice.

SECTION 7 - SEVERABILITY

In the event that any provision of this Agreement is found to be unenforceable under Applicable Laws, such provision will be replaced with a substitute provision that most nearly reflects the original intentions of the parties and is enforceable under Applicable Laws, and the remainder of this Agreement will continue in full force and effect.

SECTION 8 - RELATIONSHIP OF THE PARTIES

No provision of this Agreement or the Power Contract creates or will be deemed to create an agency, partnership, joint venture between Distributor and TVA, or any business relationship between the parties other than that specifically stated in the Power Contract. Neither party has the power or authority to legally bind the other party, or to assume or create any express or implied obligation or responsibility on behalf of the other party.

SECTION 9 - RATIFICATION OF POWER CONTRACT

The parties hereby ratify and confirm that the Power Contract, as amended by this Agreement, is their continuing obligation.

The parties are signing this Agreement to be effective on the date of TVA's signature ("**Effective Date**").

DISTRIBUTOR

By ________________________________

Title: ______________

Date: ______________

TENNESSEE VALLEY AUTHORITY

By ________________________________
Director
Power Customer Contracts