NOMINATION OF JOHN L. RYDER OF TENNESSEE
TO BE A MEMBER OF THE BOARD OF DIRECTORS
OF THE TENNESSEE VALLEY AUTHORITY

HEARING

BEFORE THE

SUBCOMMITTEE ON CLEAN AIR
AND NUCLEAR SAFETY
OF THE

COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS
SECOND SESSION

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NOMINATION OF JOHN L. RYDER OF TENNESSEE TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY
TUESDAY, MARCH 20, 2018

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON CLEAN AIR
AND NUCLEAR SAFETY,
Washington, DC.

The committee met, pursuant to notice, at 10:07 a.m. in room 406, Dirksen Senate Office Building, Hon. Shelley Moore Capito (chairwoman of the subcommittee) presiding.

Present: Senators Capito, Whitehouse, Boozman, Wicker, Fischer, Ernst, and Gillibrand. Also present: Senator Carper.

Senator Capito. I want to thank everyone for being here today. This hearing is of the Clean Air and Nuclear Safety Subcommittee and it is now called to order.

I am going to reverse the order of my written statement out of deference to the fact that a very distinguished Senator from Tennessee is here with us to make an introduction.

So, Senator Alexander, I recognize you for the purpose of making an introduction. Thank you.

OPENING STATEMENT OF HON. LAMAR ALEXANDER, U.S. SENATOR FROM THE STATE OF TENNESSEE

Senator Alexander. Thank you, Madam Chairman, Ranking Member Whitehouse, Senator Ernst. It is a privilege to be here and thank you for your courtesy.

I am here today to introduce John Ryder, of Memphis, who has been nominated to serve as a member of the Board of the Tennessee Valley Authority.

John Ryder is a good man and the TVA is on a good path. Its leadership over the last few years have made sound decisions that will benefit ratepayers and our region; it will keep electric rates at a reasonable cost; it will keep our air clean; and will keep industry coming to the Valley. John Ryder is a great choice to continue on that path.

TVA’s mission is to provide safe, clean, reliable, and affordable power for the region’s homes and businesses. To do that, it is placing pollution control equipment on all of its coal plants by 2020, building new natural gas plants, and opening the first nuclear power reactor in the 21st century.

It also opened the last nuclear power reactor of the last century, so we have a great benefit in our region because of that.
TVA has done this while reducing its debt and reducing electric rates, which is good news for jobs and economic development in the Tennessee Valley.

As a west Tennessean, John understands how important it is for TVA to continue to provide cheap, clean, reliable electricity for homes and businesses in the seven States that comprise the TVA region.

John has a broad background in public affairs. He has significant litigation experience and has earned numerous awards as an attorney. He has been recognized by Business Tennessee Magazine as being among the 101 best lawyers in Tennessee and has been listed in Best Lawyers since 1987.

I am convinced he will make an excellent TVA Board member. I strongly support his nomination. I encourage the members of the Committee to support his nomination, as well, so his nomination can quickly be considered by the full Senate.

Thank you.

Senator CAPITO. Thank you, Senator.

Now I will recognize our other Senator, distinguished Senator from the State of Tennessee, Senator Corker.

OPENING STATEMENT OF HON. BOB CORKER,
U.S. SENATOR FROM THE STATE OF TENNESSEE

Senator CORKER. Junior Senator. Thank you.

Senator CAPITO. Junior Senator.

Senator CORKER. Chairman Capito and Senator Whitehouse, Senator Ernst, thank you for letting me be here. It is a pleasure to be here with Lamar and with our outstanding nominee. John Ryder has been nominated to serve, as you know, on the Board of the Tennessee Valley Authority, and I would like to extend a warm welcome to him and his wife, Lane, and those here supporting his nomination.

With over 9 million customers, TVA is the largest public power utility in the Nation, and it is critical for the region that it remain a low-cost, reliable producer of electricity not only for ratepayers, but also for our State’s business recruitment efforts. To continue serving the region, TVA needs a full, well-qualified Board, and I was proud to support the previous four nominees put forward by the President and thank this Committee for swift action on those individuals.

John Ryder has been nominated to fill the current vacancy on the Board. With wide-ranging legal background, John’s experience as an attorney will be of great value to the TVA Board.

After graduating from Vanderbilt Law School, John began his career working in Shelby County, and since that time he has developed an extensive practice covering election and commercial law. His law practice has been consistently recognized, as Lamar said, as one of the most respected in the Volunteer State and throughout the Country. As a lifelong Memphian, John understands the important role that TVA plays in our communities and the demands of a growing Tennessee Valley.

In addition to his distinguished career, John has demonstrated a true commitment to the Memphis community; served on numerous boards, including the Opera of Memphis, the YMCA of Greater
Memphis, as well as volunteering his time to many other organizations.

Lamar and I both have known John for many, many years, and I wholeheartedly support his nomination. I am confident his diverse background will give him the necessary qualifications to serve TVA’s important mission.

So, thank you. Thank you for letting us be here, and I hope that you will support his nomination and confirmation. Thank you so much.

OPENING STATEMENT OF HON. SHELLEY MOORE CAPITO,
U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Senator CAPITO. Thank you. Thank you both.

John, if you want to move forward and take a seat, I will get us back on our regular track here. I am going to recognize myself for a brief opening statement, and then the Ranking Member, Senator Whitehouse, for his opening statement.

Senator CAPITO. As we have heard both distinguished Senators from Tennessee talk about the TVA, we know the broad jurisdiction, both geographically and in terms of the responsibilities. It is important to remember 9 million people are served by the TVA across the seven States, providing affordable electricity, flood prevention, navigation access, and economic development.

Before the TVA, much of the region suffered from a chronic lack of economic development resulting from insufficient energy resources and the constant flooding of the Tennessee River Watershed. The transformation of the region into a growing population and a growing economic base is in large part thanks to the TVA’s policies.

Today, however, the TVA is under pressure. Its aging coal and nuclear units require upgrades to extend their service lines and, as with private sector coal and nuclear units, they face regulatory pressures and price competitions from cheap natural gas. TVA’s fuel mix and ability to provide reliable baseload power is essential in fulfilling its mission of providing its customers with affordable electricity at essentially production costs.

The TVA’s growing variable renewable resources, led by its traditional hydropower, also pose challenges for TVA’s rate modeling. Dams and levees dating back several decades, representative of our Nation’s broader infrastructure challenges, will need rehabilitation or outright replacement. Balancing funding those priorities with keeping rates low will pose a special challenge to our nominee, but it is one that historically TVA has been successful in meeting.

As I mentioned in our last TVA nomination hearing, like government entities at the local, State, and Federal level, the Authority is under serious pressure to meet its pension obligations. The GAO has noted that the TVA retirement system is underfunded by about $6 billion. The $7.1 billion currently available is only sufficient to cover 54 percent of its expected obligations.

While the TVA’s debt has been stable, unfunded pension obligations have increased over the past decade. I am encouraged that the TVA is in the process of transitioning to a 401(k) defined contribution system, and this Committee will continue to monitor
TVA's fiscal health as it balances all of these investment challenges.

If confirmed, Mr. Ryder will serve as TVA's Board of Directors for 5 years. I believe his accomplished background in business law will be a strong compliment to the Board. I look forward to hearing how you plan to help steering the Board to keep TVA a viable engine for economic development and flood control through its second century of experience.

Not being influenced personally where I live, in my general geographic area, by the TVA, I have come to gain great respect for the vision that was put forward in creating the TVA and the importance that it has to many not just citizens, but government entities throughout the States. We have had the privilege to have some of the already confirmed members before our Committee and I can tell you, Mr. Ryder, when you are confirmed, as my great hope is, you will be joining a very dedicated Board of citizens.

So, I will recognize the Ranking Member, Senator Whitehouse, for an opening statement.

[The prepared statement of Senator Capito follows:]
Sen. Shelley Moore Capito
Opening Statement
Clean Air Subcommittee Hearing on TVA Nominee
March 20, 2018

Thanks to everyone for being here today. This hearing of the Clean Air and Nuclear Safety Subcommittee is called to order.

I will begin by recognizing myself for a brief opening statement before turning the floor over to Ranking Member Whitehouse for five minutes.

We will then hear from our first panel – Senators Corker and Alexander – to introduce our nominee, John L. Ryder, of the great state of Tennessee.

Following their introductions, Mr. Ryder will be brought up as our second panel and recognized for his opening statement.

I recognize myself for five minutes.
The Tennessee Valley Authority has a broad jurisdiction, both geographically and in terms of its responsibilities. The TVA serves 9 million people residing across seven states and its diverse mandates include providing affordable electricity, flood prevention, navigation access, and economic development opportunities.

Before the TVA, much of the region suffered from a chronic lack of economic development resulting from insufficient energy resources and the constant flooding of the Tennessee River watershed. The transformation of the region into a growing population and a growing economic base is in large part thanks to the TVA’s policy successes.

Today, the TVA is under pressure.
Its aging coal and nuclear units require upgrades to extend their service lives or outright replacement. As with private sector coal and nuclear units, they face regulatory pressures and price competition from cheap natural gas.

TVA’s fuel mix and ability to provide reliable baseload power is essential in fulfilling its mission of providing its customers with affordable electricity at essentially production cost.

