

ONE HUNDRED SIXTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927

Minority (202) 225-3641

April 11, 2019

Jeffrey J. Lyash  
President and Chief Executive Officer  
Tennessee Valley Authority  
400 West Summit Hill Drive  
Knoxville, TN 37902

Dear Mr. Lyash:

Pursuant to Rules X and XI of the U.S. House of Representatives, this Committee is responsible for oversight of the Environmental Protection Agency's (EPA) implementation of the Clean Air Act (CAA).

As such, we are deeply troubled by several reports of allegedly unethical behavior by EPA officials, particularly in the Office of Air and Radiation, and their relationship with the Utility Air Regulatory Group (UARG), of which the Tennessee Valley Authority is a member. These allegations have raised substantial questions regarding whether these officials are properly carrying out the CAA as directed by Congress or instead changing Agency policies and programs to benefit former clients.<sup>1</sup> The Office of Air and Radiation's agenda also appears remarkably similar to the substantive agenda advanced by UARG.<sup>2</sup> Because of the Tennessee Valley Authority's (TVA) participation in UARG, we are writing to request certain information from your agency to assist the Committee in its investigation of these issues.

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<sup>1</sup> See, e.g., *As Trump Dismantles Clean Air Rules, an Industry Lawyer Delivers for Ex-Clients*, The New York Times (Aug. 19, 2018); *EPA Official Bill Wehrum Stayed in Close Touch With His Former Law Firm, New Emails Show*, The Washington Post (Feb. 13, 2019); *EPA Regulator Skirts the Line Between Former Clients and Current Job*, The Washington Post (Feb. 25, 2019); *Bill Wehrum and the 'Holy Grail'*, Politico (Mar. 4, 2019).

<sup>2</sup> *How a Top EPA Regulator's Law Firm Profited From the Fight to Roll Back Air Rules*, Politico (Feb. 20, 2019).

EPA's mission is to protect human health and the environment. This mission has been severely compromised by the Trump Administration's deregulatory agenda.<sup>3</sup> EPA is attempting to undermine or eliminate critically important safeguards which, if successful, would jeopardize public health by worsening air quality and exacerbating the harm climate change will inflict on all Americans. At the same time, many industry interests stand to profit significantly from EPA's deregulatory agenda, especially the coal industry, which appears to have invested heavily in UARG.<sup>4</sup>

UARG has avoided any transparency, with details of its funding and internal organization only recently revealed.<sup>5</sup> Your agency contributed \$462,555 in 2015<sup>6</sup> and \$462,967 in 2017 to fund UARG's activities—the fourth largest contribution among all UARG members—with a higher contribution projected for 2018.<sup>7</sup> This amount appears to be directly proportional to TVA's fossil fuel-powered electrical generation.<sup>8</sup>

TVA is a corporate agency created by congressional charter,<sup>9</sup> and the nation's largest U.S. government-owned power provider.<sup>10</sup> TVA's decision to contribute nearly \$500,000 per year to UARG is especially troubling, particularly since that money is likely used to pay Hunton & Williams' (now Hunton Andrews Kurth, collectively "Hunton") attorneys to fight clean air regulations behind the anonymity of UARG.

As has been reported in detail, this money paid for Mr. Wehrum's involvement in UARG's efforts to support the Trump Administration's deregulatory agenda during his time at Hunton.<sup>11</sup> By his own admission, Mr. Wehrum was approached in "early 2017" about the

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<sup>3</sup> See, e.g., *An Inside Look at How Trump Turned the EPA Into an Industry Subsidiary*, Yale Environment 360 (Oct. 4, 2018) ([e360.yale.edu/features/an-inside-look-at-how-trump-turned-the-epa-into-an-industry-subsidiary](http://e360.yale.edu/features/an-inside-look-at-how-trump-turned-the-epa-into-an-industry-subsidiary)).

<sup>4</sup> See, e.g., *Trump EPA Acts to Roll Back Control on Climate-Changing Coal*, Associated Press (Dec. 6, 2018) ([www.apnews.com/c9f226034f05432b9a00f975e15815bf](http://www.apnews.com/c9f226034f05432b9a00f975e15815bf)); *supra* note 2.

<sup>5</sup> See, e.g., *Power Companies Wield Influence Through Anonymous Group*, S&P Global Market Intelligence (July 19, 2016); see also *supra* note 2.

<sup>6</sup> *Power Companies Wield Influence Through Anonymous Group*, S&P Global Market Intelligence (July 19, 2016).

<sup>7</sup> "2017 Utility Air Regulatory Participation Summary of Receipts As of June 20, 2017." Published by Politico, *supra* note 2.

<sup>8</sup> "Introduction to Workshop Materials" at 4. Published by Politico, *supra* note 2.

<sup>9</sup> United States Securities and Exchange Commission, Form 10-K, filed by the Tennessee Valley Authority for Fiscal Year Ended September 30, 2018 (herein "TVA 2018 10-K") at 40.

<sup>10</sup> "TVA at a Glance" (*available at* [www.snl.com/Cache/1500107412.PDF](http://www.snl.com/Cache/1500107412.PDF)) (last accessed Mar. 6, 2019).

