

in the sense that a large number of people were inconvenienced for a long period of time.

Mr. BROWN of Ohio. The one in Cincinnati was a result of a labor dispute, was it not, or presumed to be?

Mr. WHITE. There is some controversy about it. It was a case in which there was some unexplained damage to facilities and equipment.

Mr. BROWN of Ohio. It was not a peak load or cascading failure.

Mr. WHITE. No, sir.

Mr. BROWN of Ohio. And these then include many other things besides peak load and cascading failures.

Mr. WHITE. Primarily the peak load is a slightly off-beat expression for us. What we are really talking about here for the most part—underneath that overlay there is another overlay that shows the 19 major power failures that I was talking about that relate to the cascading type of failure.

Mr. MACDONALD. May I interrupt, Mr. Chairman? I think this is a subject that the bill that you referred to filed by myself and Mr. Staggers would go to and doesn't really affect this particular issue and therefore I would rather not dwell on it.

Mr. WHITE. All right. We do have, however, a little description of it and if it would be helpful I would send it to you, Congressman.

Mr. BROWN of Ohio. All right. Thank you.

Mr. MACDONALD. My last question, Mr. Chairman—and everyone has a last question—Does the FPC jurisdiction of wholesale rates come from the *Colton* decisions, so called?

Mr. WHITE. It was really a decision by the Congress to vest the Power Commission with the authority and it is, I think, unambiguous and uncontroverted, so that is where it came from.

Mr. MACDONALD. Thank you very much.

Mr. WHITE. Yes, sir.

(The following letter was received by the committee:)

FEDERAL POWER COMMISSION,
Washington, D.C., November 15, 1967.

HON. TORBERT H. MACDONALD,
Chairman, Subcommittee on Communications and Power, House of Representatives,
Committee on Interstate and Foreign Commerce, Rayburn Office Building, Washington, D.C.

DEAR CHAIRMAN MACDONALD: Thank you for your letter of November 3, 1967, asking that I develop further, for purposes of the record of the hearing on H.R. 5348, the matters raised by your closing question concerning the Commission's jurisdiction over wholesale sales of energy by a public utility within a State to municipalities and cooperatives for distribution and resale by them. You also request that I go into the effect of the *Colton* case on the Commission's jurisdiction. I appreciate the opportunity to do so.

The Commission's jurisdiction over wholesale sales under Part II of the Federal Power Act is tied to not one but two tests, both of which must be satisfied if there is to be jurisdiction. First, the company selling at wholesale must be a "public utility" within the meaning of the Act. This statutory status now arises whenever the company engages either in transmission of electric energy in interstate commerce or in the sale of electric energy in interstate commerce for resale. H.R. 5348 proposes to change the jurisdictional tests bearing upon "public utility" status and would, as a result, exempt some companies which are now "public utilities". If a company is not a "public utility" within the meaning of the Act then none of its wholesales are subject to the regulatory provisions of Part II, and the second test is never applied. In the case of a "public utility" the Commission has jurisdiction over those wholesales which are made in interstate commerce, including sales to municipal and cooperative distribution systems for resale by them.