The TVA’s growing variable renewable resources, led by its traditional hydropower, also pose challenges for TVA’s rate modeling. Dams and levees dating back several decades – representative of our nation’s broader infrastructure backlog – will need rehabilitation or outright replacement.

Balancing funding these priorities with keeping rates low will pose a special challenge, but it is one that, historically, the TVA has been successful in meeting – its ratepayers enjoy lower electricity prices that are lower than nearly three-quarters of other utilities.
As I mentioned in our last TVA nomination hearing, like government entities at the local, state, and federal levels, the Authority is also under serious pressure to meet its pension obligations. The Government Accountability Office has noted that the TVA Retirement System is underfunded by around $6 billion.

The $7.1 billion currently available is only sufficient to cover 54 percent of existing and expected obligations.

While the TVA’s debt has been stable, unfunded pension obligations have increased over the past decade.

I am encouraged that the TVA is in the process of transitioning to a 401(k)-style defined-contribution system, and this Committee will continue to monitor TVA’s fiscal health as it balances all of these disparate investment needs.
If confirmed, Mr. Ryder will serve on TVA’s Board of Directors for five years. I believe his accomplished background in business law will be a strong complement to the Board.

I look forward to hearing how you plan to help in steering the Board to keep the TVA a viable engine for economic development and flood control through its second century of existence.

Thank you for your willingness to serve the public interest on the Board of the TVA.

I recognize Ranking Member Whitehouse for his five-minute opening statement.

[If present, acknowledge Chairman Barrasso for brief introductory remarks].
I welcome our esteemed Senate colleagues from Tennessee as the first panel.

Senator Alexander, you are recognized for five minutes.

Thank you Senator Alexander.

Senator Corker, you are recognized for five minutes.

Thank you for joining us today.

Mr. Ryder, I kindly ask you to take your seat at the table.

You are recognized for five minutes for your opening statement and recognition of any friends or family you may wish to make. I want to remind you that your full written testimony will be made a part of the record.
OPENING STATEMENT OF HON. SHELDON WHITEHOUSE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator WHITEHOUSE. Thank you very much, Chairman.

I welcome our nominee here today and I want to thank our Tennessee colleagues for appearing on his behalf. They are extremely well regarded in the Senate and their voices in favor of your nomination carry great weight, Mr. Ryder.

As the Nation's largest public utility, the TVA is uniquely positioned to lead the development of clean, reliable, American energy. Three years ago, TVA completed a long-term planning process to identify future energy needs. Its plan would add between 150 and 800 megawatts of large-scale solar by 2023, for instance, and between 3,150 and 3,800 megawatts of large-scale solar by 2033. These renewable goals are in line with recent developments across the energy sector.

In 2017, renewables provided nearly 20 percent of electricity generation in the United States. As wind and solar costs fall, utilities across the Country, even in very red States, have invested heavily in both. The renewable energy industry has hit 3.3 million jobs, more than all fossil fuel jobs combined. The five States that get the largest percentage of their electricity from wind are Iowa, Kansas, South Dakota, Oklahoma, and North Dakota.

In Texas, wind generation hit a record 15 gigawatts in December 2016, at one point meeting 45 percent of the State's power needs. Eighteen thousand megawatts has been installed and another 5,000 megawatts is under construction in Texas.

In Iowa, Mid-American Energy is planning to add 2,000 megawatts of new wind by 2019, on top of Iowa's already nation-leading investment in wind energy. Once that is all installed, 85 percent of the energy Mid-American generates will be renewable.

Corporate America is going in on renewables. AT&T recently signed two agreements with NextEra Energy for wind power, one for 220 megawatts from an Oklahoma wind farm and the other for 300 megawatts from a Texas wind farm.

I wish Rhode Island had more land so we could get more of these windfarm projects. We have to build it offshore, which is a bit more complicated. That is one of the largest corporate renewable energy purchases in history.

So here is my worry, Mr. Ryder. I will be perfectly candid with you. Notwithstanding the nationwide success of renewables, this Administration seems, with unerring solicitude, to look only at the welfare of the fossil fuel industry.

Our politics have been powerfully influenced by the fossil fuel industry. One means of that industry influence since the Citizens United decision has been unlimited spending and threats of spending by fossil fuel industry forces.

As general counsel at the Republican National Committee, I suspect you were, in various ways, intimately involved with that operation. Additionally, your background is a little unusual for someone nominated to be a director of an electric utility like the TVA, so I want to assure that you will be undertaking your duties at the TVA with no preconceptions and not, not as an agent for fossil fuel industry influence within TVA.
I look forward to your convincing me that, if confirmed, you will be fair and act in the best interest of TVA ratepayers, including providing attention to environmental consequences and giving wind, solar, storage, distributed generation, and other technologies a fair shake against fossil fuel.

I look forward to hearing your perspective on TVA’s long-term plan and whether you will undertake to undo the ambitious renewable energy goals that the TVA set in 2015.

Thank you, Chairman.

Senator Capito. Thank you, Senator.

And thank you, Mr. Ryder. I want to recognize you for 5 minutes for your opening statement and recognition of any family or friends that you may have with you, and I want to remind you that your full written testimony will be a part of the record.

Through this hearing and via questions for the record, our Committee members will have an opportunity to learn more about your commitment to public service and our great Nation. I would ask that throughout this hearing you would please respond to the questions today and those for the record in a direct and timely fashion.

So, I have to ask the following questions we ask of all nominees on behalf of the Committee.

Do you agree, if confirmed, to appear before this Committee or designated members of this Committee, and other appropriate committees of the Congress, and provide information subject to appropriate and necessary security protection with respect to your responsibilities?

Mr. Ryder. Absolutely.

Senator Capito. Do you agree to ensure that testimony, briefings, documents, and electronic and other forms of information are provided to this Committee and its staff, and other appropriate committees of jurisdiction, in a timely manner?

Mr. Ryder. Yes.

Senator Capito. Do you know of any matters which you may or may not have disclosed that might place you in any kind of conflict of interest if you are confirmed?

Mr. Ryder. I do not.

Senator Capito. All right. Mr. Ryder, we look forward to your statement.

STATEMENT OF JOHN L. RYDER, NOMINEE TO BE A MEMBER OF THE BOARD OF THE TENNESSEE VALLEY AUTHORITY

Mr. Ryder. Thank you, Chairman Capito, Ranking Member Whitehouse, members of the Committee. I am John Ryder. With me today is my wife of 45 years, Lane. We wish our younger daughter could have been here. Nancy Kate Ryder worked on the staff of the Committee of Environment and Public Works from 2005 to 2007. However, happily, she is on her way to Memphis for a visit, bringing with her our grandson, who is a little over two.

I am honored to have been nominated by President Trump to serve as a member of the Board of Directors of the Tennessee Valley Authority, and I am especially honored to have been recommended to the President by my two State Senators, Lamar Alexander and Bob Corker. I thank them for their very kind remarks,
and I can assure Senator Whitehouse that they are well regarded in Tennessee, as well as in this body.

My office in Memphis is situated at the intersection of Union Avenue and November the 6th, 1934 Street, which is a curious name for a street. November the 6th Street is named after the date on which the people of Memphis voted for a bond issue that enabled them to buy the utility and create the public utility, Memphis Light, Gas and Water, which today is TVA's largest customer, serving 10 percent of the total population served by TVA and accounting for 12 percent of its load.

For many years I have been involved in civic, political, and community affairs, and have a keen appreciation of Memphis community and West Tennessee and its needs and interests. I have also traveled throughout the region and understand that, as a Board member, I would be representing the interests of the 9 million people in seven States, covering 80,000 square miles, who are served by TVA.

While Memphis Light, Gas and Water is TVA's largest customer, there are over 150 other municipal providers served by TVA, in an industry which, as Chairman Capito has noted, faces major challenges; declining demand for electricity, environmental concerns, the growing difficulty of finding the right mix of generation and fuel.

I am keenly aware of the role played by TVA in economic development through its support of local development efforts. There are increasing economic opportunities for the region and a real chance to make a difference by bringing good paying jobs to a part of the Country that needs good paying jobs.

TVA has a strong responsibility for environmental stewardship. Both as a custodian of public lands and as a major industry in its own right, it has an obligation to protect the natural environment for the benefit of future generations.

TVA has an obligation to maintain the recreational use of TVA lands and lakes. I have had the opportunity, over my life, to swim, boat, hunt on TVA lands, and I hope that my grandson will have that same opportunity.

Practicing law for over 40 years, I have represented corporations large and small, and appreciate that the appropriate role of a Board member is setting the strategic direction for the corporation, while allowing the officers to run the organization on a daily basis. My understanding of these differing roles was reinforced by my service with various not-for-profit organizations. Some were as small as the Board of Opera Memphis; some as large as the Republican National Committee or the Republican National Lawyers Association.

Those experiences also inform my understanding of the need to separate the political from the governmental. I fully appreciate that the role of a member of the Board of TVA is outside of politics. At the same time, my political experience has given me greater appreciation for the wants, needs, and aspirations of those served by TVA.

