

because they charged too little; whether it was violating the terms of its license for the construction of the lower Hells Canyon project, its problems with fish passage and various other things that we thought we could handle in a more orderly way or which did not represent a provident use of staff or which went entirely beyond our province.

And we declined to use this security issue proceeding as the fulcrum for these investigations.

Mr. BROTZMAN. So you predicated that order on those reasons and not on a desire to conform or the fact that you were timid or had a desire for personal security?

Mr. SWIDLER. Yes, sir; I have no fear whatever of the Idaho Power Co.

Mr. BROTZMAN. And one other thing: When you write these decisions and these opinions, you predicate them upon the evidence that has been presented to you and the facts adduced in evidence, and not on some other hidden purpose or meaning, is that correct?

Mr. SWIDLER. We try very hard, Mr. Brotzman, to decide a case on the record and to be a model of impartiality and handle it with administrative justice.

Mr. BROTZMAN. The reason I am interested in this matter particularly, of course, as the chairman stated initially, is we are trying to improve the process and having had a small bit of experience in this general area at the State level, it is of great importance, of course, to the attorneys and to the people and to everyone concerned that we know why you are deciding a decision a certain way.

It is of great importance.

Mr. SWIDLER. Well, I think you can be assured, Mr. Brotzman, that we are doing our level best on the record.

I don't claim that we are not making some mistakes; I am sure that we are.

Mr. BROTZMAN. I have no further questions, Mr. Chairman.

The CHAIRMAN. Mr. Swidler, you have in my judgement presented a very vigorous defense in behalf of yourself and the Commission and have fairly given the committee your feeling about this entire matter.

I gather from the overall picture that this is a matter that developed rather competitively within the Commission, culminating in the action that was taken. I gather that you take your work very seriously.

From my observation you have made a very great effort to do your job as chairman as you see it, with the organization and personnel at your disposal and with the Commission in carrying out its duty and responsibility.

Do you feel that your actions have been in the public interest?

Mr. SWIDLER. Yes, sir.

The CHAIRMAN. Do you feel that your administration and actions in the Commission have been in the interest of the consumers?

Mr. SWIDLER. Yes, sir.

The CHAIRMAN. You have had that in mind as you have worked in an effort to serve the people who have appeared before you?

Mr. SWIDLER. To the best of our ability, sir.

The CHAIRMAN. Do you feel that the industry must have the decisions of the Commission before it can serve the public?

Mr. SWIDLER. I am sorry, sir; I didn't hear the question.

The CHAIRMAN. Do you feel that the industry must have decisions of your Commission on the matters under your jurisdiction before they can adequately serve the public?

Mr. SWIDLER. Yes, sir. I think that a good many of the business decisions of the industry are dependent upon our moving; that we can either make the industry stronger or we can hold them back and make them weak.

And I don't think it would be to anybody's interest if we should not attempt in any way we can to help them at the same time that we help the consumer.

The CHAIRMAN. In other words, you feel that we have got to consider the problems of the industry in line with your duty as a member of the Commission in order for it to be able to serve the public?

Mr. SWIDLER. Yes, sir. All segments of both industries.

The CHAIRMAN. Now, you have had some observations in the past with similar matters, as to how it affected other boards or commissions, have you not?

Mr. SWIDLER. I have worked for the Tennessee Valley Authority, sir, for many years.

The CHAIRMAN. When you were a young lawyer, did not a similar situation develop among the TVA Board?

Mr. SWIDLER. Yes, sir. There was another "Morgan" case, I might say, in the TVA, Arthur E. Morgan.

The CHAIRMAN. Ironically the one who dissented in that was named "Morgan," too?

Mr. SWIDLER. Yes, sir, Arthur E.

The CHAIRMAN. And didn't Mr. Leland Olds have something to do with the Tennessee Valley Authority back in those days?

Mr. SWIDLER. No, sir.

