tion. Prior to the time the FPC vigorously asserted its jurisdiction over all public utilities transmitting electricity in interstate commerce, including those whose facilities were situated within a single State, rural electric cooperatives located near State lines, from time to time, were often refused service by nearby power companies, the facilities of which were close by but were located across State lines. The companies gave as the reason for the refusal their desire to escape FPC jurisdiction. The history of the efforts to which the companies have gone to avoid being subjected to the jurisdiction of the Commission would make it seem most likely that such companies would exert every effort to adjust their systems to come within the exemption provided for in H.R. 5348. It is our fear that a number of companies would be successful in accomplishing this in the future.

Almost all of Mid-West's members purchase their electric power and energy requirements at wholesale. Many of them are very small, municipal systems. The cooperatives are not only small compared to the power companies, but serve in most sparsely settled areas. A large number of Mid-West's cooperative members have a consumer density of less than two per mile and several of them serve areas in which there resides less than one family per mile of line. For such small, municipal systems and low consumer-density cooperatives even to stay in business, it is necessary that they be in a position to purchase electric power and energy at low wholesale rates. As a direct result of FPC jurisdiction, a number of municipalities have obtained lower wholesale rates. While this has happened as the result of formal proceedings in a few instances, in most cases the reduction in rates has been brought about by informal action on the part of the FPC Staff. It is significant that during the past fiscal year, rate reductions of more than $6,500,000.00 were accepted for filing by the Commission. Most of the reductions were effected by the FPC Staff holding informal conferences with the companies and customers involved. Wholesale cost of power represents by far the largest element in the operating expense of both municipal and cooperative electric customers.

Municipalities and cooperatives also have been successful in getting power companies to serve them which refused to do so before Commission or Staff intervention. Likewise, restrictive provisions have been deleted from wholesale power contracts.

We would like to explain our position as to why we feel FPC should have jurisdiction over profit-making public utilities and should not have jurisdiction over non-profit cooperatives which are owned and controlled by their members who receive service.

Numerous courts have explained in detail not only the legal principles which preclude the regulation of non-profit cooperatives which serve members, but also explain why such regulation is neither necessary nor desirable in the public interest. Two of the leading cases are: *Inland Empire Rural Electrification, Inc.* v. *Department of Public Service of Washington, et al.*, 92 P. 2d 258 (Wash., 1939) and *GarKane Power Co.* v. *Public Service Commission*, 100 P. 2d 571 (Utah, 1940).

The legal principle is summarized in the *Inland* case in these words:

"But, more important than that is the controlling factor that it (the cooperative) has not dedicated or devoted its facilities to public use, nor has it held itself out as serving or ready to serve the general public, or any part of it."

That the public policy reasons which require regulation of profitmaking utilities serving the public are not applicable in the case of cooperatives is succinctly explained in the *GarKane* case in this language:

"But the Public Service Commission points out that membership in GarKane is easy to obtain and that actually the Corporation solicits membership and has apparently accepted this for all who paid their fee and agreed to pay the monthly minimum. This does not affect the relationship of the Corporation with its members nor does it change the character of the service to be rendered. The distinction between a public service corporation and a cooperative is a qualitative one. In a cooperative the principle of mutuality of ownership among all users is substituted for the conflicting interests that dominate the owner vendor-non owner vendee relationship. *In a cooperative all sell to each. The owner is the seller and buyer.*"

* * * * * * *

"In its argument the Commission contends as a matter of policy it would be bad to allow cooperatives such as GarKane to escape supervision and regulation on the theory, largely, that they must be protected from themselves or the