My law practice has largely been in the area of bankruptcy, workouts, and restructuring. This has given me experience in evaluating businesses and their viability. I don't think anyone doubts
the viability of TVA, but it is always a useful exercise to examine closely the value of the different activities and services of any organization. Where changes are needed, changes should be made.

I will be ready to take a look at the operations of TVA and participate in the discussions over its present condition and future direction.

If confirmed, it will be a great honor for me to be able to serve my community, my region, and our Country in this position.

I thank the Senators for their consideration.

[The prepared statement of Mr. Ryder follows:]
Statement of John L. Ryder
Nominee to the Board of Directors of the Tennessee Valley Authority
before the
U.S. Senate Committee on Environment and Public Works
Subcommittee on Clean Air and Nuclear Safety
Tuesday, March 20, 2018

Good morning, Chairman Capito and Ranking Member Whitehouse. I am honored to have been nominated by President Trump to serve on the Board of Directors of the Tennessee Valley Authority.

My office is located in a building that sits at the intersection of Union Avenue and November 6th, 1934 Street in Memphis, Tennessee. November 6th St. is named after the date the people of Memphis voted for a bond issue that enabled the city to buy the local utility and establish Memphis Light, Gas and Water, which today is TVA’s largest customer.

As a resident of Memphis since 1963, I am well aware of the value and importance of public utilities including TVA. TVA’s impact on Memphis is enormous, and the impact of Memphis on the TVA is equally significant.

After many years of community involvement, in civic, political and community affairs, I have a keen appreciation of the Memphis community and its needs and interests. At the same time, I have travelled the Tennessee Valley region and understand that, as a Board Member, I would be representing the interests of the 9 million people
who live in the Tennessee Valley region and the 7 states, and the 80,000 square mile service territory of TVA. While Memphis Light, Gas and Water is TVA’s largest customer, there are over 150 other municipal and cooperative consumers in the Valley, and there are major challenges ahead in the industry with declining demand in electricity, environmental concerns, and the growing importance of the appropriate mix of generation and fuel.

I am also aware of the key role played by TVA in economic development, through its support of local development efforts. There are increasing economic development opportunities for the region and a real chance to make a difference by bringing good paying jobs to a part of the country that is often in need of such jobs.

Finally, TVA has a strong role in environmental stewardship. Both as a custodian of public lands and as a major industry in its own right, it has an obligation to protect the natural environment for the benefit of future generations.

As a lawyer for over forty years, I have represented corporations, large and small, and appreciate that the appropriate role of a Board member is setting the strategic direction for the corporation while allowing the Officers to run the organization on a daily basis. My understanding of these differing roles was reinforced by my service with not-for-profit organizations. This includes serving as President of the Board of Opera Memphis as well as General Counsel to the Republican National Committee and as Chairman of the Republican National Lawyers Association.
Those experiences also inform my understanding of the need to separate the political from the governmental. I fully appreciate that the role of a member of the Board of TVA is outside of politics. At the same time, my political experience gives me a greater appreciation for the wants, needs and aspirations of those served by TVA.

In addition, my law practice has largely been in the area of bankruptcy, workouts and restructuring. This has given me experience in evaluating businesses and their viability. No one doubts the viability of TVA, but it is always a useful exercise to examine closely the value of the different activities and services of an organization. Where changes are needed, changes should be made. I will be ready to take a look at the operations of TVA and participate in the discussions over its present condition and future direction.

If confirmed, I will be honored to have the opportunity to serve my community, my region and our country in this position.
Ranking Member Carper:

1. During my meeting with you on March 19, 2018, you explained that your role as General Counsel of the Republican National Committee (RNC) was limited to navigating the internal rules of the RNC. However, several reports indicate that your role went beyond merely advising on the rules of the RNC. In fact, you have previously compared your job duties as General Counsel to that of any general counsel for a company. Further, the Rules of the Party also describe the General Counsel as being a member of the Executive Committee and identify several duties that appear to go beyond working only with the rules of the Committee.

a. Reports indicate that you were instrumental in making sure the Never Trump movement did not succeed at the Republican National Convention in 2016, laying out a plan supporting the argument that delegates were not free to support the candidate of their liking. Do you agree with this characterization of your work? If not, please explain why not. In my role as General counsel, I offered interpretations of the Rules of the Republican Party. I issued an opinion to the Standing Committee on Rules of the RNC that the language in rules 16(a)(1) and 16(a)(2) bound the delegates in accordance with the determination of the voters in their states primaries. The role of General Counsel of the RNC is to interpret the Rules of the Republican Party. In that capacity, I issued an opinion to the Standing Committee on Rules of the RNC that the language in rules 16(a)(1) and 16(a)(2) bound the delegates in accordance with the determination of the voters in their states primaries.

b. Reports indicate that the RNC passed a proposal in 2014 that you drafted that excluded the TV networks from any control over GOP presidential primary debates, because of your concerns that the media is too liberal. Is this report accurate? If not, please explain why not. In my role as General Counsel, I participated in the drafting of Rule 10(a)(10), which created a Standing Committee on Presidential Primary Debates.

c. According to one interview you have done, part of your role required you to supervise “a full-time RNC legal staff,” including coordination of the RNC’s legal effort in McCutcheon vs. FEC, the Supreme Court case that led to a

1 http://knoxblogs.com/humphreyhill/2014/05/05/gops-john-ryder-pretty-big-deal-national-scene/
7 http://knoxblogs.com/humphreyhill/2014/05/05/gops-john-ryder-pretty-big-deal-national-scene/
controversial April ruling that struck down the total amount of funding individuals can contribute to federal candidates. Do you agree with this characterization of your work as described in the article? If not, please explain why not. Yes

2. In June 2016, Paul Manafort, President Trump’s campaign manager for a time, participated in a meeting with Russian interests at Trump Tower during which he made a note that appears to raise the possibility of Russian monetary contributions to the RNC. You have previously touted your experience with election laws and campaign contribution law, and mentioned that you worked on those matters as General Counsel.8

   a. Was it your job to review the RNC’s or Trump campaign’s FEC reports? No
   b. When did you first become aware of potential Russian monetary contributions to the RNC? Please provide specific details. I am not aware of any such contributions.
   c. If you were aware of any illegal activities, what did you do to address them? Did you report any illegal activities to the proper authorities? I am not aware of any illegal activities.
   d. What actions did you take once you learned of these activities through press reports? I am not aware of any illegal activities.

3. It has been reported that Russia actively sought to compromise Donald Trump beginning in 2011.9 Following President Trump’s election, a Russian diplomat publicly stated10 that Russians communicated with many members of the Trump campaign before the election.11 During your time as General Counsel, and before, did you have any communications—or know of any communications with other RNC members or staff—with Russians or Russian-owned clients? If so, please provide all details about those communications. Not to my knowledge

4. During the Republican National Convention in 2016, Jeff Sessions and Russian Ambassador Sergey Kislyak met and had a brief conversation at a Heritage Foundation event.12

   a. When did you first become aware of this meeting? When it was reported in the media.
   b. Were you at the same Heritage Foundation event? No Were you also a part of that brief meeting between the Ambassador and Mr. Sessions? I was not.
   c. Have you ever met with the Ambassador? Not to my knowledge. If you have, please provide all details about the meeting, including when and where it

8 http://knobsblogs.com/humphreyhill/2014/05/05/gops-john-ryder-pretty-big-deal-national-scene/
happened, who participated in the meeting, who arranged the meeting, and what was discussed. In 2012 I attended a reception for the Republican National Lawyers Association at the Russian Embassy. I do not recall whether the Ambassador was present. If he was, I believe it was the Ambassador prior to Kislyak and he would have made brief remarks. I do not recall meeting him. If I was introduced to him, our exchange would have consisted of perfunctory greetings. The reception was part of the annual meeting of the RNLA and was widely attended.

5. The Washington Post reported that Trump campaign staffers intervened significantly to ensure that the official 2016 RNC platform on Ukraine, which initially called for the United States to provide money and weapons to Ukraine, would be less supportive of Ukraine. For example, it appears that the draft platform’s call for providing “lethal defensive weapons” was replaced with providing “appropriate assistance”. Additionally, Paul Manafort, who once lobbied on behalf of Putin allies and the Russia-friendly Party of Regions in Ukraine, was hired by candidate Trump to manage the delegate process for the Convention. Manafort’s consulting firm previously received secret payments from pro-Russia Ukrainian Party of Regions off-the-books.

a. According to an interview you did in 2014, you played a role in negotiating the 2012 Republican platform. Another article describes you as having been “integally involved in attempts to resolve differences between the GOP party platform committee and delegates loyal to libertarian Ron Paul.” And former RNC Chairman Reince Priebus thanked your predecessor for his participation in party platform meetings. Did you play a role in the development of any RNC platform, specifically the 2016 RNC platform? If so, please describe your work in that role in detail. If not, please describe the discrepancy in the reporting. The report is not accurate. In 2013, I played a role in resolving differences between Ron Paul delegates and the Convention Rules (not Platform) Committee. I had no role in the 2012 Platform.

b. Were you present when any discussions about whether to soften the Republican position on Ukraine occurred? If you were present, could you please describe those discussions, including details about who was present and what was discussed? Not that I recall.

c. Did you have any conversations with Paul Manafort during the Convention? If so, please describe those conversations. The only time I spoke with Mr. Manafort at the convention was a brief exchange of greetings at a reception.

d. Did you have any conversations, either before or during the Convention, with President Trump or his campaign staff about United States or the Republican

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16 https://www.washingtonpost.com/world/new-documents-say-trump-aided-hid-payments-from-pro-moscow-ukraine-party/2017/03/21/92e8f5f2-0e11-11e7-9df5-a83e027dce20_story.html?utm_term=.9a255f0e949b
17 https://law.vanderbilt.edu/news/john-ryder-74/
Party’s policy on Ukraine? If so, please describe those conversations. None that I recall.

