policy decisions still to be reached by the Congress. Yet the Commission was orally urged by the staff to approve the security issue in this proceeding at once because PP&L had construction crews in the field and wished to start construction of this line immediately in order to avoid penalties.

And Staff said, "Let there be haste;" and there was haste. The paraphrase may be slightly irreverent but it is entirely on point. 9/

Is there a possible basis in the public interest for allowing the construction of major excess capacity by a public utility to the extent proposed and under the conditions prevailing in this case? In justice to the rate-payers who will eventually defray the costs of construction under rates having the force of law, I cannot conceive of such a basis.

The argument has been made (and rejected by every regulatory commission worthy of the name) that regulatory authority is powerless to interfere with an adventure such as this because it lies within the inviolable prerogatives of management. It would be a waste of time and paper to cite all the cases which have held that, while there are some areas of management discretion which should not be invaded unless required by the public interest, every improper or improvident decision of management which threatens unduly to burden the rate-payer or otherwise to damage the public interest is subject to review and reversal. If it were otherwise, no regulatory law would ever have been enacted or could ever have been enforced.

Virtually every manager, and certainly every manager of a public utility in this country, who handles and spends other people's money is rightly subject to public scrutiny and control under law, including the Federal Power Act, and I will not lengthen this dissent by laboring the point.

Another favorite thicket of the utility lawyer defending practices such as those under discussion here is the argument that no interference with an enterprise such as this one is proper because the impact of the actions complained of is not sufficient to bankrupt the company even if the worst consequences were to ensue, and the effect upon the individual rate-payer, while not exactly a happy one, would not be disastrous.

This begs the question and raises a smokescreen of sophistry into the bargain. There is a principle involved here, and a supremely important

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9/ Judge Henry J. Friendly, of the United States Second Circuit, on February 13, 1962, in an Oliver Wendell Holmes lecture before the Harvard Law School adverted to the same subject in the following words: "In these large agencies a considerable amount of delegation is inevitable; definition of standards is required if the agency members are to be masters of the staff rather than the slaves of anonymous Neros, each fiddling his own tune."