

connected. Thus, the philosophy of "Federal leadership" enunciated by this Committee in 1935 is proportionately more correct and more applicable in 1967.

A one-million kilowatt generator can provide power for a city of one million people on the average. And, while the economics of the industry dictate the use of generating units and transmission lines of ever increasing size, the loss of even one such unit or line creates a major emergency. The November, 1965 blackout of the northeastern states, and the June 5, 1967, blackout of the eastern seaboard states, demonstrated very clearly that the size of generating units in service has outstripped the availability of the interstate bulk power transmission lines which are required to supply the emergency power needed to avert or minimize the effect of major component losses.

Recognizing the need for improved area-wide and nation-wide EHV interconnection, the President and the FPC have recently recommended enactment of H.R. 10727, entitled the Electric Power Reliability Act of 1967, which is pending before the full Committee. This legislation would, we believe, assure a higher order of service reliability, improved economy in the construction and operation of power systems, and a pattern of bulk power, flow and distribution unimpeded by the artificial barriers of state lines. It would, therefore, make possible abundant electricity to the ultimate consumer at minimum cost. NRECA has endorsed this legislation (H.R. 10727) in principle, and, in so doing, has accepted the prospect of FPC control over REA-financed G-T systems in those instances where they constitute a component of any major interstate pool.

Under H.R. 5348, however, it is our opinion that some companies would restrict heavy interstate transmission line construction. This would tend to weaken rather than strengthen regional system reliability and might deny to the consumers of such systems the economic benefit of low cost generation potentially available in neighboring states. Thus both system reliability and cost would be adversely affected.

The Federal Power Commission now has authority, upon complaint, to order the interconnection of interstate transmission facilities under certain conditions where it deems such to be in the public interest. H.R. 5348 would withdraw that power as to all utility systems which it exempts. No state would possess the constitutional power to order such interstate connections as we understand the law.

*State Commissions are Without Constitutional and Practical Power to Regulate Bulk Power Supply.*—Prior to 1935, the Supreme Court of the United States held in a line of cases, culminating in *Rhode Island P.U.C. v. Attleboro Steam and Electric Co.*, 273 U.S. 83, 47 SCT 294, that a state has no constitutional power to regulate the rate at which electricity generated within its borders is sold wholesale at the state line for resale in adjacent state, that the receiving state is also without wholesale regulatory power and that the exclusive power to prescribe such interstate wholesale regulation lies with Congress.

To fill the "Attleboro Gap", Congress delegated its interstate regulatory power to the FPC under the Federal Power Act of 1935. It chose to not adopt the other available alternative of conveying such power to the several states. Thus, for constitutional reasons as well as practical reasons, interstate regulation is a matter primarily for the United States rather than for the several states.

FPC Chairman, Lee White, in his extremely well prepared and expertly presented statement on S. 1365, pointed out to the Senate Committee that ten states have no commissions with even the color of authority under state law to regulate wholesale rates. According to FPC, Florida is one such state; the commission of which has no wholesale regulatory authority. It is our contention, moreover, that none of the state commissions could, in the light of the *Attleboro* rule, sustain such power in a contested case. Therefore, if such authority is withdrawn from FPC under H.R. 5348, the "Attleboro Gap" is reopened as to wholesale sales by many companies. No wholesale regulation would be constitutionally lawful, because the states are without such power.

Even assuming, for argument, that the several states do have power to regulate wholesale sales, we seriously question the results likely to be achieved in terms of uniformity and in terms of protecting the public.

As stated in the Senate Committee Report (S. Rept. 621, 74th Congress, 1st Session) at Page 17 (Federal Power Act of 1935):

"[The] features of this interstate utility business are . . . immune from state control either legally or practically."