6. Former RNC Chairman Reince Priebus has said the RNC was never hacked. However, former FBI Director James Comey testified before Congress in January 2017 that the RNC was hacked, although the hacking was limited to older e-mails from no longer used domains. Any internal discussion I had as General Counsel with the Officers, Staff or Members of the RNC are protected by attorney-client privilege.

   a. During your tenure as General Counsel, did you ever become aware of any hacking attempts at the RNC? If so, please provide all details about those hacking attempts and describe any actions you took to address them.
   b. Did you ever work on cybersecurity or privacy issues for the RNC? If so, please describe your work on those issues.
   c. Following the hacking of John Podesta’s emails and subsequent DNC e-mail accounts, and the release of the hacked documents, did you take any steps to ensure that RNC e-mail systems were secure and resistant to hacking? If so, please describe those steps in detail. If not, why not?

7. In March 2015, RNC Chief Counsel John Phillippe wrote a letter to the State Department Inspector General urging him to investigate Hillary Clinton’s use of a personal email address and server. The RNC also sued Mrs. Clinton several times to obtain her emails and text messages. Did you work on any matters involving the issue of Hillary Clinton’s e-mails and servers? Were you aware of the Chief Counsel’s letter before it was sent? Were you aware of the lawsuits before they were filed? Did you do any work related to the letter or the lawsuits? If so, please describe your work. Any internal discussion I had as General Counsel with the Officers, Staff or Members of the RNC are protected by attorney-client privilege.

8. You have previously compared your job duties as RNC General Counsel to that of any general counsel for a company. You have also mentioned your deep knowledge of campaign contribution law and election law. It appears that Michael Cohen’s $130,000 payment to Stormy Daniels twelve days before the election may have violated election law because the money may have been an unreported, in-kind contribution to President Trump’s campaign and an unreported expenditure by his campaign committee. Mr. Cohen’s bank reported the suspicious payment to the Treasury Department.

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18 https://www.wired.com/2017/01/russia-hackedOLDER-republican-emails/fbi-director-says/
21 http://knoxblogs.com/humphreyhill/2014/03/05/gops-john-ryder-pretty-big-deal-national-scene/
a. Were you aware of the payment made by Mr. Cohen before it was publicly reported to have occurred? No. If so, please provide the date on which you first became aware of it, who informed you it had occurred, whether you were asked to provide any legal views on its legality, and if so, what those views were.

b. Based on your experience and expertise in campaign contribution and election law, do you agree that such a payment would constitute an in-kind contribution and that such contribution would have to be reported to the FEC? Why or why not? Without having more complete facts, I could not speculate on the legal issues.

c. Did you at any point review FEC reports and filings created by the Trump Campaign or the RNC? If so, please describe the nature of your review and note any report or entry that raised concerns. No.

9. The RNC hired Hamilton Trading Group (HTG), a firm with reported expertise in Russia, to do opposition research on Hillary Clinton.23 The RNC initially reported to the FEC that the $34,000 it paid on the contract was for “security services.” However, RNC officials have since acknowledged that most of the money “went toward intelligence-style reports that sought to prove conflicts of interest between Democratic presidential candidate Hillary Clinton’s tenure as secretary of state and her family’s foundation.” That means the RNC clearly misreported to the FEC and the public about the purpose of the significant expenditure.

a. Were you aware of the RNC’s misreporting to the FEC before that news became public? No.

b. Did you review any contracts with Hamilton Trading Group? No.

c. Did you review the $34,000 payment the RNC made to HTG before it was paid or before it was reported to the FEC? No.

d. Were you ever consulted, or did you offer any advice, on the RNC’s relationship with HTG, the scope of HTG’s work, or the RNC’s reports to the FEC about its payments to HTG? Any internal discussion I had as General Counsel with the Officers, Staff or Members of the RNC are protected by attorney-client privilege.

e. After the reports about the misreporting became public, did you make any attempts to correct the reports or other correct the record? Allegations regarding this matter did not surface until after the end of my tenure as General Counsel.

10. It appears that one of President Trump’s speechwriters, Meredith McIver, during the RNC Convention also worked for the Trump Organization, which could mean that she made an in-kind political contribution that was not reported to the FEC.25

a. Did you ever speak with Ms. McIver about her dual roles? If so, please provide

24 http://docquery.fec.gov/cgi-bin/forms/000003418/1096913/st/218
details on that conversation, including who participated, when and where it occurred, and the substance of the conversation. No
b. Do you know of any other individuals who simultaneously worked for the Trump campaign and one of President Trump’s businesses? Please provide the names of those individuals, their titles at both organizations, and describe their work for both organizations. Did you ever speak with any of these individuals about their dual roles? If so, please provide details on those conversations, including who participated, when and where each one occurred, and the substance of the conversations. Not to my knowledge.
c. Based on your experience and expertise in election law and campaign contribution law, do you agree that volunteering with President Trump’s campaign while also working for the Trump Organization would constitute an in-kind contribution to the campaign? Why or why not? Without having more complete facts, I could not speculate on the legal issues.

11. Reports indicate that in 2017, Special Counsel Mueller began questioning RNC staffers\(^{26}\) about the RNC’s digital operation – including Cambridge Analytica (CA) – that worked with the Trump campaign to target voters in key swing states. CA mined Facebook data without users’ direct permission in order to help the Trump campaign.\(^ {27}\)
a. Have you ever met with Special Counsel Mueller or his team, or been contact by him or a member of his team? If so, please provide details on those conversations, including who participated, whether they were in-person or over the phone, when and where they occurred, and the substance of the conversations. No
b. Did you meet with CA to discuss the scope of its work? If so, please provide details on those conversations, including who participated, and where and where they occurred, and the substance of the conversations. No
c. What is your understanding of the role CA played in assisting the RNC and the Trump campaign? I have no understanding of the role of CA.
d. When did you learn of CA’s inappropriate collection and use of Facebook user data to benefit the RNC? I am only aware of the allegations through the media.
e. Were you ever consulted on, or did you ever advise on, the RNC’s or the Trump campaign’s relationship with CA? If so, please provide details on those conversations, including who participated, when and where they occurred, and the substance of the conversations. Any internal discussion I had as General Counsel with the Officers, Staff or Members of the RNC are protected by attorney-client privilege.

12. After release of the 2005 Access Hollywood video in which Donald Trump made lewd comments about women, the RNC temporarily paused campaign operations\(^ {28}\) and Chairman Priebus had high-level discussions about whether to remove President Trump as the nominee.\(^ {29}\) Any internal discussion I had as General Counsel with the Officers,

\(^{27}\) https://www.nytimes.com/2018/03/19/technology/facebook-cambridge-analytica-explained.html
Staff or Members of the RNC are protected by attorney-client privilege.

a. During my meeting with you on March 19, 2018, you explained that your role as General Counsel involved advising on and navigating the rules of the Republican National Committee. The Atlantic has reported that shortly after release of the Access Hollywood tape, “RNC lawyers huddled to explore an obscure legal mechanism by which they might force Trump off the ticket.”30 As General Counsel, were you involved in these conversations? If you were, please describe these conversations in detail.

b. Given your experience with ensuring that the Never Trump movement was not successful during the 2016 Republican National Convention, were you involved or privy to any conversations about keeping Donald Trump as the nominee after the tape was released? If so, please provide details on those conversations, including who participated, when and where they occurred, and the substance of the conversations.

c. Were you involved or consulted on the decision to pause operations? If so, please provide details on those conversations, including who participated, when and where they occurred, and the substance of the conversations.

13. In our private conversation, we talked about why you wanted to join the TVA Board. You admitted that you didn’t have any experience in the energy field, but discussed your desire to work on a local issue involving the Allen Fossil Power Plant being converted from a coal plant to a natural gas plant. As you mentioned in our conversation, Memphis residents were incensed in 2016 when TVA announced a divergence from previously announced, environmentally friendly plans to utilize waste water at their new Allen Combined Cycle (CC) Plant in Memphis, Tennessee. Instead of using recycled waste water to cool their new generators, TVA told the public that they would instead seek to draw in excess of 3,000,000 gallons of fresh water each day from the Memphis Sand Aquifer, a precious interstate resource that provides millions of Americans with fresh, famously palatable drinking water. In addition to utilizing a staggering amount of fresh drinking water each day for industrial use, it was reported later that drawing such large amounts of water from the aquifer could lead to serious contamination of the aquifer.