The CHAIRMAN. Was Mr. Lilienthal—

Mr. SWIDLER. Mr. Lilienthal, yes, sir.

The CHAIRMAN. Then, from your experience as to what can happen to a board or a commission, you of course felt this even more keenly?

Mr. SWIDLER. Yes, sir. I think it is a matter that affects each member of the commission very deeply.

The CHAIRMAN. As a matter of fact, didn't that instance provoke a joint congressional committee investigation?

Mr. SWIDLER. Yes, sir.

The CHAIRMAN. More far reaching than this has been, wasn't it?

Mr. SWIDLER. Yes, sir. This was an investigation that Mr. Francis Biddle was employed to head and occupied the time of the joint committee for a number of months, and it came out with a 20 or 30 volume report.

I don't know that I want to carry the parallel any further, Mr. Chairman.

The CHAIRMAN. No, I know that is true, but I merely mentioned that to let the record show that even as a young man in public service you had occasion to observe what happened in a situation such as this that affected the particular board involved.

Mr. SWIDLER. Yes, sir.

The CHAIRMAN. Now, I know there has been a lot of discussion and many questions asked about the interpretation of the letter that provoked publicity on this matter, and it is not my purpose to rehash that again, but I hold in hand an article which I believe was the first article on it.

And it is dated on Saturday, January 26.

The headline is "FPC Member Raps Agencies For Conformity."

Now, that was the interpretation that was placed by the publicity on this letter that was called to your attention?

Mr. SWIDLER. Yes, sir.

The CHAIRMAN. You felt that pretty deeply, didn't you?

Mr. SWIDLER. Yes, sir.

The CHAIRMAN. The very first paragraph:

A fellow Power Commissioner announced yesterday that he would not accept reappointment because of "the urge for conformity, timidity, and personal integrity" in the regulatory agencies.

Do you feel that that was directed to you, among other Commissioners?

Mr. SWIDLER. Yes, sir; I so understood it.

The CHAIRMAN. And it is the interpretation that the press placed on it then that strengthened your feeling that this was an attack on the Commissioners themselves?

Mr. SWIDLER. Yes, sir.

The CHAIRMAN. Now, Mr. Swidler, you started a year and a half ago, did you not, approximately?

Mr. SWIDLER. I became Chairman, sir, on September 1, 1961. I had served on the Commission as a member for 2 months before that date.

The CHAIRMAN. One of the things that this committee has tried to bring about in the last several years is a policy to do something about the long, unnecessary delays before the various regulatory agencies.

Did you start with the intention of trying to do something about such unnecessary delays and long, drawnout decisions before the Commission?

Mr. SWIDLER. Oh, yes, sir. This was the great challenge of the job, to see whether I couldn't help improve the administration of the Federal Power Commission.

The CHAIRMAN. And you feel that you have done that?

Mr. SWIDLER. I feel we have made a lot of progress, yes, sir.

The CHAIRMAN. Well, I must say so far as the administration of the program is concerned I am strongly of the opinion that you have.

Do you know, in dollars and cents, how many pipeline applications have been approved since you went down there in the last year and a half or a little more?

Mr. SWIDLER. I think it was over \$600 million last year.

May I put that figure in the record, sir.

The CHAIRMAN. Yes. Well, until we get it more nearly correct, you estimate it about \$600 million last year?

Mr. SWIDLER. Yes, sir.

The CHAIRMAN. 1962?

Mr. SWIDLER. Yes, sir.

The CHAIRMAN. You kept in mind the interest of the public in each one of those, I believe you said?

Mr. SWIDLER. Oh, yes, sir.

The CHAIRMAN. Is it not a fact that with the approval of \$600 million in construction, uniform throughout the United States, that it helped the economy of the country to that extent?

Mr. SWIDLER. Yes, sir, it is particularly important in the steel industry, sir.

A lot of that is pipe.

The CHAIRMAN. Well, isn't it also important, insofar as employment is concerned, too?

