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*A Best-Practices Example****TVA and Protection of the Critical Infrastructure****By Adam Montella, Law Enforcement*

The Tennessee Valley Authority (TVA) serves as a leading-edge case study for coordinating efforts between private-sector security forces and public law-enforcement agencies for critical infrastructure protection (CIP). Officials accept that CIP is a shared responsibility between both public agencies and private-sector businesses and other stakeholders. However, because most of the nation's vital services – water and electrical power, for example – are delivered by private companies, there is a significant challenge in determining which private-sector company, or government agency, has the responsibility of protecting a specific component of the nation's critical infrastructure.

TVA has a wealth of experience in dealing not only with the regulatory issues involving private-sector organizations that span a number of states but also with the cost and other financial problems resulting from unfunded mandates created by the issuance of various federal regulations or presidential directives. The TVA approach may therefore apply, as a best-practices example, to other critical-infrastructure entities facing similar regulatory and funding challenges.

TVA came into being in 1933 as “a corporation clothed with the power of government but possessed of the flexibility and initiative of a private enterprise.” Like many critical infrastructures owned and operated by the private sector, the TVA facilities are among the nation's most important infrastructure assets – and actually a fairly large part of the national infrastructure. The TVA “footprint” is both vast and vulnerable. The Authority sells power to 158 local distributors that serve an estimated 8.7 million

people and 650,000 businesses and industries in the seven-state TVA service region that covers almost all of Tennessee and sizable areas of Alabama, Georgia, Kentucky, Mississippi, North Carolina, and Virginia.

Each difficult issue the Authority faced – whether it involved power production, navigation, flood control, malaria prevention, reforestation, or erosion control – was studied in its broadest context

A Diverse and Powerful Portfolio of Tangible Assets

TVA also sells power to 59 large industrial customers and federal installations. The Authority's power system consists of a diverse mix of fuel sources, including fossil, nuclear, hydro, and renewable. Its physical inventory includes 11 coal-fired and eight combustion-turbine plants; three nuclear plants; 29 hydroelectric dams; and one pumped-storage plant as well as 16 solar power sites, one wind power site, and one methane gas site. Thanks to these resources, TVA generates more electricity than any other public utility in the United States.

From its inception, TVA used a unique problem-solving approach in carrying out its mission. Each difficult issue the

Authority faced – whether it involved power production, navigation, flood control, malaria prevention, reforestation, or erosion control – was studied in its broadest context. TVA weighed each issue in relation to the others to find the best possible solution to one that would not cause problems in other areas. Since its beginning, TVA held fast to its strategy of developing integrated solutions, even as the issues it faced – including some involving U.S. national defense and homeland security – changed over the years.

In the 1990s, TVA anticipated the issuance of presidential directives governing the protection of critical infrastructure. A 1996 Executive Order (13010) pointed out, for example, that it is essential for the government and private sector to work together to develop a strategy for protecting critical infrastructures and ensuring their continued operation. The problem, though, was determining *how* to best protect the Authority's vast complex of critical infrastructure facilities in a broad geographic area covering seven states.

It should be noted that, even prior to the signing of Executive Order 13010, TVA recognized that it had not always been totally effective in providing consistent protection for all of its facility sites. Each of the seven states it served had different regulations and procedures for coordinating with law-enforcement agencies. To overcome that challenge, TVA petitioned the federal government in 1995 to “reclassify” its private security guards by making them federal police officers. That foresighted petition was granted and one result was that TVA officers can now enforce local and federal laws in all seven of the TVA states.

Cooperation, Coordination, and Partnerships

But TVA did not stop there. According to DeWane Broome, the TVA police's commander of field services, the Authority has further strengthened its relationships by participating in Joint Terrorism Task Forces (JTTFs) with local and federal law-enforcement agencies and by serving on the Tennessee Valley Anti-Terrorism Advisory Council (ATAC). "Becoming federalized police and participating with local and federal law-enforcement agencies in task forces and councils has allowed us to be more effective in protecting our infrastructure," said Broome.

Despite the success of TVA's efforts to protect its infrastructure, it still has a number of major challenges to overcome – one of the most important of which is obtaining the additional budget resources needed to be compliant with the unfunded mandates issued by the federal government, particularly since the terrorist attacks in September 2001. "We are still faced with many of the same problems ... [facing] private industry," Broome said.

It is fair to point out that the Authority also faces *some* funding problems that are of little or no concern to the private sector. The federal regulations and presidential directives issued to improve protection of the critical infrastructure often but not always have some rather large price tags attached. However, like many other public utilities across the country, the TVA is not eligible to receive grants from the U.S. Department of Homeland Security (DHS) that would help offset the costs of compliance. "We are required to participate in the threat and vulnerability assessments for critical infrastructure facilities with our states, counties, and municipalities," said Broome, "but receive no funding to conduct the assessments or to take action based on the findings."

TVA has determined – to cite one example of how success breeds success, even when private/public partnerships are involved – that it is more cost-effective to have contracted security guards, rather than its own police officers, protecting TVA's own nuclear facilities. Although it may appear at first glance that TVA may have left a gaping hole in its protective armor, the security forces are actually armed and have police powers on the TVA grounds that they are guarding. They also are supported by TVA's own police, who usually are stationed at neighboring sites in close proximity. A specific situation in which this cooperative arrangement was put to good use was during a recent protest at one of the Authority's nuclear sites, where TVA police and the Pinkerton security guards set up a dual barrier around the facility – with the TVA police working outside the fence and the Pinkerton guards inside.

Raising the Funds, Lowering the Barriers

TVA's jurisdictions fall into four "umbrella" categories – Federal, Proprietary, Concurrent, and MOU (Memoranda of Understanding). The specific category assigned usually depends on such factors as what agency or political jurisdiction owns the land where the TVA facility is located, and/or the agency's ability to prosecute within a locality's jurisdiction.

TVA is financially self-supporting – another way of saying it receives no funding from taxpayers. One possibility that TVA is looking at to obtain the financial resources needed to pay for unfunded regulations and mandates could be to follow the example set by the Port Authority of New York and New Jersey (PANY&NJ), which in 2004 solicited assistance from the Office for Domestic Preparedness (ODP) of the U.S. Department of Justice. Although the City of New York and the States of New York and New Jersey were eligible for, and were receiving, millions of

dollars in support, equipment, and training funds, the PANY&NJ – which was headquartered at the World Trade Center, and which owned and operated its own facilities – received no federal funds, even following the terrorist attacks of 11 September 2001.

ODP provided the technical assistance and contractor support needed to help the Port Authority develop a toolkit for special jurisdictions. According to John Paczkowski, the PANY&NJ director of operations and emergency management, the toolkit "assisted the Port Authority in assessing all its critical infrastructure facilities for threat, vulnerability, and criticality," and the findings of that assessment "formed the basis for our justification to receive grants and other funding."

The justification paved the way in turn for the Port Authority to be written into the definition of the Urban Area Security Initiative (UASI) for New York City in 2007 not only as a principal agency but also, and of greater importance, one that is eligible to receive federal grant dollars. That elegant solution proved, if nothing else, that the best types of good examples are those that can run in either direction on the two-way street of public/private-sector cooperation and coordination.

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