

consider the public interest and not merely the question of whether the amount of money sought was necessary to acquire the proposed plant is found in the following provisions of § 56-61:

'The Commission may by its order grant permission for any such issuance or assumption in the amount or on the terms applied for, or in a less amount, or on different terms, or not at all, and may include in its order such terms and conditions fairly relating to the matter of such issuance or assumption as it may deem reasonable or necessary.'

"The quoted language gives the Commission authority it could not usefully exercise if its only function were to pass on the amount of money needed to acquire the plant and not on whether the plant itself was reasonably necessary to perform the public duties of the public utility."

The Supreme Court of Massachusetts interpreted the words "reasonably necessary," as used in a statute dealing with the issuance of securities by public utilities, in the same manner. Speaking in Lowell Gas Light Company v. Department of Public Utilities, 62 PUR NS 238, at 243; 64 NE 2d 640, that Court said that:

"since the words 'reasonably necessary' are not employed solely with reference to the amount of a proposed issue but refer also to the necessity of the issue itself, it follows inevitably that the Department must inquire whether the declared purpose of the proposed issue is in fact in the circumstances a reasonably necessary purpose. And having in mind that the function of the Department is the protection of public interests, we think that 'reasonably necessary' means reasonably necessary for the accomplishment of some purpose having to do with the obligations of the company to the public and its ability to carry out those obligations with the greatest possible efficiency."

In this case, perhaps for the reasons spelled out in the Virginia and Massachusetts cases cited, the Commission avoided finding that the proposed construction was "reasonably necessary;" choosing to find instead that it was "reasonably appropriate."

I disagree. There are grave doubts, as I have shown, whether the proposed construction is or can be made "compatible with the public interest" in the existing circumstances. Until it passes that first and essential test on the basis of findings of fact, it is not helpful to talk about the proposed construction as being "reasonably appropriate." Such talk is, in fact, fuzzy, premature, and represents a conflict in terms.