

that the proponents of the Act regarded it essential that the Commission possess the power to get accounting information under a unified accounting system, regardless of the fact that a reporting utility might also be subject to state regulation. In light of this background, we do not find that the public interest will be served by exempting FPL from compliance with the Commission's accounting requirements.

The Commission further finds—

(1) Florida Power & Light Company (FPL) is a corporation organized and existing pursuant to the laws of the State of Florida;

(2) FPL owns and operates facilities, among others, for the transmission of electric energy transmitted from points of generation in the States of Georgia and Florida to points of consumption outside the State in which it is generated, which facilities are in addition to, and do not include, facilities used for the generation of electric energy, facilities used in local distribution or only for the transmission of electric energy in intrastate commerce or facilities for the transmission of electric energy consumed wholly by the transmitter;

(3) FPL is, therefore, a public utility within the meaning of that term as used in Section 201 of the Federal Power Act and subject to the jurisdiction of the Commission;

(4) FPL, as a public utility under the Florida Power Act, should be ordered, *inter alia*, to file with the Federal Power Commission original cost statements in the manner provided in Section 120.3 of the Commission's Regulations under the Federal Power Act and Electric Plant Instruction No. 1 of the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licenses Subject to the Provisions of the Federal Power Act; and

(5) The exceptions of FPL and of the Florida Commission to the examiner's initial decision should be denied.

The Commission orders—

(A) Within 60 days after the issuance of this order, FPL shall file with the Federal Power Commission original cost statements in the manner provided in Section 120.3 of the Commission's Regulations under the Federal Power Act and Electric Plant Instruction No. 1 of the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, and shall comply with all requirements of the Commission's Regulations under such Act;

(B) The decision of the presiding examiner, as supplemented above, is adopted as the decision of the Commission; and

(C) The exceptions to the examiner's decision are denied.

By the Commission. Commissioner Carver, joined by Commissioner O'Connor, dissenting, filed a separate statement appended hereto.

[SEAL]

JOSEPH H. GUTRIDE, *Secretary*.

FLORIDA POWER & LIGHT COMPANY—DOCKET No. E-7120

(Issued March 20, 1967)

CARVER, Commissioner joined by O'CONNOR, Commissioner, dissenting:

By eschewing the opportunity to let this case turn on the exercise of a discretion in the Commission not to take jurisdiction, and electing to have it turn on the "commingling" test of jurisdiction, the Commission has made it necessary for me to dissent.

This dissent does not stem from sympathy for the Florida Power & Light Company, whose arguments against being regulated, particularly in the matter of the impact of conformance with the Uniform System of Accounts, affront the legislative purpose. Congress did not saddle consumers with "unnecessary" costs, when it directed the Commission to set up a uniform accounting system.

Nor is my dissent based upon a belief that the Commission has misread or misinterpreted the thrust of certain recent judicial pronouncements on the "commingling" theory. The cases cited are distinguishable on the facts, but the thrust is in the direction the Commission has taken.

The vice I find in the Commission's decision, which prevents me from joining in its statement, is that its adoption of the commingling theory as a test for jurisdiction *per se*, interprets the Federal Power Act to have a reach beyond that which I find in the statute.