

# Exhibit C

May 25, 2023

Re: FOIA tracking number 23-FOI-00108

Dear Mr. Eller,

This constitutes my appeal of TVA's May 11, 2023, denial of my request for agreements, grants or contracts entered into between Bitdeer (known as Carpenter Creek LLC) and TVA and related emailed correspondence. (See attachment from TVA FOIA Officer Denise Smith). Ms. Smith's letter to me denies my request on the grounds that:

"FOIA exemption 4 protects confidential commercial and financial information obtained by the government from an outside source that, if released, would cause competitive harm to the company from whom it was obtained. The government confidential commercial privilege under FOIA exemption 5 protects confidential information that would cause the government substantial competitive harm if publicly released."

As you know, TVA as a federal government agency is required to comply with the federal Freedom of Information Act, 5 U.S.C. 552. While exemption 4 protects confidential commercial and financial information obtained by the government from an outside source, this exception is to be narrowly construed and only applies if the information was not generated by the government (see *Bloomberg LP v. Board of Governors of the Federal Reserve System*, 601 F.3d 143, 148 (2<sup>nd</sup> Cir. 2010)).

In particular, exemption 4 does not allow for TVA to withhold information because of the potential consequences of disclosure or harm to the government as a result of public scrutiny following disclosure (see *Citizens for Resp. and Ethics in Washington v. US Dept. of Justice*, 58 F. 4<sup>th</sup> 1255, 1268 (DC Cir. 2023)).

The same applies for exemption 5 which also must be narrowly construed. Indeed, to the degree that TVA is withholding documents and correspondence to protect Carpenter Creek LLC (Bitdeer), I would remind you that Bitdeer raised the issue of its agreement with TVA in a February 10, 2022, letter from Bitdeer General Manager Stephanie Xia to U.S. Senator Elizabeth Warren. In that letter, Bitdeer advised that it participates in an Economic Development Initiative Commissioned by the TVA that ostensibly enables BitDeer to repurpose underutilized industrial infrastructure to create jobs. Obviously, TVA's analysis of Bitdeer's claims definitively fall within FOIA's purview.

Accordingly, based on the Freedom of Information Act, 5 U.S.C. 552, I'm appealing your denial of my request for agreements, grants or contracts entered into between Carpenter Creek LLC (Bitdeer) and TVA and related emailed correspondence. I am requesting:

1. All available documents and communications regarding the TVA's Economic Development Initiative.
2. All correspondence and communications between Carpenter Creek LLC (Bitdeer) and TVA related to Carpenter Creek's participation in the TVA's Economic Development Initiative.
3. All available documents and communications demonstrating how TVA verified Bitdeer's claim that it would repurpose underutilized industrial infrastructure to create jobs.

I have attached this letter in a Word document to the email as well, in addition to Ms. Smith's original response.

Thank you for your help.

Kindest,

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