

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

M E M O R A N D U M

February 6, 1992

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF LEGAL SERVICES (BROWN, BIRCHFIELD) *MCB mab*
DIVISION OF ELECTRIC AND GAS (COLSON, BASS) *Get K. A.*

RE : DOCKET NO. 911141-EU, TERRITORIAL DISPUTE BETWEEN
OKEFENOKE RURAL ELECTRIC MEMBERSHIP CORPORATION AND THE
JACKSONVILLE ELECTRIC AUTHORITY OF THE CITY OF
JACKSONVILLE, IN DUVAL COUNTY - JEA'S MOTION TO DISMISS

AGENDA: FEBRUARY 18, 1992

PANEL: FULL COMMISSION - PARTIES MAY PARTICIPATE

CRITICAL DATES: NONE

Case Background

On November 19, 1991, Okefenoke Rural Electric Membership Corporation (OREMC) petitioned the Commission to resolve its territorial dispute with Jacksonville Electric Association (JEA) over who should serve the Holiday Inn - Jacksonville Airport in Duval County. The petition alleged that OREMC had been serving the Holiday Inn until JEA constructed electric facilities and lines to provide service to the Inn, and displaced OREMC's existing facilities.

On December 31, 1991, JEA filed a Motion to Dismiss the Petition. JEA argued that the area in dispute is not a "rural area", and therefore OREMC could not be permitted to serve there. JEA also argued that the Florida Public Service Commission is prohibited from exercising any regulatory authority to resolve territorial disputes in Duval County and the City of Jacksonville. JEA based its jurisdictional argument on the provision of Section 366.04 that states that no provision of Chapter 366 shall be construed or applied to impede, prevent or prohibit a municipally owned electric utility from distributing retail electrical energy within its corporate limits as of July 1, 1974. (See Staff analysis on Issue 3 and Attachment A for the full text of Section 366.04, Florida Statutes). JEA'S motion also included a request that the Commission take official notice of the Charter of the City of Jacksonville.

DOCUMENT NUMBER-DATE

01378 FEB -6 1992

FPSC-RECORDS/REPORTING

DOCKET NO. 911141-EU
February 6, 1992

OREMC's response to the motion to dismiss argued that Florida's "Grid Bill", Section 366.04, Florida Statutes, and numerous court decisions interpreting the Grid Bill, clearly demonstrate the Legislature's intent to vest jurisdiction in the Florida Public Service Commission to resolve territorial disputes among all electric utilities, to prevent uneconomic duplication of facilities, and to ensure the planning, development and maintenance of a coordinated electric power grid throughout Florida. OREMC requested oral argument on the Motion to Dismiss, and it also requested that the Commission take official notice of the ordinances contained in the Jacksonville Code, sections 718.101, 718.102, and 718.103 and ch. 74-196, 1974 Fla. Laws 538.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant JEA's and OREMC's request that the Commission take official notice of the Charter of the City of Jacksonville, the ordinances contained in the Jacksonville Code, sections 718.101, 718.102, and 718.103, and ch. 74-196, 1974 Fla. Laws 538.

RECOMMENDATION: Yes.

STAFF ANALYSIS: The Commission should take official notice of the City of Jacksonville Charter and ordinances, because they are the type of "Matters which may be judicially noticed" under Florida's Evidence Code and Administrative Procedures Act. The Commission always takes official notice of all codifications of its own statutes. (See sections 90.202(8) and (10), 90.203, and 120.61, Florida Statutes).

ISSUE 2: Should the Commission grant OREMC's request for oral argument at agenda on JEA's motion to dismiss?

RECOMMENDATION: Yes. Oral argument by the parties will contribute to the Commission's understanding of the issue it is called upon to resolve.

STAFF ANALYSIS: The issue raised by JEA in its Motion to Dismiss has not previously been considered by the Commission. OREMC points out that the motion raises potentially important questions about the Commission's jurisdiction to decide territorial disputes involving municipal electric utilities. Staff believes, and JEA itself suggests in its motion, that the issue JEA raises also calls into question the Commission's authority to prevent the uneconomic

DOCKET NO. 911141-EU
February 6, 1992

duplication of facilities, and the Commission's authority to ensure the reliability of Florida's electric energy grid. It is an important issue, and staff believes the Commission will be assisted in resolving it by hearing the parties' presentations at agenda.