Mr. SWIDLER. Yes, sir.

The CHAIRMAN. Now, how many applications, in dollars and cents, approximately do you have pending before the Commission today?

Mr. SWIDLER. That figure is in the quarterly report which is part of the record. It is appendix A to my statement, and I believe it is about \$800 million.

I can now give you the exact figure for the pipeline certificates, sir.

In 1961 the amount authorized was \$309 million. In 1962 it was \$628 million and for January 1963 it was \$66 million.

The CHAIRMAN. Well, I for one want to compliment you and the Commission for your efforts in bringing about a decision in these matters in order that the public can be served and protected and the economy of the country improved to that extent.

I have before me, as of January 30, 1963, recent activities of the Federal Power Commission. I am talking about the reports, and in which there are set out, insofar as the natural gas industry is concerned 18 items.

You are familiar with that, are you not?

Mr. SWIDLER. Yes, sir. I would hope that you would see fit to put that in the record, Mr. Chairman.

The CHAIRMAN. Well, I was going to ask you if it was included in your report that you submitted to us this morning.

Mr. SWIDLER. Not in as complete a way, sir.

The CHAIRMAN. Well, I should like to include this in the record because I think it contains positive facts as to what has been accomplished by the Commission.

In the same report, in the electric power industry, it will be noted 12 specific items. You are familiar with that, are you not?

Mr. SWIDLER. Yes, sir.

The CHAIRMAN. Well, I think that that should go into the record, too, in order that it might be available to see what has been accomplished respecting these problems before the Commission.

And I would like to submit it for the record at this point.

(The report mentioned above follows:)

RECENT ACTIVITIES OF THE FPC

NATURAL GAS

1. In the past 18 months the Commission has disposed of two-thirds of the billion-dollar backlog of pipeline rate cases it inherited and has ordered interstate pipelines to refund \$350 million and reduce their rates for the future by over \$62 million annually.

2. The rapid increase in the wellhead price of gas sold in interstate commerce has been halted. The average price has been virtually stabilized in the past year.

3. The Commission has wholeheartedly carried out its responsibility for regulating sales of gas in interstate commerce by independent producers. We have ordered producers to refund over \$30 million.

4. The Commission has underway a comprehensive study in cooperation with the State commissions to determine the extent to which natural gas rate refunds reductions are being passed on to the ultimate consumer.

5. The Commission has pushed forward with area rate proceedings to fix just and reasonable rates for producers, and the hearing in the lead case involving hundreds of producers in the Permian Basin of Texas and New Mexico is well along toward completion.

6. The interim area ceilings for sales of new gas in the important producing areas of southern Louisiana and Texas Railroad District 4 were reduced by 2 cents per thousand cubic feet.

7. The Bureau of Natural Gas was reorganized to pinpoint responsibility and assure that cases were speeded to a prompt conclusion.

8. The Commission adopted a rule requiring pipelines to file complete backup information with rate increase requests, thus eliminating field investigations and enabling the Commission to set cases for hearing at once and dispose of them promptly.

9. The Commission adopted a rule which outlaws new contracts for the sale of gas by producers that contain indefinite escalation clauses, such as the so-called favored-nations clauses, which have caused much of the inflation in the price of gas in the past.

10. The Commission adopted a rule prohibiting ex parte communications dealing with the merits of contested cases.

11. The Commission has taken many steps to ease the burden of regulation on the small independent producer.

(a) We have devised a one-page form in which they can file for increases which are not in excess of our ceilings.

(b) Our area rate policy, in which the rates for all the producers in an area are determined in a single proceeding, relieves the small independent producer of the burdens of individual rate proceedings.

12. A field office has been established in Houston, Tex., to insure closer supervision of personnel working in the field and serve as a clearinghouse for the problems of the producers in the area.

13. We have established an Office of Economics to assist the Commission in planning the future course of regulation of the natural gas industry because economic problems go to the core of regulatory policy.