After the initial pumping of water began at the Allen CC Plant, TVA’s own investigative research yielded the discovery of high levels of arsenic and other harmful toxins in the ground water within the monitoring wells at the Allen Plant. TVA’s reasoning for this divergence was that its charter prevents it from making decisions that will result in a rate increase for its ratepayers.

a. If confirmed, will you commit to protecting the Memphis Sand Aquifer from contamination? If not, why not? Yes
b. Do you commit to protecting all bodies of water used for drinking water in the Tennessee Valley? If not, why not? Yes
c. Did you support the overarching decision by TVA to convert the Allen plant from coal to natural gas? If so, why? If not, why not? Yes

d. Do you agree with TVA's assessment that it could not look at other options because of restraints regarding rate increases? If so, why? If not, why not? No. TVA has a mandate to provide low cost, reliable, energy to the residents of the Tennessee Valley. TVA's position is that use of recycled water would be more expensive than use of water from the Memphis Sands Aquifer. I believe this calculation does not fully take into effect the longer-term costs to the people of Memphis imposed by use of the Aquifer.

e. Do you agree, it is difficult to quantify potential environmental and health damages, such as from coal plant mercury emissions and coal ash contamination of aquifers? If so, how should environmental effects be part of TVA’s decision making? Yes, it is difficult, and the costs have to be balanced against TVA’s statutory mandate to provide low cost energy.

14. During our exchange in your confirmation hearing, I asked for your commitment to continue TVA’s clean energy and energy efficiency investments. You responded by saying you will continue to support investments in technological innovation. This is a very broad response, so I would like for a more specific answer. For the record,

   a. If you are confirmed to serve on the TVA Board, will you commit to supporting TVA’s investments in renewable and energy efficiency technologies? If not, why not? Yes
   b. Will you commit to ensuring that TVA is an industry leader in the clean energy economy? If not, why not? Yes

15. Do you agree to provide complete, accurate and timely responses to requests for information submitted to you by any Member of the Environment and Public Works Committee? If not, why not? I agree to work to appropriately accommodate all Congressional oversight requests.

16. In 2008, when Senator John McCain was the Republican presidential nominee, the RNC’s platform included an entire section on “Addressing Climate Change Responsibly.” In 2012, the RNC platform no longer included a section on climate change, signaling a real shift in politics for the Republicans on this issue. In 2016, the RNC platform again did not include the section on addressing climate change and instead referenced.

   a. As a long-time active RNC member, did you support the removal of the “Addressing Climate Change Responsibly” language from the RNC platform? If so, why? I have been a member of the Rules Committee in each of the recent conventions and have not participated in the discussions over the Platform but have voted for the Platform as recommended by the Platform Committee.

   b. Do you agree with language in the 2016 RNC platform that states, “The United Nations’ Intergovernmental Panel on Climate Change is a political mechanism, not an unbiased scientific institution.” If so, why? Yes. Whenever a body
attempts to use consensus to foreclose further investigation or questioning of conclusions, it has lost the fundamental principle of scientific inquiry.

17. In December 2007, President Bush’s EPA proposed to declare greenhouse gases as a danger to public welfare through a draft Endangerment Finding, stating, “The Administrator proposes to find that the air pollution of elevated levels of greenhouse gas (GHG) concentrations may reasonably be anticipated to endanger public welfare...Carbon dioxide is the most important GHG (greenhouse gas) directly emitted by human activities, and is the most significant driver of climate change.”

a. Do you agree with the quoted statements? If not, why not? As indicated in my written testimony, my belief is that, regardless of whether the motivation is a concern over climate change or more parochial interests in clean air and pure water, I support TVAs use of technology to protect clean air and pure water as well as maintaining a clean and diverse mix of energy sources to protect the air and water of the Tennessee Valley.

b. Do you agree with President Trump’s decision to ignore climate science and withdraw the United States from the International Paris Climate Accord? If so, please explain. I am not convinced of all the contributing factors to climate change. I remain committed to promoting clean air and pure water for the Tennessee Valley.

18. Do you agree that it is essential that in making decisions, TVA must be shielded from political influence and spared even the appearance of being subject to political influence or considerations? If not, why not? Yes. Electricity can be delivered in AC or DC, but not as Republican or Democrat.

19. The Department of Energy Secretary Rick Perry sent a proposal to the Federal Energy Regulatory Commission (FERC) — the independent agency that regulates electricity markets — asking the Commission to adopt a rule that would require consumers to pay more to support certain coal and nuclear plants. Some of these payments would go toward coal-fired power plants that are long overdue to be retired. Since TVA can set its own rates and may be restructuring its rate system soon, if confirmed, will you support a rate system that requires customers to pay more to keep coal-fired power plants running or will you support a rate system that continues to grow renewable energy in the Valley and encourages energy efficiency? TVA maintains a mix of energy sources: coal, natural gas, nuclear, hydro and other renewables. I believe it should continue to maintain such a mix, consistent with its mandate to provide low cost reliable energy to the residents of the region.

20. If confirmed, what skills do you bring to the Board - beyond being from Memphis - that will improve the current make-up and effectiveness of the Board? If confirmed, I believe I will be the only practicing attorney on the Board—a perspective which I believe is useful to any Board of Directors. As a practitioner in the area of bankruptcy, workouts and restructuring for over forty years, each new case has
brought me into contact with new industries, and the experience in evaluating operations and performance of businesses in those industries. In addition, while my appointment and recommendations come from the same political framework as the most recent members of the Board, my associations are actually stronger with the continuing members of the Board. I have had words of encouragement from Chairman Howorth, who is familiar with our firm’s office in Oxford, Mississippi, as well as TVA Director Ron Walter, whom I have known for several decades. TVA Director Virginia Lodge is married to one of my Vanderbilt Law School classmates. I believe I can be of use in bridging the gap between “old” board members and new.

21. If confirmed, how will you boost employee morale and ensure TVA retains and recruits the best employees? I believe the role of the Board is to provide high level strategic direction, while the day to day management of the enterprise is the responsibility of the officers. I will respect that division of authority. In order to boost morale, it will be important to recruit good officers, who are sensitive to the needs of the workforce.

22. If confirmed, what steps will you take to ensure TVA employees will not be working in an intimidating work-place environment and will feel comfortable reporting problems at any TVA facility? I will work with management to ensure that TVA follows appropriate policies and procedures and current law.

23. There are reports that over 150 employees from the firm hired by TVA to manage the clean-up the coal ash spill at the TVA Kingston Fossil Fuel Power Plant have died or are gravely ill. There are also reports that supervisors may have put the employees cleaning up the coal ash in harm’s way by destroying or altering air monitor data.

   a. If confirmed, will you commit to ensuring TVA is a good actor and is transparent to the employees and families that are or may be affected by this issue? Yes
   b. If confirmed, will you commit to ensuring TVA employees and those contracted by TVA work in a safe environment at all times? Yes
   c. If confirmed, what steps will you take to ensure TVA does not have another environmental disaster like the Kingston Fossil Fuel Power Plant coal ash spill? I will work with management in support of policies and procedures which reduce the risk of another such incident.

24. According to reports,\(^\text{21}\) replacing the members of the TVA Board is listed on the Murray Energy Action Plan. This Plan was reportedly presented to Administration officials in 2017, and was characterized as a way to increase coal usage and coal jobs in this country.

   a. Have you ever personally seen the Murray Energy Action Plan outside news reports? If so, when? No
   b. Have you ever met with Bob Murray, the CEO of Murray Energy? If so, how would you categorize your relationship? No
   c. Do you agree that rolling back Clean Air Act provisions like the Cross-state Air Pollution Rule, Mercury Air Toxics Standards and Clean Power Plan will overall

benefit the people of the Tennessee Valley? If so, why? If not, why not? As a governmental agency, it is the role of TVA to follow the law and applicable regulations. If confirmed, my advice to TVA would be to follow the advice of its attorneys and to follow the law.


c. Do you believe it is TVA’s responsibility to support policies that will increase coal mining in and around the Tennessee Valley? If so, why? If not, why not? TVA’s mission is defined by the TVA Act: to provide low cost energy, environmental stewardship and economic development for the region. It needs to stay focused on its mission.

25. In President Trump’s fiscal year 2019 budget and 2018 infrastructure proposals, there are policy recommendations supporting the sale of TVA assets, in particular, TVA’s transmission assets.

   a. Do you support the President Trump’s proposal regarding the sale of TVA’s assets? If so, why? If not, why not? TVA was created by Congress through the TVA Act. Any such massive change would have to be accomplished by Congress. Therefore, in evaluating such a proposal, the criteria would include not only the benefit to the enterprise, but the cost to the community (the nine million people served), and the wishes of Congress. In the end, it would be the decision of Congress, not the Directors.

   b. Do you support TVA remaining a public power entity? If so, why? If not, why not? Yes

26. If confirmed, will you commit to ensuring the TVA runs and fully operates its air control technology on all of its fossil fuel power plants? If not, why not? Yes

27. How do you define environmental justice and what role should TVA play in addressing environmental justice issues in the Tennessee Valley? Environmental justice means being a good neighbor by recognizing the neighborhood effects and long-term consequences of immediate actions. TVA should honor its commitment to environmental stewardship by recognizing those consequences, consistent with its mandate to provide low cost energy.