ISSUE 3: Should the Commission dismiss the Petition to resolve the territorial dispute on the grounds that the area in dispute is not a "rural area" and therefore OREMC, a rural electric cooperative is not permitted to serve there.

RECOMMENDATION: No. This issue is properly addressed at the hearing in this case, based on the evidence presented.

STAFF ANALYSIS: JEA's allegation that the area is not a "rural area" must be proven. The mere allegation is insufficient to support a motion to dismiss.

ISSUE 4: Should the Commission dismiss the Petition to resolve the territorial dispute on the grounds that the Commission does not have jurisdiction to resolve the dispute?

RECOMMENDATION: No. The Legislature of the State of Florida has granted the Florida Public Service Commission the jurisdiction to approve territorial agreements and resolve territorial disputes between all electric utilities in the State of Florida. The Legislature has also vested jurisdiction in the Commission to protect and ensure the reliability of the state's energy grid, and to prevent further uneconomic duplication of facilities. The Commission must exercise that jurisdiction in a manner that is consistent with the provision of section 366.04, Florida Statutes cited by JEA, but that provision does not provide a jurisdictional exclusion for municipalities within their 1974 municipal boundaries.

STAFF ANALYSIS: In 1974 the Florida Legislature adopted legislation that gave the Florida Public Service Commission explicit regulatory responsibility over "the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes in Florida and the avoidance of further uneconomic duplication of facilities." Section 366.04(5), Florida Statutes. The Legislature gave the Commission increased authority over rural electric cooperatives and municipalities - including the authority to approve territorial agreements and resolve disputes - in order to accomplish the public policy purposes of the bill. Section 366.04, Florida Statutes. Section

366.04(2) reads as follows:

In the exercise of its jurisdiction, the commission shall have power over electric utilities for the following purposes:

(a) To prescribe uniform systems and classifications of accounts.

(b) To prescribe a rate structure for all electric utilities.

(c) To require electric power conservation and reliability within a coordinated grid, for operational as well as emergency purposes.

(d) To approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction. However, nothing in this chapter shall be construed to alter existing territorial agreements.

(e) To resolve, upon petition of a utility or on its own motion, any territorial dispute involving service areas between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction. In resolving territorial disputes, the commission may consider, but not be limited to consideration of, the ability of the utilities to expand services within their own capabilities and the nature of the area involved, including population, the degree of urbanization of the area, its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services.

(f) To prescribe and require the filing of periodic reports and other data as may be reasonably available and as necessary to exercise its jurisdiction hereunder.

No provision of the chapter shall be construed or applied to impede prevent, or prohibit any municipally owned electric utility system from distributing at retail electrical energy within its corporate limits, as such corporate limits exist on July 1, 1974; however existing territorial agreements shall not be altered or abridged hereby.

JEA urges the Commission to refrain from resolving its territorial dispute with OREMC on the grounds that section 366.04(2), Florida Statutes prevents the Commission from exercising any authority over municipalities providing electric service within

DOCKET NO. 911141-EU
February 6, 1992

municipal boundaries established as of July 1, 1974, unless territorial agreements with other utilities were in effect as of that date. JEA contends that the last provision of section 366.04(2) provides a jurisdictional exclusion for municipalities from the operation of the Grid Bill. According to JEA, the authority granted to the Commission under the other sections of the statute - to resolve territorial disputes, prevent further uneconomic duplication of facilities, and ensure the reliability of a coordinated energy grid - does not apply to the operation of municipal electric systems within 1974 corporate limits.