14. The Commission has established guidelines which limit the evidence in producer certificate cases and will enable the Commission to hold the line on the price for new gas and at the same time dispose of certificate applications expeditiously.

15. In opinion No. 369, issued November 30, 1962, the Commission rejected a price increase by H. L. Hunt and others that would have created a new, higher price plateau for natural gas in southern Louisiana and Mississippi. The decision was the present Commission's first decision in a litigated gas producer rate case and demonstrated our determination to hold the line against unjustified increases in natural gas prices.

16. In opinion No. 348, issued October 23, 1961, the Commission held that it had jurisdiction over the sale of all of the gas moving in interstate commerce, even though some of the gas was consumed in the producing State. The Commission thus prevented possible increased costs to interstate customers by the use of contractual arrangements purporting to segregate certain volumes of gas from the interstate stream and thus to avoid FPC jurisdiction over the price paid to the producers.

17. In opinion No. 351, issued January 22, 1962, the Commission decided the famous *CATCO* case on remand from the Supreme Court. The decision reduced the initial price for this large sale of gas in southern Louisiana from 21.4 cents per thousand cubic feet down to 18.5 cents and ordered refunds of the higher amounts previously collected.

18. In opinion No. 366, issued October 19, 1962, the Commission decided the rate of return issue in four rate cases involving El Paso Natural Gas Co. pending before the Commission since 1955. The case was set for hearing in July 1961 and the interim order procedure, which the Supreme Court recently approved and described as "not only entirely appropriate but in the best traditions of effective administrative practice," was used by the Commission to expedite

the decision. The Commission ordered refunds which will total over \$68 million, exclusive of interest, on the rate of return issue alone and ordered rate reductions of \$15.8 million annually which were made effective before the end of 1962 over the protest of El Paso. The reduced rates were, therefore, in effect in time to lower the 1963 price of intrastate gas in California which is controlled by the January 1 price fixed by the FPC for interstate sales.

ELECTRIC POWER

1. The Commission is conducting a national power survey to encourage the voluntary interconnection and coordination of the Nation's power systems on a regional and interregional basis. The Commission's objectives are to promote the maximum use of the latest technology in the electric power field to provide lower rates to consumers. The survey has already stimulated many new interconnections between companies. The advisory committees we have formed have provided a forum for all segments of the industry—public, private, and cooperative—to meet and discuss their expansion plans in light of the national interest in providing low cost electricity in all parts of the country.
2. When the present members of the Commission took office the Commission's electric rate regulation functions were practically nonexistent. There were only four professional people engaged in electric rate work. The Commission took immediate action to exercise its responsibility to regulate the wholesale rates of electric utilities in interstate commerce which is one of the primary consumer protection functions of the Federal Power Act.
3. The Commission transferred the electric rate staff from the Bureau of Natural Gas where it was buried and made it a prominent part of a new division in the Bureau of Power. We have built up the electric rate staff within the limits of existing manpower and we are seeking funds to enlarge the staff to the minimum required to carry out effective rate regulation.
4. Many utilities did not even have their wholesale rates in interstate commerce on file with the Federal Power Commission. We are requiring that these rate filings be made and where necessary have issued a show-cause order to require the filings. Over 1,000 electric rate filings were made with the FPC in the last 6 months of 1962.
5. The FPC has issued a proposed rule that will require electric companies to support their rate filings with cost information to facilitate meaningful Commission review.
6. The Commission is preparing a list of all the public utilities subject to the Commission's jurisdiction which we will publish shortly.
7. The Commission has announced a proposed rule requiring strict and detailed accounting for political expenditures by power companies. (The rule applies also to natural gas companies.)
8. The Commission has taken action to carry out its responsibility for collecting the money owed the U.S. Treasury from downstream hydroelectric projects that benefit from upstream Federal developments.
 - (a) A provision is being inserted in all new licenses which will require annual payments for headwater benefits based upon a formula.
 - (b) We have announced a rule which will accomplish the same purpose for existing projects.
- In this fiscal year we are collecting \$1,750,000 in headwater benefits for the Federal Treasury which is three times as much money as has been collected in the entire history of the FPC. We estimate that in the next year we will collect \$4 million.
9. The Commission in opinion No. 356 on April 19, 1962, ruled that a pumped storage hydroelectric project was subject to the Commission's jurisdiction. The Commission emphasized that the Federal Power Act conferred broad authority on the Commission to insure the most comprehensive use of the Nation's water resources.
10. The Commission in opinion No. 357 on April 25, 1962, spelled out a new policy in issuing licenses for non-Federal hydro projects built prior to 1935 and still operating without a license. The FPC concluded that these projects should not be given the benefit of the maximum 50-year licenses allowed under the Federal Power Act but should be licensed for a shorter term. We are making a concerted effort to bring these projects under license.
11. We have accelerated the pace of our hydroelectric licensing work. In the last 6 months of 1962 licenses were issued for projects whose construction will add \$260 million to stimulate the Nation's economy.