Senator Whitehouse:

28. Following the Supreme Court’s 2010 Citizens United decision, the fossil fuel industry has spent hundreds of millions of dollars in undisclosed dark money, and threatened to spend even more, to push their pro-fossil fuel agenda.

   a. Do you agree that unlimited campaign spending can allow well-heeled special interest groups to have outsized influence over policy makers? I do not; but for

myself, I commit to following all applicable ethics laws and regulations and to ensuring transparency at the TVA.

b. What steps will you take to insulate yourself from this influence? I have entered into an ethics agreement with TVA’s Ethics Officer and General Counsel. I will abide by that agreement.

c. One of the findings of Citizens United is “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.” Do you agree with this premise? Yes

d. What steps will you take to promote transparency at TVA? I commit to following all applicable ethics laws and regulations and to work with management for policies and procedures that promote transparency at the TVA.

29. Do you commit to making regulatory decisions that would put the consumer first when it comes to providing clean, reliable, and affordable energy and not follow the orders of the fossil fuel industry? Yes

30. Last year the Department of Energy finalized a report on grid reliability that found that cheap natural gas is the primary reason for coal plant closures. Do you agree that cheaper natural gas prices have led coal plant closures in the U.S.? Yes. However, as commodities, coal and gas prices fluctuate, which is why I believe that TVA should maintain a mix of energy sources including both coal and natural gas, along with nuclear, hydro and other renewables.

31. What is your understanding of how humans contribute to climate change? Human activity may contribute to climate change, but whether it does or not, I am committed to clean air and pure water for all of us in the TVA service region.

32. How does carbon pollution impose an economic cost to the American public? Carbon pollution can contribute to increased health costs from air or water pollution. In addition, direct costs are incurred by TVA (and therefore to the ratepayer) for cleanup of pollution. TVA appears to be making progress in this area. I will work with management to continue that progress.

33. In 2015, TVA completed a long-term planning process to identify future energy needs. In its plan, TVA stated that it would add between 150 and 800 MW of large-scale solar by 2023, and between 3,150 and 3,800 MW of large-scale solar by 2033.

a. If confirmed as a TVA board member, what would be your plan to adopt these goals for renewable energy deployment in the TVA region? TVA’s Integrated Resources Plan is constantly under review. If confirmed, I look forward to reviewing the plan with the goal in mind of incorporating the latest energy technology, including renewables.
b. Do you commit to making sure these goals are adopted expeditiously? I am committed to working with the IRP, consistent with the financial issues raised in TVAs long term financial plan and its statutory mandates.

34. Every day we learn more about the extent and nature of Russian interference in the 2016 election.

a. In your capacity as General Counsel of the Republican National Committee, were you aware of this activity? Other than from news accounts, no.
   i. If so, how did you become aware of it and what did you do about the information?

b. Did you meet with any foreign nationals, or people representing foreign nationals, to discuss election strategy or fundraising?
   i. If so, please list the names of the foreign nationals, the dates of the meetings, and the substance of the discussions. I did not meet with any foreign nationals to discuss election strategy or fundraising. However, I did give an interview to a French journalist at the Republican National Convention and tried to explain our nominating system. I undoubtedly discussed the campaign with my son-in-law, who is French, at family gatherings, but not beyond the normal sort of family discussion of such things.
Senator CAPITO. Thank you.

I will begin the questioning. Thank you, Mr. Ryder, for your opening statement.

You mentioned in your testimony the challenges I think I mentioned in my opening statement as well, that TVA’s generation assets are in a changing energy and environmental regulatory climate. Can you speak a bit about the important role that coal and nuclear play in providing not just reliable baseload energy, but also at a predictable and affordable cost?

Mr. Ryder. Well, TVA maintains a diverse mix of energy sources: coal, natural gas, nuclear, hydro, and renewables; and I think it is important that TVA continue to maintain a diverse portfolio of energy sources. As technologies change and as commodity prices for fuels change, that gives TVA the ability to adjust its fuel mix so as to meet its mandated mission of providing low-cost energy for the entire region.

Senator CAPITO. Some would argue that hydropower should not be considered a renewable energy source from a policy perspective, the same way that wind and solar are. Can you speak about the importance of TVA’s hydroelectric assets, their need for upgrades, and how they help the Authority meet its environmental stewardship goals?

Mr. Ryder. Well, hydro is the original source of power for TVA, and there are 29 operating units today. In the last few weeks, we have gotten a lot of renewal of that resource throughout the Tennessee Valley, so, from my commonsense perspective, it looks to me like it gets renewed every time we have a tremendous amount of rain, snow, snow melt, and whatever else brings the water down the river and enables those hydro plants to work.

My office overlooks the Mississippi River. The Mississippi River is not part of TVA, but I am very familiar with watching the ebb and flow of rivers, the flood stages of rivers. I do this on a daily basis, and this exists not only on the Mississippi, but throughout the Tennessee.

Senator CAPITO. Thank you.

I mentioned in my opening statement the unfunded pension liabilities and the overall indebtedness relative to the statutory cap. Do you have any perspectives on this and what your priorities might be for reducing that burden?

Mr. Ryder. They do have a tremendous burden, and I have just begun to look at that. TVA has taken some steps to address that, both through increase in the investment yield on the portfolio and in contributions from earnings. They have a long way to go, and that is something that, if I am confirmed, I look forward to looking, well, I don’t know if I look forward to it; there are very tough decisions that may have to be made there.

Senator CAPITO. You mentioned in your law practice that you did a lot of bankruptcy work.

Mr. Ryder. Corporate.

Senator CAPITO. Do you have any experience with handling the pension funds outside, in a corporate bankruptcy?

Mr. Ryder. That often is an issue in a Chapter 11 bankruptcy, where there is an underfunded pension liability. Under the bank-
ruptcy code, that takes priority. Here, we are trying to address the problem before we get to insolvency.

Senator CAPITO. Well, for those hardworking folks, I am sure that is deep in your mind.

Let's go back to coal and nuclear. I know I know this, but I can't recall it up into my mind. Are there scheduled retirements of certain nuclear and coal plants, I am certain coal, within the TVA? Are you familiar with that?

Mr. RYDER. The coal plants, yes. The schedule is to convert, and they are actively in the process of doing that.

Senator CAPITO. Convert to natural gas?

Mr. RYDER. Convert the coal plants to natural gas. In fact, the plant in Memphis is being converted from coal to natural gas, and I think that gas plant comes online either next year or the year after. They have been working on that for some time. But that is part of an overall program of increasing the amount of energy derived from natural gas, which is now, I think, about 14 percent and is going to rise to as much as 29 percent. The amount of coal declines by a similar amount over the same period.

Senator CAPITO. And what is the mix for nuclear, do you happen to know?

Mr. RYDER. The mix right now is about 29 percent coal, about 31 percent nuclear. Nuclear and natural gas increase under the plan; coal decreases.

Senator CAPITO. Does nuclear increase because of modernization of existing plants?

Mr. RYDER. It is modernization. It is principally the Watts Bar Plant that was just brought online and getting that up to full yield.

Senator CAPITO. Well, thank you.

Senator WHITEHOUSE.

Senator WHITEHOUSE. Thank you very much.

Mr. Ryder, welcome. It is a little odd to even have to ask these basic questions, but let me just get them out of the way.

Do you accept and understand that the carbon emissions from fossil fuel power plants are greenhouse gases that contribute to climate change?

Mr. RYDER. Senator, climate change occurs. Whether it is a result of carbon emissions or not doesn't matter to me.

Senator WHITEHOUSE. Do you think there is a question whether carbon emissions contribute to climate change?

Mr. RYDER. I don't know. I am somewhat of a skeptic. I don't know the science that well on that issue. What I do know is that as a consumer, as a resident of the Tennessee Valley, I am in favor of clean air and clean water, so I think steps should be taken, as they have been taken by TVA, to make sure that our air is clean and our water is pure.

Senator WHITEHOUSE. As a lawyer and as a member of the Board, you may be asked to weigh in on legal questions that the TVA is presented with. There is, I think at this point, unanimous Federal court precedent that when decisions are made that relate to carbon emissions, it is incumbent upon the agency to take into account the social costs, including pollution, that relate to those carbon emissions.
I think we have, at this point, the Ninth Circuit, the Seventh Circuit, and the D.C. Circuit all arrayed on the “yes, you must” side of that, with nobody on the other side, and a considerable array of district court decisions that have corrected agency action where they failed to take that social cost into account or where they presumed that it was zero.

If you are presented by your lawyers a recommendation that decisions by the Board need to take into account that social cost of carbon, will you follow their legal advice and will you accept that, or is there some reason why you would have difficulty with that?

Mr. Ryder. Follow the legal advice of our counsel and follow the precedents that are set by the courts? As a lawyer, that would always be my advice to my client.

Senator Whitehouse. Yes. It is pretty logical advice, isn’t it?

What would you suggest to us as markers that we could look to in your performance as a director that you have given renewables, storage—there is a new FERC storage rule TVA is going to have to react to—distributed generation, which empowers consumers to take a much bigger hand in their own power control and their own economics, what would be the markers that we should look to you have given those technologies a fair shake against natural gas or coal-generated power?

Mr. Ryder. Well, I am coming here today as a resident of Memphis and west Tennessee, an area that feels that it has been under-represented on the Board of TVA, even though we account for, as I said, 10 percent of the total population of TVA and 12 percent of its load.