Staff disagrees. JEA's interpretation is inconsistent with the Legislative intent and public purpose of the Grid Bill and should not be adopted. That interpretation would prevent the Commission from exercising its primary responsibilities under the Grid Bill to ensure the adequacy and reliability of the energy grid and prevent uneconomic duplication of facilities. The last section of 366.04(2) is not a jurisdictional provision. It is a rule of construction. It directs that the Commission will interpret and exercise the authority granted to it under the Grid Bill in a manner that is consistent with a municipality's right to provide electric service within its 1974 municipal boundaries.

JEA admits that its proposed interpretation presents "a potential conflict" with the intent of the other provisions of Chapter 366 (JEA's Motion to Dismiss, p. 4). JEA attempts to resolve that conflict with the somewhat strained proposition that the Commission will have jurisdiction over municipalities to fulfill the purposes of the Grid Bill where territorial agreements are in effect, but the Commission will not have jurisdiction where territorial agreements are not in effect.

Staff agrees with JEA that all the provisions of section 366.04 should be construed together in a manner that gives effect to each, but JEA's construction of the statute does not do that. JEA's construction creates conflict where none exists, and it undermines the fundamental public policy purposes of the Grid Bill.

The provision of section 366.04(2) at issue here does not exempt municipal electric systems from the Commission's jurisdiction, and thus it does not prevent the Commission from resolving territorial disputes, preventing uneconomic duplication of facilities, or ensuring the reliability of the energy grid throughout the state. It simply directs the Commission to apply its authority, and carry out its responsibilities, in a manner that does not interfere with

DOCKET NO. 911141-EU
February 6, 1992

the municipality's right to serve customers within its 1974 corporate limits. A municipality may have a right to provide electric service to customers within the 1974 municipal boundaries, but it must exercise that right, under the supervision of the Florida Public Service Commission, in a manner consistent with the other provisions, and the public policy purposes, of the Grid Bill. Staff recommends that JEA's motion to dismiss be denied.

ISSUE 5: Should this docket be closed?

RECOMMENDATION: No. The docket should remain open.

STAFF ANALYSIS: Staff recommends that the Commission should issue its interlocutory order denying the Motion to Dismiss, but the docket should remain open until the territorial dispute, and all issues incident to it, are resolved.

MCB:bmi
rokefenm.mcb

(b) "Cable service" means:

1. The one-way transmission to subscribers of video programming or any other programming service; and
2. Subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

(c) "Cable system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

1. A facility that serves only to retransmit the television signals of one or more television broadcast stations;
2. A facility that serves only subscribers in one or more multiple-unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;
3. A facility of a common carrier, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or
4. Any facilities of any electric utility used solely for operating its electric utility systems.

(d) "Video programming" means programming provided by or generally considered comparable to programming provided by a television broadcast station or cable system.

(2) No electric utility shall make or give any preference or advantage to any person as an accommodation or inducement to that person to contract with or take the services of any entity which is an affiliate of such electric utility and which entity provides video programming to persons within all or any part of the service area of such electric utility.

(3) No electric utility shall make or give any preference or advantage over any entity which is not an affiliate of such electric utility, and which entity provides video programming to persons within all or any part of the service area of such electric utility, to any entity which is an affiliate of such electric utility and which entity provides video programming to persons within all or any part of the service area of such electric utility.

(4) Upon a finding by a court of competent jurisdiction that either any electric utility or its affiliate providing video programming services within all or any part of the service area of the electric utility has violated the provisions of this section, the court:

(a) May award actual damages to any other entity not an affiliate of the electric utility providing video programming services to persons within all or any part of the service area of the electric utility, and may grant injunctive relief.

(b) Shall award costs of any action, together with reasonable attorney's fees, to the prevailing party

History.—s. 4, ch. 87-266, s. 22, ch. 89-292
Note.—Repealed effective October 1, 1999, by s. 22, ch. 89-292, and scheduled for review pursuant to s. 11.61.

