

It is apparent that, in modelling Section 204 upon Section 20a of the Interstate Commerce Act, Congress must have had similar objectives. 13/

In testing a security issue by the statutory standard, the Commission must satisfy itself, of course, that the object is lawful and within the corporate purposes. Beyond that, we must inquire whether the contemplated investment would impair the company's ability to perform its normal functions as a public utility. The Commission might look to whether the investment is so improvident, frivolous, or speculative, that it threatens to squander the corporate substance without reasonable hope of return. By no stretch of reasoning can the construction of the Klamath Falls-Round Mountain line be fitted into one of these categories.

The dissenting view that the Commission should have withheld its approval appears to rest upon two grounds: (a) that the line is politically controversial, particularly in that it could be used to take Bonneville power away from the Northwest if public authorities were to authorize the sale; and (b) that the construction of a line at a voltage of 500 kv represents a "gamble" that Congress will eventually decide to make the

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13/ The two state decisions cited in the dissent are inapposite. In the Massachusetts case, 62 PUR NS 238; 64 N.E. 2d 640, the State Commission held that the issuance of preferred stock in exchange for common stock was for the sole purpose of furthering the financial interests of persons in 98% control of the company and that, in its judgment, this was not a "reasonably necessary" purpose in the furtherance of the company's public utility business. In the Virginia case, the State Commission held, at 86 PUR NS 136, that, under the different language, coverage, and legislative history of its Act, a Commission order authorizing the issuance of securities is equivalent to a certificate of public convenience. The State Commission then applied a different test than that set forth for an order under Section 204(a), which is not equivalent to a certificate of public convenience and necessity, as pointed out above and as the dissenting opinion concedes.

The dissent also cites Pacific Power and Light Co. v. Federal Power Commission, 111 F. 2d 1014 (9th Cir., 1940) as support for a broad reading of the statutory phrase "compatible with the public interest." The holding in that case, however, was that the phrase "consistent with the public interest," which appears in Section 203 and which the court equates with the concept of compatibility, "does not connote a public benefit to be derived or suggest the idea of a promotion of the public interest." The court notes that "it is beyond our immediate purpose to inquire into the precise nature of the interests to be safeguarded by the Commission in passing upon these applications;" yet that is precisely the question at issue here.