12. We have proposed a rule requiring all licensees to submit a comprehensive plan for public recreation with their license applications to assure that the general public obtains the full benefits of the recreation potential of hydroelectric projects built under FPC license.

The CHAIRMAN. Now, I think it would not serve any purpose for me to try to rehash any of the questions and answers further.

You have made yourself clear as to how you felt about it. The facts, I think, are very well recorded.

As far as I am concerned, the facts speak for themselves. I can appreciate your feeling.

My hide may not be quite as thick and tough as Mr. Moss', because I have some feeling when I am spread all over the press in what I think to be a rather critical vein and, being a person who has been elected several times by the public, I am quite sensitive to it.

So I have some sympathy with your feeling, too. But we are concerned with the administration of laws. That is our business. That is our problem and our responsibility, and when these matters of these regulatory agencies come up, this committee has made it very clear over a period of time that we are going to concern ourselves with them.

That is the reason that we are maintained as an organization, to do what we can in carrying out our responsibility.

We do not want at any time to interfere, and it will never be our purpose to do that.

But it will be our purpose, so long as I have anything to do with it, and I think I can speak for every member of this committee, to be concerned with these matters with respect to these agencies, as the Congress, as we interpret it, intended it and the law provides, too.

I think you have given a good account of yourself here and I am glad to have had the opportunity of getting the report of the activity of the Commission from you as Chairman of the Commission.

I regret that it has developed this way because the feeling, as I see it, is pretty strong.

It is my hope that with any or all of the implications that anyone might have, that they will not in any way have any affect on the future work of the Commission, and that you and all members of the Commission will continue to do your jobs and assume your responsibilities as you see fit.

It is my hope that you will continue to do so in the future.

With the thanks of the committee—

Mr. Moss?

Mr. Moss Mr. Swidler, getting back to the matter of the so-called suppression of dissents—

Mr. SWIDLER. Yes, sir.

Mr. Moss (continuing). You read the press release Commissioner Morgan issued and characterized it as having been written by him personally.

Mr. SWIDLER. Yes, sir.

Mr. Moss. You characterized it as "unusual"—

Mr. SWIDLER. Yes, sir.

Mr. Moss (continuing). As being an unusual thing in this matter.

There was another unusual thing, the issuing of an order where a dissent was indicated without holding it until the dissent and the

majority opinions could be released. That was unusual, too, was it not?

Mr. SWIDLER. No, sir, not in a—

Mr. MOSS. So my staff informs me—

Mr. SWIDLER. Not in a security issues case, sir.

Mr. MOSS. And you so informed me.

Mr. SWIDLER. Not in the security issues case, sir. I said it would be unusual—

Mr. MOSS. Let me now tell you the instant case.

This is one which admittedly differs from a difficult case in that the Commission orders in this case were issued in advance of the opinion—

Mr. SWIDLER. Yes, sir.

