

ADMINISTRATIVE PROCESS

(The letter referred to follows:)

FEDERAL POWER COMMISSION,
OFFICE OF COMMISSIONER.
Washington, January 23, 1963.

The PRESIDENT,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: It is with considerable regret that I now convey to you my firm decision not to accept a further appointment to this Commission after expiration of my present term of office on June 22, 1963. I respectfully request that a nomination to replace me be made in time to permit confirmation by the Senate prior to that date.

There are a number of reasons for my decision but I am sure I should be considered less than gracious if I were to list them all. Besides, several of them are clearly visible to those who have read the dissenting opinions which I have been obliged to write during my service here. I should, however, like to make a general comment concerning the regulatory agencies which may be of some small help to you, to my successors, and to the public interest. My study and work in the regulatory field cover a period of 25 years, and the strongest convictions produced by that experience are those I am setting forth in this letter.

Standing as it does midway between the extremes of unbridled monopoly and undiluted State ownership, public utility regulation has been perhaps as noble, hopeful, and challenging a concept as any in our democratic framework of government. The passage of law establishing this concept required all the courage, self-sacrifice and tenacity of men like George Norris, Hiram Johnson, Gifford Pinchot and many, many more of the same caliber. Ordinary men could not possibly have secured the enactment of those laws against the almost overwhelming forces opposed to them. Ordinary men cannot administer those laws today in the face of pressures generated by huge industries and focused with great skill on and against the sensitive areas of government. Ordinary men yield too quickly to the present-day urge toward conformity, timidity, and personal security.

Under our laws the great natural monopolies which form our utility industries are granted almost priceless protections and privileges. The industries and individual companies are keenly alert to their rights, as they should be, and properly insist before the commissions, the courts and the Congress, upon prompt and full enjoyment of those rights.

But those unusual rights—rights not enjoyed by unregulated industry—are accompanied by unusual obligations and responsibilities. Or are supposed to be. There is the rub. If our regulatory laws are not administered by men of the same character, courage, and outlook as the men who enacted the laws, we will surely find the regulated industries and companies successful in postponing, or evading entirely, the responsibilities which are supposed to accompany their rights. When this happens, utility regulation ceases to be or never becomes a protection to the consuming public. Instead it can easily become a fraud upon the public and a protective shield behind which monopoly may operate to the public detriment.

The big problem in the regulatory field is not ex parte communications, influence peddling, and corruption as that word is commonly understood, though where these problems exist they can be serious. In my experience as a regulatory official I have been approached only once with a veiled intimation that money or stock was available in return for a favorable decision, and that was at the State level, not here in Washington. But abandonment of the public interest can be caused by many things, of which timidity and a desire for personal security are the most insidious, the least detectable and, once established in a regulatory agency, the hardest to eradicate. This Commission, for example, must make hundreds and even thousands of decisions each year, a good many of which involve literally scores and hundred of millions of dollars in a single case. Without the needed sense of public responsibility, a Commissioner can find it very easy to consider whether his vote might arouse an industry campaign against his reconfirmation by the Senate, and even easier to convince himself that no such thought ever crossed his mind. And if he can fool himself, whom can he not fool?

The big problem is to find men of ability, character, courage, and broad vision who have the same viewpoint as the authors of the legislation they will be called on to administer; men who would feel at ease while working with a Pinchot or