

this unfortunate series of circumstances has resulted in publication of a majority opinion virtually repealing that portion of the Federal Power Act, while serving as a precedent for nonfeasance in the future even more scandalous, if possible, than that of the past.

In the months which have intervened since publication of the majority opinion it has already served as a reference-guide for examiners, for staff members, and for Commissioners themselves who wish to avoid the duties and responsibilities in service of the public interest spelled out clearly by the Congress in the Federal Power Act.

In these circumstances I have the unavoidable duty, in behalf of the public interest, of commenting further in this matter. In doing so it is not my purpose to prolong or exacerbate the controversy, but to bring all aspects of this matter into proper perspective for the benefit of those who may refer to this case and its important issues in the future.

In an attempt to explain their refusal to discharge a duty Congress assigned this Commission, my colleagues have repeatedly misstated my position. Contrary to their claim, I never suggested that "the Commission should have withheld its approval" of and "should have scheduled a hearing" on a \$55 million security issue, "merely because a small fraction of the proceeds [estimated by the majority at \$1.5 million, or 2.7% of the total issue] are to be devoted to the construction of facilities . . . for a future use which may not materialize."

Throughout our deliberations, as my colleagues well know, I raised no question regarding the undertakings to be financed with the bulk of the issue. I was concerned, and I remain concerned, solely with the question of whether or not the expenditure of an estimated \$1.5 million to enlarge the proposed Klamath Falls-Round Mountain tie-line is compatible with the public interest. I was unable, and I remain unable, to state the confines of that concern more clearly than I did in my first dissent, viz:

"It is . . . impossible to reject the line out of hand as being uneconomic, imprudent or otherwise incompatible with the public interest. There simply is no record on which to base either approval or rejection. I therefore have not advocated rejection of the project in the present proceeding and I do not advocate rejection now.

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"What I have advocated, and what I believe is clearly required by Section 204 (a), (b) and (c) of the Federal Power Act, is careful investigation and genuine