

STATEMENT OF BEN T. WIGGINS, VICE CHAIRMAN, GEORGIA PUBLIC
SERVICE COMMISSION

Mr. Chairman and members of the committee, my name is Ben T. Wiggins. I am Vice Chairman of the Georgia Public Service Commission.

The members of the Georgia Public Service Commission appreciate the opportunity you have given me as their spokesman to make their views known on HR 5348, which proposes an amendment to the Federal Power Act with respect to the jurisdiction of the Federal Power Commission.

We support the enactment of HR 5348.

As I view this Bill, it would allow state commissions to regulate the kind of essentially local matters which they have, in fact, been effectively regulating for the last fifty years or more; and it is a clarification of what the Congress intended when Part II of the Federal Power Act was enacted in 1935.

HR 5348 would permit the FPC to devote its efforts in the electric business, as in the natural gas business, to transactions in which more than one state is concerned, which neither state can constitutionally regulate, and to sales or exchanges between members of an interstate power pool. Subsequent sales or exchanges of electricity for resale within a state would have built in as a cost the rates approved by the FPC for the original interstate sale, thus protecting local purchasers from excessive charges for out-of-state energy.

Under its present interpretations, the FPC would have jurisdiction to regulate all sales for resale if an electric utility has any out-of-state energy in its system. This includes sales to cooperatives, municipalities, shopping centers, apartment houses, office buildings, and even trailer courts which resell electricity.

We believe that the personnel and funds of the FPC can be better utilized in concentrating upon national problems, rather than thinly deploying them in matters of purely local concern which can be far more effectively, satisfactorily and economically regulated at the local level.

Furthermore, the enactment of H.R. 5348 would bring the Federal Power Act partially into line with the Natural Gas Act as clarified by the Hinshaw Amendment.

The key statutory words of the Natural Gas Act and the Federal Power Act were almost identical prior to the passage of the Hinshaw Amendment (15 U.S.C. 717(c) (1954)) except that Section 201(a) of the Federal Power Act declares that "Federal regulation (is) to extend only to those matters which are not subject to regulation by the States." The legislative history of the two Acts shows the same congressional intent not to impinge on areas open to the exercise of State powers.

In the *East Ohio Gas Company* Case, the Supreme Court sustained FPC's extension of its jurisdiction to operation of a natural gas company wholly within a single state. Part of the gas sold by it for resale had moved in interstate commerce. The 83d Congress, in passing the Hinshaw Amendment, exempted from FPC jurisdiction transportation of natural gas and its sale for resale in interstate commerce if all the gas received within or at the boundary of a state is consumed within such state. The Amendment states these matters to be " * * * primarily of local concern and subject to regulation by the several States."

The United States Code Congressional Administrative News (83d Cong., 2d sess., 1954, vol. 2, p. 2102) vigorously stated the views of the Congress on FPC enlargement of its jurisdiction: " * * * the legislation reaffirms and is thoroughly consistent with the original intent of the Congress in enacting the Natural Gas Act; namely, that the act was to supplement, and not supplant State regulation. * * * The difficulty giving rise to the need for this bill is that under certain interpretations of the Federal Power Commission (in the *East Ohio* case) the Commission has undertaken regulation of some activities * * * which can be completely regulated by the respective States. This has resulted in unnecessary duplication of State and Federal jurisdiction and has caused extra expense to individual companies because of overlapping requirements regarding the filing of reports and information. This bill eliminates this duplication by leaving the jurisdiction over these companies exclusively in the States, as always has been intended."

Although the Hinshaw Amendment has been in force for more than twelve years, the FPC has not been deprived of its appropriate jurisdiction to regulate interstate transmission of gas and sales for resale where the interests of more than one state are involved. No regulatory gap or uncertainty with respect to its jurisdiction has appeared by reason of the Hinshaw Amendment. H.R. 5348