

that the exclusion of the municipals from planning involves no anticompetitive element, one must be blind to this underlying reality.

2. Examiner's Conclusion that Differences on Policy Justify Exclusion from Cooperative Planning Activities

The Examiner concludes that because the municipal utilities and the investor-owned utilities have differences on such subjects as legislation, taxation, and public policy, they should not be required to work together in planning activities (Initial Decision, p. 17).

The staff in its brief before the Examiner made explicit that the antitrust laws present no bar to the exclusion of the municipals from those activities of the Council, centered primarily in its Public Information Committee, which are designed to get public and legislative support for various policies and programs advocated by the membership (Staff Br., p. 64):

The investor-owned and publicly owned segments of the electric industry . . . each has the right to be able freely to develop and present its views on . . . matters of public policy, not only to legislative and other governmental bodies but also to the public. This right is protected even if the public policy urged is anticompetitive.