Memphis is uniquely situated in that it has one of the largest urban poor populations in the Country. We have a lot of people that have trouble paying their light bill, so the TVA mission of providing affordable power is very important to my community; it is a very significant concern.

Senator Whitehouse. Facilitating distributed generation can be an extremely empowering way of addressing that issue.

Mr. Ryder. I want the Board, I want TVA to look at all opportunities to provide low-cost power to the people of my community.

Senator Whitehouse. Including in that cost analysis the social cost of carbon, as your lawyers will recommend to you?

Mr. Ryder. I think when I was taking my economics course in college, those were referred to as neighborhood effects.

Senator Whitehouse. Yes.

Mr. Ryder. And those need to be taken into account.

Senator Whitehouse. Negative externalities, neighborhood effects, whatever, need to be taken into account.

Mr. Ryder. Right.

Senator Whitehouse. Great. OK, I appreciate it, and I will re-emphasize that Senator Corker and Senator Alexander have great respect here in this body. I had the pleasure of serving with my Chairman Alexander on the HELP Committee until I just vacated it to move to the Finance Committee.

The legend in Washington is that the Finance is the more powerful committee, but moving away from Chairman Alexander is a step that one takes reluctantly, because he is a man who likes to
get things done and works well with his colleagues, so I appreciate
their support for you.

Mr. Ryder. Thank you, Senator.

Senator Capito. Thank you.

Senator Boozman.

Senator Boozman. Thank you.

I would agree, I think we all would agree with your assessment
of Senator Alexander and Senator Corker; it is good to have those
guys on your team, and we do appreciate the fact that you are will-
ing to do this.

In your opening statement you mentioned the challenges ahead
in the energy sector with declining demand in electricity, environ-
mental concerns, which Senator Whitehouse was talking about, the
growing importance of the appropriate mix of generation of fuel.

How do you see TVA balancing keeping low rates in the Valley
in the face of such challenges?

Mr. Ryder. That is an interesting challenge. At the present time,
TVA produces more energy, in fact, than it needs, so it is not look-
ing to outside of its present resources under the present plan of re-
structuring coal, natural gas, bringing up nuclear to reach outside
for any additional sources of energy.

Senator Boozman. That is interesting. I am glad you brought up
the fact that—well, again, coming from Arkansas, your neighbor,
there are areas of significant growth in the region, but also there
are significant areas of poverty, and keeping rates low for people
on fixed income, single moms, the list goes on and on, is so, so very
important.

TVA provides electricity for over 9 million people in the south-
east; however, they are tasked with much more than just providing
efficient and affordable electricity. You are also tasked with pro-
viding flood control, navigation, land management, economic devel-
oment for the southeastern region.

In your opinion, how does TVA’s management of waterways,
transportation, forestlands spur the economic development in these
areas that desperately need economic development?

Mr. Ryder. Well, Senator, my office looks over the Tennessee
River. I look at Arkansas all day, and it is a beautiful State, but
Tennessee is also a beautiful State, and it is one of the largest
tourist States in the Country, so tourism is a huge industry. Tour-
ism and recreation are huge industries for Tennessee, employing
thousands of people, and maintaining those public lands for recre-
ational use is important to the economy of Tennessee, as well as
the enjoyment of the citizens of the Tennessee Valley region.

Senator Boozman. You mentioned being from Memphis, being ac-
tive in that regard, TVA’s largest customer. Tell me about your phi-
losophy about TVA working with State and local partners.

Mr. Ryder. I have a strong belief that TVA needs to work very
closely with State and local authorities. In fact, one of the reasons
I became interested in this position is that I felt that perhaps on
our end of the TVA distribution network we were not always being
heard and that it needed to step up its game in terms of working
with State and local authorities.

So, my hope is that, if I am confirmed as a member of the Board,
that I can help guide the TVA in doing that for those of us who
are from areas that are not where TVA has major offices. TVA’s corporate office is in Knoxville, Tennessee; its operating facility is in Chattanooga, Tennessee; and over in Memphis we are kind of, well, kind of the red-headed stepchild in Memphis. Senator Wicker knows what I am talking about because he is from the same part of the world as Memphis and I am, and we feel like we kind of get left behind, so I would urge the TVA to step up its game in that regard.

Senator BOOZMAN. Well, I agree with you totally in that regard. Thank you, Madam Chair.

Senator CAPITO. Thank you.

Senator GILLIBRAND.

Senator GILLIBRAND. Thank you, Madam Chairwoman.

Cybersecurity of the electric grid is a critically important issue. Just last week, DHS and FBI again confirmed that Russian hackers have carried out deliberate and ongoing operations targeting the U.S. energy industry.

The energy grid continues to be a target for those who would wish to do us harm, and we must continue to ensure that we are doing everything possible to protect the electric grid from cyberthreats.

How will you prioritize cybersecurity as a member of the TVA Board?

Mr. RYDER. Well, cybersecurity and physical security walk hand-in-hand here, and that has obviously got to be a priority in an era in which cyberattacks are possible from whether it is the random hacker in the Ukraine who is just searching for identity theft or whether it is an act perpetrated by a foreign government.

I appreciate the Senator’s question. I think that should be a major concern and priority of the Board.

Senator GILLIBRAND. As it is a major concern and priority, what specific things do you intend to do to secure the safety of the electric grid?

Mr. RYDER. If I am confirmed, that would be something that the Board would have to consider directing the staff to undertake and prioritize.

Senator GILLIBRAND. I request that you write a letter to this Committee, after you do get confirmed and after you do meet with your Board, about what your actual decisions are, what you intend to do. For example, will you hire experts? Which experts will you hire? Will you put in new technology? Will you have fail-safe technology? I would like to know a plan, a specific plan. Once you are in a position to create that plan, will you inform this Committee?

Mr. RYDER. We will absolutely inform the Committee any time we are asked to inform the Committee and keep the Committee apprised.

Senator GILLIBRAND. I would be very grateful for that by letter. Thank you.

The growth and development of renewable energy technology has created great potential for individuals to become energy entrepreneurs by generating their own energy at their home and at their businesses. Currently, the Tennessee Valley Authority, through the Green Power Providers Program, encourages the installation of small-scale renewables and pays a retail rate to homeowners and
businesses that participate in this program for every kilowatt hour generated by their system.

Do you support continuing and expanding programs like the Green Power Providers Program, which incentives homeowners and businesses to invest in renewable energy systems on their properties, including solar and wind?

Mr. Ryder. Our part of the world, Senator, is probably more favorably suited for solar than wind, but I think TVA should continue to use renewables as part of its overall mix of energy sources.

Senator Gillibrand. Great. And do you intend to support greater investment in renewable energy technology in the region served by the Tennessee Valley Authority? Why or why not?

Mr. Ryder. One of the mandates under the Act for TVA is to be a leader in innovation, and I would support that.

Senator Gillibrand. That would be terrific.

Energy efficiency is an important component in lower energy costs for consumers by reducing the amount of energy we use. Do you support policies that promote greater use of energy-efficient technologies?

Mr. Ryder. Yes.

Senator Gillibrand. And what role do you envision for the TVA in the energy efficiency space if you are confirmed?

Mr. Ryder. Well, TVA has had a longstanding program of encouraging energy efficiency. Of course, they work through local providers, and I think as long as I have been conscious of the fact, I have received mailers from TVA in my home showing me how to make my home more energy efficient, and that is one of the reasons we face declining demand for electricity.

Senator Gillibrand. It is helpful. Even in my own State, when we have done tours around the State of people who are using energy efficiency, we show how much money homeowners can save, and it is just such a value added, from putting in better windows to having more efficient appliances. It just makes sense, and I hope you will be a leader in that area because it really helps working families.

Mr. Ryder. It is a matter of energy education.

Senator Gillibrand. Thank you.

Thank you, Madam Chairwoman.

Senator Capito. Thank you.

Senator Wicker.

Senator Wicker. Thank you very much. Glad to be here.

If you don't mind, Madam Chairman, let me make a statement and then I will perhaps——

Senator Capito. Well, OK.

OPENING STATEMENT OF HON. ROGER WICKER, U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Senator Wicker. All right. I don't hear any objections.

I want to congratulate Mr. Ryder for his nomination and thank him for his willingness to serve on this important Board. I want to highlight the impact TVA has had on the quality of life and economic well-being of residents in Mississippi and across the south over the course of its history.
In 1930, nearly 85 percent of homes in large urban areas had electricity, but only 10 percent of rural homes had the same access. In Mississippi, only 1.5 percent of farm homes had electricity, the lowest in the Country.

The creation of TVA as a result of the Act of 1933 was a game changer. The goal was simple: to improve the living and economic conditions of seven southeastern States. My hometown of Tupelo, Mississippi is, of course, the first TVA city and we are still proud of that. By providing affordable electricity to rural communities, TVA was an important economic boost, delivering a needed commodity to one of the Country’s poorest regions.

From 1930 to 1940, the number of farm homes in Mississippi with electricity increased from less than 4,700 to more than 27,000 in just a decade.

TVA’s positive impact on Americans throughout the south continues to this day. Anyone who has experienced a power outage can attest to our reliance on electricity; it touches almost every aspect of our lives.