Mr. MOSS (continuing). So there was a difference here.

How many days does an interested party have to take exception to one of these orders?

Mr. SWIDLER. I forget the notice period, sir.

Mr. MOSS. Thirty days?

Mr. SWIDLER. I forget the notice period.

Mr. MOSS. Thirty days is the period.

Mr. SWIDLER. Or whatever it is.

Mr. MOSS. Or we confirmed this—

Mr. SWIDLER. Yes, sir.

Mr. MOSS. The order was issued on the 28th day of March. I received a complaint in my committee on the 7th day of April and at that point your staff and my staff started discussions, culminating on the 11th of April by my directing a letter to you of the fact that I expressed grave concern.

I said that I firmly believe that the Commission's refusal—now, this involved, incidentally, my effort to secure from the Secretary of the Commission, a proper official, a copy of the dissent, not because I was interested in the dissent but because I had received a complaint that it was not available.

I firmly believe that the Commission's refusal to make the dissenting opinion available to the public demonstrates a callous disregard for the right and the need of the public to be informed about the activities of the Commission. Under the Commission's rules, only 30 days are available for interested persons to seek reconsideration of the decision.

Now, finally on the 12th, your Commission met. The dissent was redated from April 3 to April 12, and at that time it was issued.

This was 15 of the 30 days during which interested parties could not have secured copies either of the dissent or of the majority opinion.

Mr. SWIDLER. Except that there were copies of the dissent floating all around the town.

He had given 50 to the press.

Mr. MOSS. Now, look, 50 copies in a nation of 180 million people, where an interested party wants to find out where one of those copies is, is not much.

How does he do it? Does he call the Commission?

Mr. SWIDLER. Well, 50 will—1 copy will. You see, sir, the news papers spread all-out. Fifty will cover the whole country.

Mr. MOSS. There were—

Mr. SWIDLER. I only brought 50 copies of my statement here, and I hoped for national coverage.

Mr. Moss. Well, I expect you do.

If I was an interested party—incidentally, it was an interested party who called me and complained. It was not Mr. Morgan. I never met Mr. Morgan.

I was called and given a complaint. "How do you get this thing? I called the Secretary and I couldn't get it."

I would assume you should be able to call the Secretary of the Commission and get this type of information and not have to go out on a hunt to find 1 of the 50 copies or a copy of a press story which might or might not embody the whole—

Mr. SWIDLER. Well, Mr. Moss, we have discussed this—

Mr. Moss. Yes, we have discussed it—

Mr. SWIDLER (continuing). And I have explained to you the great importance of the minority and the majority discussing their views together and trying to write their opinions, each in the light of the other.

Mr. Moss. I think the record should reflect that there was a period of 2 weeks, and that this was unusual, not only in the issuance of the individual press release but in the fact that the order was issued 2 weeks before there was available from the Commission a copy of the dissent, and longer than that before there was a copy of the majority opinion.

Mr. SWIDLER. Well, I have explained—agreed with you that in the case where an order must be issued first that there is room for an exception.

Our rules now make it. But I tried to explain to you that under the particular circumstances of this case it was ridiculous to talk about suppression when 100 copies were in circulation.

Mr. Moss. Sir, I don't recall —

Mr. SWIDLER. Excuse me, sir; I am trying to finish my explanation.

Mr. Moss. All right; go ahead.

Mr. SWIDLER. When the original order carried a summary of the dissent and when the press release, on March 28, carried a summary of the dissent, and when a separate press release, of which 3,000 copies went out, also noted—

Mr. Moss. You know, sir, one of the things—

Mr. SWIDLER (continuing). The dissent—

Mr. Moss (continuing). I criticize news reporting most vigorously for today is the acceptance only of that which is included as a summary in a press release.

I don't think that press releases, summaries of press releases, give us the totality of the information we should seek and upon which we should act.

Now, let's just take one other area and I will be very brief.

