

and that Commission's practice in no way limits the scope of the inquiry we are authorized and directed to make under the statutory counterpart of Section 20 (a). The following excerpts from the decisions of the ICC itself make this clear:

"We are required to make investigation of securities before authorizing their issue."11/

"Our powers, in the public interest, to grant or withhold approval of security issues are broad."12/

"In any application to us for authority to issue securities, we are bound to measure the proposal by the test of the public interest in whatever phase that interest may appear to be affected."13/

And, from the Supreme Court of New York:

"Whatever may be the language used in its decisions, it is clear that when the [Interstate Commerce] Commission is called upon to approve the issuance and sale of securities under § 20a it has felt itself free, and properly so, to exercise its own independent judgment for that of the directors where in its opinion the public interests would best be served thereby. * * * Obviously, it would be futile [for an applicant] to propose a security issue which the Commission would be bound to disapprove as not 'compatible with the public interest' or with the proper performance by it of service to the public."14/

In sum, the majority's attempt to obscure the unobscurable intent of Section 204 of the Federal Power Act by an overlay of legalisms simply will not do.

11/ In the Matter of Wheeling & Lake Erie Railway Company, 67 ICC 293 (1921).

12/ In the Matter of New York, Chicago, and St. Louis Railroad Company, 79 ICC 581 at 585 (1923).

13/ Stock of New Jersey, Indiana & Illinois R., 94 ICC 727 at 729 (1925).

14/ Casey v. Woodruff, et al., 49 N.Y.S. 2d 625 at 640 (1944).