

Federal Power Act and therefore subject to the Commission's existing jurisdiction under parts II and III of the act (37 FPC 544).

The company has petitioned for judicial review of the Commission's decision, as is its right. Pending final disposition of the appeal, the Commission has stayed its order. In view of the pendency of the appeal obviously I cannot discuss the merits of the Commission's decision on the status of Florida Power & Light under existing law and I do not believe this subcommittee would wish me to do so.

H.R. 5348 also proposes to write into the Federal Power Act an exemption for all cooperatives financed by the Rural Electrification Administration. While such legislation was sought by most of the cooperatives of the Nation during the 89th Congress, when the issue of FPC jurisdiction was pending in the so-called *Dairyland* case, that issue was resolved by the Commission, at least so far as the Commission's jurisdiction to make this determination was concerned, in an opinion earlier this year (30 FPC 365).

We held that REA co-ops are now exempt from the Federal Power Commission's jurisdiction. That matter has also been taken to the Court of Appeals in a related case, and the Commission believes that no such legislation concerning jurisdiction as it proposed in H.R. 5348 should be considered at this time.

The Commission has expressed the unanimous belief that there should be appropriate Federal regulation of generation and transmission cooperatives which transmit energy in interstate commerce, but that distribution cooperatives should not be subject to Federal Power Act regulation.

I should note that in that particular case there was one member of the Commission that dissented on the jurisdiction over cooperatives. I think it is fair to state that with respect to the existing law it is possible for reasonable people to examine the very same fact situations, to hear the argumentation, the analysis that is set forth, and then reach conflicting views.

The way our system operates, and so far as we are concerned it is the way that it should operate, any party that is dissatisfied with a determination by the Federal Power Commission is entitled as a matter of legal right, statutory right, to appeal directly to the Court of Appeals and there contend that the Commission or a majority of the Commission was in error.

Subsequently, even if that proves to be unsatisfactory to the party, there is the opportunity to appeal to the U.S. Supreme Court. Clearly, that is not the end of the route either insofar as solving a particular problem. It is the end of the route insofar as interpreting existing language.

If, however, the Supreme Court comes with a decision that is unpopular or unacceptable to a group or one individual there is then the opportunity to petition the Congress to change the law, assuming that it is consistent with the Constitution.

We have here, therefore, two separate instances in which five members of the Federal Power Commission have split on the precise meaning of a section of one of the acts that we administer. We think it, therefore, perhaps would be wiser that there be no action until such time as the courts have resolved this issue or these issues.

Really there are two of them, one involving the Florida Power & Light situation and the other the co-op situation. Both of them now