I listened with care to this discussion of the *Idaho Power* case. Do I understand that it is your view that anything other than a pro forma finding of the feasibility of the financing plan, that that is as far as you and the Commission should go?

Mr. SWIDLER. No, sir.

Mr. Moss. Do I understand you to say, and I noticed here a number of times that you have played very, very skillfully on words—you

have emphasized that these discussions of rates were had because they were too low, not too high; too low rates can be as dangerous to a business.

They can be uneconomic and as infeasible as rates too high. They can be damaging and destructive and if they, in fact, exist they can also be highly preferential between consuming groups.

This normally is not contemplated by law.

Is this no matter of concern to the Commission?

Mr. SWIDLER. It could be. It just didn't seem to us that this was that kind of a consideration.

Mr. MOSS. All right. Well, then, it is not idle to raise the question?

Mr. SWIDLER. It seemed to us to be a very unprofitable way to use our staff.

I could think of many better ways to use them.

Mr. MOSS. You think that where a firm is producing a total of 20 percent of surplus of its needs, undertaking to develop further capacity, that that should be disregarded?

I noticed that the examiner stated in his report that this additional capacity would not be feasible until around about 1975—

Mr. SWIDLER. Well, this may become an issue in the proceeding, Mr. MOSS, and I don't know that I want to say something—

Mr. MOSS. Well, this was part of the dissent.

You have been rather harsh in characterizing some of these dissents. But again, was this in Idaho, this excess capacity?

Mr. SWIDLER. Our staff had made a report to us that the extent of the Idaho capacity was not abnormal.

Every company, to a degree, staggers its construction program—

Mr. MOSS. Well, of course, they should.

Mr. SWIDLER (continuing). And they should, and we had no indication that this was a situation which warranted the diversion of staff that would have been required.

Mr. MOSS. Up my way they project and they build and they have a tough time keeping up with demands.

They grow faster than they hope to expand to meet all of the needs.

Mr. SWIDLER. I have not said—

Mr. MOSS. But these are not idle points, are they?

Mr. SWIDLER. No, sir, and—

Mr. MOSS. And are they properly within the jurisdiction of the Commission?

Mr. SWIDLER. No, sir, and I would not—

Mr. MOSS. Well, now—

Mr. SWIDLER. I think there were proper points to have been made and I would not have objected in any way to a proper dissent.

I think there is ample room for reasonable men to disagree in the Idaho case and perhaps also in the *Pacific Power and Light Company* case.

This is not my point.

Mr. MOSS. Well, then you made a great play that they were depreciating too slowly, not too fast.

Mr. SWIDLER. Yes, sir.

Mr. Moss. You know, I was in business before I came here and I think if you have a too-slow depreciation, you are under rather bad management. This can be a problem, too.

Mr. SWIDLER. Well, they were using a method of depreciation which conformed with our system of accounts and with the requirements of the Idaho Public Utilities Commission.

Now, the big question is going to come when they want to change, after a number of years, to a different system of accounting, and that is a reserved question.

I think the real question is not one of too high or too low but of consistency.

This is a question we will reach in due course and which must come to us before they change.

Mr. Moss. Well, I mentioned it because it seemed to me that the impact of your testimony was that the dissent was idle——

Mr. SWIDLER. No, sir——

Mr. Moss (continuing). And that you were trying to use a leverage for something improper. Yet these are proper areas to concern the Commission, are they not?

Mr. SWIDLER. We thought—I think the majority thought that this would be going too far.

Mr. Moss. In this instance——

Mr. SWIDLER. I think it was perfectly in order for Mr. Morgan to have a different opinion expressed in a way that was not disruptive.

Mr. Moss. This is my question—In this instance was it not a proper area for concern of the Commission? They are, as a matter of fact, the Commission's business, are they not?

Mr. SWIDLER. Yes, sir, some of them were.

Mr. Moss. You didn't use——

Mr. SWIDLER. Some were; some were.

