

commissions and other consumer-protection agencies with facts supporting, in many instances, substantial reductions in the retail rates, which only the States may regulate. The Congressional plan for State regulation of retail rates and Federal regulation of interstate wholesale rates serves to protect consumers. The exemption for certain privately owned utilities proposed in H.R. 5348 would seriously disrupt the Congressional goals of the Federal Power Act.

The bill would exempt outright important utilities which should be subject to the Congressional mandate. It would also open the door to corporate rearrangements designed solely to seek the supposed benefits of the proposed exemption.

The exhaustive Congressional and Federal Trade Commission hearings which preceded enactment of Parts II and III of the Federal Power Act in 1935 documented the necessity for Federal regulation of the price at which electric energy is sold at wholesale in interstate commerce and for control over the accounting and financial practices of these utilities. The Committee report on this legislation pointed to the fact that even in 1935 "local operating units have been tied together into vast interstate systems" and "were entirely beyond the reach of the states either legally or practically." (S. Rept. No. 621, 74th Congress, 1st Sess., p. 17.)

Congress recognized the need for Federal regulation when only a fraction of the nation's electric systems were interconnected in interstate networks. The National Power Survey shows that such interconnection has progressed markedly. The Nation's bulk power systems are now being linked from coast to coast. Thus the interstate nature of the electric business, and the need for Federal regulation, have steadily risen.

The power of states to regulate wholesale sales in interstate commerce is limited both practically and by state statute. For example, three states have no state commissions,<sup>2</sup> and seven other states with commissions have no authority to regulate wholesales by privately-owned utilities to municipal systems.<sup>3</sup>

What is at stake is the most efficient use of our natural resources. Federal regulation is necessary to assure the availability of low cost power from interstate power pools at reasonable rates to the many small utilities, public and private, whose operations are not carried out on a scale large enough to enable them to generate their own power from the most economical sources. In the absence of Federal regulation, they will be required in many cases to continue to build small and relatively high-cost generating stations which fail to make the most efficient use of our natural resources. In other cases access to low-cost power sources may be a question of survival for the smaller systems.

For the reason stated above, the Commission urges that H.R. 5348 not be enacted.

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*Chairman, Federal Power Commission.*

FEDERAL POWER COMMISSION ANALYSIS OF H.R. 5348, H.R. 5637, H.R. 7799,  
H.R. 8426, H.R. 8919, AND H.R. 9174, 90TH CONGRESS

H.R. 5348 and the other identical bills would provide a status exemption from Parts II and III of the Federal Power Act for public utilities (which meet certain legal tests) now jurisdictional because they transmit or sell for resale electric energy in interstate commerce. Specifically, Section 2 of H.R. 5348 would exempt from FPC jurisdiction all public utilities—

- (1) which have all their facilities in one state,
- (2) none of whose facilities are used to transmit or receive electric energy by direct connection from or to another state,<sup>4</sup> and
- (3) which do not transmit or receive electric energy under contract with an entity in another state.

The third test, that of no contracts with an out-of-state entity, would leave open the possibility of indirect wholesale sales in interstate commerce unregulated under the Federal Power Act. A public utility may receive or transmit electric energy in interstate commerce from or to any number of remote and

<sup>2</sup> Texas, South Dakota and Minnesota.

<sup>3</sup> Delaware, Florida, Mississippi, New Mexico, Ohio, Pennsylvania and Virginia.

<sup>4</sup> We interpret the phrase (p. 2, lines 11-12) "to transmit or receive electric energy by direct connection, from or to any other state" to include transmission or receipt of electric energy within a state with a company operating both in that state and another, rather than only connections at a state border with a company which operates only in another or other states.