

Mr. MACDONALD. Thank you. Do you have any further questions?
Mr. BROWN of Ohio. No, sir.

Mr. MACDONALD. Thank you very much, sir.

Mr. BLACK. Thank you, sir.

Mr. MACDONALD. I have a statement here by Mr. William T. Crisp on behalf of the Tarheel Electric Membership Association, Inc., of Raleigh, N.C., and without objection it will be inserted in the record at this point.

(The statement referred to follows:)

STATEMENT OF WILLIAM T. CRISP, GENERAL COUNSEL, TARHEEL ELECTRIC MEMBERSHIP ASSOCIATION

Mr. Chairman, my name is William T. Crisp. I serve as general counsel for, and this statement is presented on behalf of, Tarheel Electric Membership Association, Incorporated, of Raleigh, North Carolina. Tarheel Electric is the statewide trade-service association of North Carolina's rural electric cooperatives. These cooperatives furnish electric service to some 240,000 meters—representing about a million individual people, businesses and institutions—from a network of approximately 44,000 transmission and distribution lines in 98 of North Carolina's 100 counties. The KWH input into their systems is well over 1 billion annually. All but a negligible portion of this power is "interstate" in character, since it is either purchased directly from, or in any event is delivered over the facilities of, four major investor-owned power companies. A portion of the power is delivered by power companies on behalf of Southeastern Power Administration, which sells directly to the cooperatives out of the Federal Government's Kerr, Philpott and Hartwell Reservoir Projects. (While these sales are not subject to FPC's "interstate wholesale sales" jurisdiction, the rates applying to these sales must be approved by FPC. 16 U.S.C.A. 825s.) The preponderance of our power supply is purchased at wholesale directly from the four companies (Virginia Electric & Power Company, Duke Power Company, Carolina Power & Light Company and Nantahala Power and Light Company), and these sales are subject to FPC's jurisdiction and have been so treated.

We have identified ourselves thusly so as to emphasize to the Subcommittee our familiarity with—and our concern to preserve and protect—the regulatory surveillance now exercised by the Federal Power Commission over our wholesale rates. We oppose H.R. 5348 because we apprehend that it will give rise to arrangements under which some if not all of our wholesale purchases from investor-owned companies will become exempted from this regulatory surveillance.

In further stating our opposition, let us first inform the Subcommittee that we have read carefully—and that we hereby adopt as our own—the statement in opposition to H.R. 5348 prepared and submitted, or to be submitted, by the National Rural Electric Cooperative Association, of which both Tarheel Electric and every electric cooperative in North Carolina are members. In supplementing that statement, we enjoin the Subcommittee to give consideration to the following:

In *Federal Power Commission v. Southern California Edison Company et al*, 84 Sup. Ct. 644 (1964) ("Colton"), the Supreme Court of the United States made it clear that FPC had—and that state regulatory commissions lacked—jurisdiction over interstate wholesale sales, even though such sales were *de minimus* in amount with respect to the particular wholesale (in-state) customer involved.

In *Indiana & Michigan Electric Company v. Federal Power Commission*, 365 F2d 180 (1966), the United States Court of Appeals, Seventh Circuit, affirming FPC, held that the Commission's jurisdiction applied even though *actual tracings* to prove that interstate energy had been involved in the subject (in-state) wholesale sales had not been performed.

In view of these two particular decisions, as well as the cases cited in the NRECA statement, it would be anomalous indeed if the Congress enacted H.R. 5348, thereby not only exempting certain wholesale sales in the State of Florida but establishing statutory exempting criteria on the basis of which many, many other such sales in other states will surely avoid FPC surveillance via the circumventing *legal* devices that will predictably be created for that purpose.

We emphasize the word "legal" for reasons grounded in firm Supreme Court interpretations on this subject. Both in the *Colton* case and in *Connecticut Light*