

public interest" test because Congress rejected the discretionary test of "public convenience and necessity"! Specifically, the majority opinion rules that, "in testing a security issue by the statutory standard," the Commission need only satisfy itself that the specific undertaking to be financed --

- (1) is lawful,
- (2) that the company is legally authorized to perform it, and
- (3) that it will not impair ("squander") the company's ability to serve as a public utility.

As can be seen, this ruling is in flat and flagrant opposition to the law.

The remainder of the majority's statement consists of a series of question-begging assertions that this Commission is not empowered to determine whether a publicly-owned interconnection should be constructed (a determination I have never suggested we should or could make), or whether the company's proposed interconnection should be used to transmit surplus Bonneville power to the Pacific Southwest (another determination never suggested by me), plus an assertion that applicant's proposal is not "totally improvident."^{3/} It concludes with references to the desirability of an effective regional tie-line, the alleged "harmony" of applicant's proposal with certain of the Bonneville Power Administration's engineering recommendations, and an explanation (which does not explain) why the Notice herein did not give notice.

^{3/} The majority tested the proposal by (only) three standards. It says the question "is whether from an economic standpoint . . . an investment incontrovertibly within the lawful corporate purposes of the Applicant -- represents a totally improvident business decision." But the majority did not apply the economic test either, having previously ruled that "whether [a publicly-owned] interconnection would . . . remove any economic justification for Applicant's proposed expansion . . . [is] not for us to decide." Instead, as a substitute for the investigation it refused to make, it merely provided a series of hollow official recitals, such as: "we have no reason to think" that the investment would be "totally improvident"; "this Commission estimated only last January that the demand for electric energy in 1980 will be 3.75 times the requirements in 1960"; and so on. This orotund approach will not prevent undertakings "which make impossible the proper and most economic performance of public utility functions." (Sen. Rept. 621, 74th Congress, emphasis supplied.) In sum, the majority declined to scrutinize the matter at all.