

are actively under judicial review and it is for this reason that we, regardless of the position that we took on the precise meaning of today's statute, believe that this legislation is at best untimely and, as my statement indicates, we believe also that it is unwise, but I hope, Mr. Chairman, I have responded to the question you have raised.

Significantly, H.R. 5348 is not being supported by the National Rural Electric Cooperative Association, an organization which did indeed support legislation in earlier Congresses to exempt co-ops expressly from certain sections of the Federal Power Act.

Nor so far as we are advised, has it been endorsed by the Edison Electric Institute, a privately owned portion of the industry, or the American Public Power Association. Also, the National Association of State Commissions is not supporting this legislation to completely exempt some utilities from the Federal Power Act.

Moreover, as my letter transmitting our report to the committee indicates, the Bureau of the Budget has advised that enactment of H.R. 5348 would not be consistent with the administration's objectives.

THE EXEMPTION PROPOSED BY H.R. 5348 IS UNWARRANTED

H.R. 5348 would exempt public utilities which transmit electric energy in interstate commerce but only through the facilities of other corporate entities and without any contractual dealings with companies in other States.

As I have indicated, any such test of jurisdiction is retrogressive in its effects upon useful interconnection and regional planning. But even in its own terms we do not believe it makes sense.

Specifically, we believe that the regulation of utilities operating in interstate commerce provided by parts II and III of the Federal Power Act is necessary and beneficial to the public and the companies.

If we are wrong, as to that, and the regulatory scheme of the Federal Power Act is obsolete or unnecessary, it should be changed or abolished across-the-board and not just with respect to companies who engage in interstate commerce in the manner prescribed by H.R. 5348.

In short we believe that would be a highly artificial distinction. Parts II and III of the Federal Power Act were parts of the Wheeler-Rayburn Public Utility Act of 1935, enacted in recognition of legal and practical limits on unaided State action and as a corrective to widespread abuses in the power industry.

The 1935 act, therefore, placed electric utilities engaged in interstate transmission or sale of energy under Federal regulation. The act was premised on the need for a permanent system or utility regulation governing operating companies transmitting or selling energy in interstate commerce.

Let me state clearly that parts II and III of the Federal Power Act do not now apply to utilities which operate purely in intrastate commerce, in isolation from interstate networks. (By way of contrast, the part IV of the Federal Power Act proposed by our Electric Power Reliability Act would include such companies, as well as the exempted Federal, cooperative, and municipal systems for the special purposes of that proposal.)

H.R. 5348 proposes to exempt from parts II and III certain additional companies which do transmit electricity in interstate com-