Mr. Moss. Well, which ones were not?

Mr. SWIDLER. Well, I think the level of the intrastate rates was a doubtful one.

Mr. Moss. Well, most of this, being wholesale, was an interstate, wasn't it?

Mr. SWIDLER. No, sir, I think——

Mr. Moss. A fair amount——

Mr. SWIDLER. Some of it was.

Mr. Moss. As I recall Mr. Morgan's discussion the other day, it was tied to the triggering effect of the Utah Light & Power.

Previous Commissions indicated that they might be in need to review these rates at that point.

Was that, in substance, what the previous Commission had observed?

Mr. SWIDLER. I think that so far as the level of interstate rates is concerned that this is a proper subject for the Commission and——

Mr. Moss. It went to interstate rates as well as intrastate, didn't it?

Mr. SWIDLER. What's that?

Mr. Moss. It went to interstate rates as well as intrastate, didn't it?

Mr. SWIDLER. There were some interstate rates, oh, yes, sir.

Mr. MOSS. That is all I have, Mr. Chairman.

I just wanted to have the record reflect what I think is accurately involved here.

Mr. YOUNGER. Mr. Chairman?

The CHAIRMAN. Mr. Younger?

Mr. YOUNGER. I would like to state after listening to this testimony for the last 2 days I think you, Mr. Chairman, and the Commission, did a very good job in spite of all of the internal knifing, and I want to compliment you from our side of the fence.

Mr. SWIDLER. Thank you.

The CHAIRMAN. Mr. Swidler, I would suggest that one of the lessons we have learned from the experience of this matter is that in the future you should try to have your opinions ready at the time you issue all of them.

Mr. SWIDLER. Well, sir, this is not easy to do in a security issue case.

We didn't see the dissent and weren't able to address ourselves to the problems of the dissent until April 3, and it is true at that time that it took us 2 weeks to get our opinion out.

Now, this is not the only thing that we were working on, and I don't think 2 weeks—

The CHAIRMAN. In my judgment, it isn't the businesslike procedure for the majority opinions to have to be written to direct themselves to the dissent.

It seems to me as though the normal procedure should be for the majority opinion to be issued and then the dissent.

Mr. SWIDLER. Well, sir, this was a securities issues case where normally it would have been routine except for the problems raised in the dissent.

The CHAIRMAN. Well, I realize it was difficult.

Well, the record is rather replete on what the facts are. It certainly speaks for itself, as I said before.

Again, I want to thank you again on behalf of the committee for your presentation here and your discussion of the problem, which should be helpful all around.

Mr. SWIDLER. Mr. Chairman, may I say just one word?

I think that this hearing has been not only a privilege for me but of great benefit to the Commission.

This is the way to find out just how much is solid in the information that comes to you as to the workings of the Commission and the members of the Commission, and for you to sift and reduce the charges to their proper size, and then find out what the answers are, if any, and arrive at an appraisal.

It is very hard to come to an issue on these things on the basis of newspaper stories alone, and I believe that this hearing has cleared the air.

I am happy that you gave me the privilege of testifying, Mr. Chairman.

The CHAIRMAN. You have a tremendous responsibility in your job, not only as Chairman but as a member of the Commission, as all of you have.

Of course, as you indicated this morning, electric power is the No. 1 industry from a dollars-and-cents standpoint and natural gas is about fifth or sixth.

The consumers of America are depending upon your service.

It was the intent of this Congress to establish it that way and to give you an opportunity to provide the people a service at a rate that they can afford and that would be appropriate to the economy of the United States.

So we can only wish all of you, regardless of who is down there at any given time, the best, and that you undertake the responsibilities, and that, whether you might be ordinary men or exceptional men, everyone do the best job that he can.

Mr. SWIDLER. Thank you.

The CHAIRMAN. The committee will adjourn.

(Whereupon, at 4:40, p.m., the subcommittee was adjourned.)