<sup>11</sup> *Supra* notes 1 & 2.

possibility of being nominated to serve as Assistant Administrator of the Office of Air and Radiation.<sup>12</sup> Mr. Wehrum continued to work on behalf of UARG members during this time, including convening the UARG Policy Committee on June 22-23, 2017, at Hunton's offices.<sup>13</sup> Less than three months later, President Trump sent Mr. Wehrum's nomination to the Senate.<sup>14</sup> We are concerned that Mr. Wehrum has failed to distance himself sufficiently from his private sector work on behalf of UARG members now that he holds a position in the public trust with significant health and safety responsibilities.

To assist the Committee's investigation into these issues, we request that you answer the following questions:

1. When did TVA join UARG?
2. Please identify the total amount of money TVA has contributed to UARG since joining.
3. What is the source of the funds TVA contributes to UARG?
4. Please explain how TVA ensures that none of its contributions to UARG fund UARG's litigation activities, as claimed by a TVA spokesman in 2016.<sup>15</sup>
5. Please explain, with detailed specificity, what benefits TVA believes it derives from its annual contribution to UARG.
6. Please explain how contributing nearly \$500,000 per year to a litigation group dedicated to defeating public health and welfare regulations is consistent with TVA's mission "to improve the quality of life in the [Tennessee] Valley"<sup>16</sup> and to care for and be responsible stewards of the natural resources of the Tennessee Valley.<sup>17</sup>
7. Please explain why the hundreds of thousands of dollars TVA contributes to UARG annually is consistent with the TVA Act's objective "that power be sold at rates as low as feasible."<sup>18</sup>

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<sup>12</sup> *Supra* note 2.

<sup>13</sup> *Supra* note 2.

<sup>14</sup> [www.whitehouse.gov/presidential-actions/eight-nominations-sent-senate-today/](http://www.whitehouse.gov/presidential-actions/eight-nominations-sent-senate-today/)

<sup>15</sup> *Supra* note 5.

<sup>16</sup> "TVA at a Glance."

<sup>17</sup> TVA 2018 10-K at 48.

<sup>18</sup> TVA 2018 10-K at 47.

Mr. Jeffrey J. Lyash

April 11, 2019

Page 4

To further assist the Committee's investigation into these issues, we also request the following:

1. All documents relating to UARG. This includes, but is not limited to:
  - a. Budgets;
  - b. Funding requests;
  - c. Expense reports;
  - d. Workshop Materials;
  - e. Membership and leadership nominations;
  - f. Documents relating to the UARG Policy Committee, including all documents relating to meetings thereof;
  - g. Documents relating to UARG's Technical Committees;
  - h. Documents relating to the UARG Planning Committee; and
  - i. Documents relating to TVA's assertion that its contributions do not fund UARG's litigation activities.

There is no temporal limit to this request.

Please provide the requested documents by April 25, 2019.

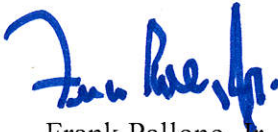
Mr. Jeffrey J. Lyash

April 11, 2019

Page 5

An attachment to this letter provides additional information about how to respond to the Committee's request. If you have any questions, please contact Rick Kessler with the Committee staff at (202) 225-2927. We appreciate your cooperation and look forward to your timely response.

Sincerely,



Frank Pallone, Jr.  
Chairman



Paul D. Tonko  
Chairman  
Subcommittee on Environment  
and Climate Change



Diana DeGette  
Chair  
Subcommittee on Oversight  
and Investigations

cc: The Honorable Greg Walden, Ranking Member, Committee on Energy and Commerce  
The Honorable John Shimkus, Ranking Member, Subcommittee on Environment and  
Climate Change  
The Honorable Brett Guthrie, Ranking Member, Subcommittee on Oversight and  
Investigations

Attachment A

**List of EPA Officials for Document Requests**

*Office of the Administrator*

- Administrator Andrew Wheeler
- Former Administrator Scott Pruitt
- Chief of Staff Ryan Jackson
- Former Deputy Chief of Staff Byron Brown
- Office of Policy Associate Administrator Brittany Bolen
- Former Office of Policy Associate Administrator Samantha Dravis
- Director of Public Liaison Amy Dewey

*Office of Air and Radiation*

- Assistant Administrator William Wehrum
- Senior Counsel to the Assistant Administrator David Harlow
- Deputy Assistant Administrator Clint Woods
- Former Principal Deputy Assistant Administrator and Former Senior Policy Advisor Mandy Gunasekara
- Emily Atkinson
- Josh Lewis
- Office of Air Quality Planning and Standards (OAQPS) Director Peter Tsirigotis
- OAQPS Associate Director Bill Harnett
- OAQPS Associate Director Mike Koerber
- OAQPS Air Quality Policy Division Associate Director Juan Santiago
- Former Deputy Assistant Administrator for Office of Research and Development Richard Yamada

*Office of General Counsel*

- General Counsel Matthew Leopold
- Principal Deputy General Counsel David Fatouhi
- Deputy General Counsel Justin Schwab
- Former Deputy General Counsel Erik Baptist