TVA currently provides reliable, clean, and low-cost energy to more than 332,000 households in my State of Mississippi and serves approximately 9 million customers across the seven States. TVA has continued to improve its power generation portfolio, including hydroelectric, coal, natural gas, nuclear, and renewable energy, and I think the previous question touched on that.

In October 2016, TVA announced the completion of the Watts Bar Nuclear Plant in Ray County, Tennessee, a major step for nuclear energy in the United States. This was the first nuclear plant to come online in this century and provides power to approximately 4.5 million homes. TVA’s service and efficiency have garnered a remarkable 99.999 percent reliability rating.

So, I look forward to working with you, Mr. Ryder, and want to participate and do what we can at the senatorial and congressional level in TVA’s continued success.

Now, let me ask you, if I might, Madam Chair, to just touch on one aspect, and that is the fact that TVA provides power to 154 local power companies, that in turn serve over 9 million homes in the Tennessee Valley. So, in that sense, its customers are actually local power companies that distribute the power at retail. How do you see this relationship evolving? And what do you envision as the role for the local power companies that are part of the public power model in the Tennessee Valley?

Mr. Ryder. Senator, you are absolutely right, TVA does not, except for some industrial customers, provide power directly to the end-user, it is all through intermediaries, through the local power providers. So they become the focal point for setting rates and for encouraging energy education, energy efficiency. It is important that TVA have a close working relationship with those providers to make sure that TVA is providing them with safe, reliable, reasonably priced energy and that they in turn can pass that on to their consumers.

I am from Memphis, and I am your neighbor.

Senator WICKER. You sure are.

Mr. Ryder. We understand that. Memphis, north Mississippi, west Tennessee are tremendous consumers of the end-product, and
we also are home to a lot of people who cannot afford to pay high rates and need to be sure that they are provided with low-cost energy.

We are also, fortunately, home to growing industries, particularly in the automotive world, which have tremendous energy needs. Their need is for reliable power, and the ability to continue to provide power with 99.99 percent reliability is very important to them and important to making sure that there are good paying jobs for the people of our region.

I also want to note that not only did Tupelo produce the first TVA city, but it is home to The King, and we are very proud of him. We are glad you sent him up our way.

Senator WICKER. Well, we gave him a good foundation in Tupelo and then we sent him on up to Memphis, I guess because there were more guitars up there.

[Laughter.]

Mr. RYDER. Thank you.

Senator WICKER. Thank you very much, Mr. Ryder, and thank you, Madam Chairman.

Senator CAPITO. Thank you.

Senator CARPER. I want to just pick up from our conversation yesterday when we talked about music and ask you to just share with us some of the recordings, famous recording studios in Memphis that we should be mindful of.

Mr. RYDER. Well, you have Sun Studio.

Senator CARPER. And who recorded there, whoever recorded there, any idea?

Mr. RYDER. I have not recorded anywhere.

Senator CARPER. No, no, no, but who has? Sun is one of the most famous recording studios in the world and it is in Memphis. Who has recorded there?

Mr. RYDER. Johnny Cash.

Senator CARPER. OK, The Man in Black.

Mr. RYDER. Elvis.

Senator CARPER. The King.

Mr. RYDER. The King.

Senator CARPER. Jerry?

Mr. RYDER. Jerry Lee Lewis.

Senator CARPER. Carl?

Mr. RYDER. Carl Perkins.

Senator CARPER. Roy?

Mr. RYDER. Roy Orbison.

Senator CARPER. “Only the Lonely.” Those are all my questions. [Laughter.]

Senator CARPER. Now for the tough questions.

Thank you for the time you spent with us yesterday. You mentioned to my staff and me that you thought it was important for TVA to have somebody on the Board from Memphis, and you explained why. Is there anybody already on the Board from Memphis?

Mr. RYDER. Yes, there is.

Senator CARPER. Who is that?

Mr. RYDER. Ron Walter.
Senator CARPER. And is Ron Walter doing an adequate job, do you think, representing the interests of Memphis?

Mr. RYDER. I am sorry?

Senator CARPER. Is Ron Walter doing an adequate job in representing the interests of Memphis on the Board?

Mr. RYDER. Ron Walter is. He is a good friend of mine. I have known him for many years.

Senator CARPER. You are not going to throw him under the bus?

Mr. RYDER. No.

Senator CARPER. OK. All right.

For some time, I have encouraged TVA, as I said in our conversation yesterday, to be an industry leader, not a laggard, especially when it comes to clean energy and to energy efficiency. I have been pleased over the last several years with TVA’s commitment to retiring some of their older, dirtier coal power plants and to investing in clean energy. We talked about converting one of the plants there to natural gas.

These clean energy investments have resulted in cleaner air and new economic opportunities for the people of the Tennessee Valley and surrounding areas. For example, I believe Google is starting to break down on a $600 million investment to build a data base at one of TVA’s retired coal plants in northern Alabama. Google chose the location in part because the company wants the data base to run on 100 percent renewable energy and knew TVA would provide the clean power. This one project is expected to create about 100 jobs or more.

My question, if confirmed, will you commit to continuing these clean energy investments? Will you commit to ensuring that TVA is a national leader in technological innovation and environmental stewardship?

Mr. RYDER. TVA has a mandate under the TVA Act to be a leader in innovation, and I think it should continue to be a leader in innovation and should move in those directions. Part of the way it does that is by balancing its portfolio of energy resources among a variety of sources and employing the best available technology to ensure that that energy is produced both in a clean and efficient way so as to deliver reasonably priced energy to the ratepayers.

Senator CARPER. All right.

We talked a little bit yesterday about coal ash and the terrible incident that occurred several years ago. We talked also about why you wanted to join the TVA Board. You admitted you didn’t have any experience in the energy field, but discussed your desire to work on a local issue involving the Allen Fossil Power Plant being converted from a coal plant to a natural gas plant.

You raised the issue of the Allen Coal Plant having an online coal ash pond close to a water source important to Memphis water supply. Here are a couple questions I have that relate to this.

Without any relevant experience, what would you bring to the TVA Board that would make it better than it is today? What would you have done differently in the Allen Coal Plant situation? Do you support TVA lining all of their coal ash ponds that are near bodies of water that supply drinking water to local communities? Please.

Mr. RYDER. Well, you have touched on a very important issue to the people of Memphis, and that is the conversion of the Allen Coal
Plant to a natural gas plant, and it illustrates some of the cost tradeoffs and the problems with any energy source. The Allen Coal Plant is in the process of being converted to natural gas. In order to provide the cooling water for the natural gas at the new plant, TVA drilled a series of wells into the Memphis Sands Aquifer, which is the source of drinking water for the city of Memphis and the surrounding area.

This aquifer is a precious resource for Memphis for generations to come. The aquifer is many hundreds of feet below the surface; it is protected by a barrier of clay, and the water in that aquifer is so pure that you can drink it without treatment. It does not need to be treated at all; you can drink it straight from the aquifer.

Senator CARPER. I am going to interrupt.

Mr. RYDER. Yes, sir.

Senator CARPER. We had a good conversation about this yesterday, and I appreciate that.

Mr. RYDER. OK.

Senator CARPER. Let me come back to my three questions. I will just go back.

What would you have done differently in the Allen Coal Plant situation? What would you have done differently, had you been a Board member? What would you have the Board do differently in the Allen Coal Plant situation?

Mr. RYDER. I think I would have brought a sensitivity to the concerns of the local community of that, the potential contamination of the water supply, which seemed to be overlooked by TVA.

Senator CARPER. Do you support TVA lining all of its coal ash ponds that are near bodies of water, like the one you are talking about, that supply drinking water to local communities?

Mr. RYDER. I think that would have to be examined.

Senator CARPER. OK.

Madam Chairman, my time has expired. I have a question for the record about political contributions. I am going to submit that for the record. But I have just one last question, if I could.

Madam Chairwoman, when I was Governor of Delaware, I served in the National Governors Association, and every year the Governors met in different States. One year we met in Las Vegas and I was telling our nominee yesterday that maybe one of the best concerts I ever heard in my life was at that conference.

Governor Bob Miller lined up for us a show we went to, all the Governors and spouses and families, and the opening act was Gladys Knight and the Pips. They were followed by the original Righteous Brothers, and they were followed by the original Four Tops. The guy who closed the show was Chuck Berry, and he closed the show with an encore with a song called “Memphis, Tennessee,” and it started off, “Long distance information, give me Memphis, Tennessee.”

Would you complete that, please?

Mr. RYDER. It is a great song and my office is just a half a mile from the Mississippi Bridge.

Senator CARPER. Fair enough. Thank you.

Senator CAPITO. You got me on that one.

OK, thank you, Senator Carper.
I see no more questioners here, so, if there are no more questions for today, members may submit followup written questions, which I believe Senator Carper said he was going to do, for the record by the close of business on Thursday, March the 22nd.

So, Mr. Ryder, will you please respond to those written questions by close of business on Wednesday, March the 28th?

Mr. Ryder. I can do that.

Senator Capito. Thank you.

I say this hearing is adjourned. Thank you very much.

Mr. Ryder. Thank you, Chairman.

[Whereupon, at 11:02 a.m. the subcommittee was adjourned.]