1366.04 Jurisdiction of commission.—

(1) In addition to its existing functions, the commission shall have jurisdiction to regulate and supervise each public utility with respect to its rates and service;

assumption by it of liabilities or obligations as guarantor, endorser, or surety; and the issuance and sale of its securities, except a security which is a note or draft maturing not more than 1 year after the date of such issuance and sale and aggregating (together with all other then-outstanding notes and drafts of a maturity of 1 year or less on which such public utility is liable) not more than 5 percent of the par value of the other securities of the public utility then outstanding. In the case of securities having no par value, the par value for the purpose of this section shall be the fair market value as of the date of issue. The commission, upon application by a public utility, may authorize the utility to issue and sell securities of one or more offerings, or of one or more types, over a period of up to 12 months; or, if the securities are notes or drafts maturing not more than 1 year after the date of issuance and sale, the commission, upon such application, may authorize the utility to issue and sell such securities over a period of up to 24 months. The commission may take final action to grant an application by a public utility to issue and sell securities or to assume liabilities or obligations after having given notice in the Florida Administrative Weekly published at least 7 days in advance of final agency action. In taking final action on such application, the commission may deny authorization for the issuance or sale of a security or assumption of a liability or obligation if the security, liability, or obligation is for nonutility purposes; and shall deny authorization for the issuance or sale of a security or assumption of a liability or obligation if the financial viability of the public utility is adversely affected such that the public utility's ability to provide reasonable service at reasonable rates is jeopardized. Securities issued by a public utility or liabilities or obligations assumed by a public utility as guarantor, endorser, or surety pursuant to an order of the commission, which order is certified by the clerk of the commission and which order approves or authorizes the issuance and sale of such securities or the assumption of such liabilities or obligations, shall not be invalidated by a modification, repeal, or amendment to that order or by a supplemental order; however, the commission's approval of the issuance of securities or the assumption of liabilities or obligations shall constitute approval only as to the legality of the issue or assumption, and in no way shall it be considered commission approval of the rates, service, accounts, valuation, estimates, or determinations of cost or any other such matter. The jurisdiction conferred upon the commission shall be exclusive and superior to that of all other boards, agencies, political subdivisions, municipalities, towns, villages, or counties, and, in case of conflict therewith, all lawful acts, orders, rules, and regulations of the commission shall in each instance prevail.

(2) In the exercise of its jurisdiction, the commission shall have power over electric utilities for the following purposes:

(a) To prescribe uniform systems and classifications of accounts.

(b) To prescribe a rate structure for all electric utilities.

(c) To require electric power conservation and reliability within a coordinated grid, for operational as well as emergency purposes.

(d) To approve among rural electric utilities, and other. However, nothing alter existing territories to such agree

(e) To resolve motion, any terms between and among electric utilities, a diction. In resolution may consider, but ability of the utility capabilities and ing population, its proximity to reasonably foreseeable for other utility

(f) To prescribe ports and other as necessary to

No provision of plied to impede owned electric electrical energy porate limits exist ritorial agreements by.

(3) In the exercise shall have the as following purposes

(a) To approve among natural chapter shall be agreements between

(b) To resolve motion, any terms between and among ritorial disputes, limited to consideration of services within the area of urbanization areas, and future requirements

(c) For purposes means any manufactured gas or lar gaseous sur and includes gas ral gas utilities

(4) Any customer present oral or proceedings to a territorial dispute sider such matter opportunity to cross substantially affectervene in such

(5) The commission over the planning coordinated electric

(d) To approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction. However, nothing in this chapter shall be construed to alter existing territorial agreements as between the parties to such agreements.

(e) To resolve, upon petition of a utility or on its own motion, any territorial dispute involving service areas between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction. In resolving territorial disputes, the commission may consider, but not be limited to consideration of, the ability of the utilities to expand services within their own capabilities and the nature of the area involved, including population, the degree of urbanization of the area, its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services.

(f) To prescribe and require the filing of periodic reports and other data as may be reasonably available and as necessary to exercise its jurisdiction hereunder.

No provision of this chapter shall be construed or applied to impede, prevent, or prohibit any municipally owned electric utility system from distributing at retail electrical energy within its corporate limits, as such corporate limits exist on July 1, 1974; however, existing territorial agreements shall not be altered or abridged hereby.

(3) In the exercise of its jurisdiction, the commission shall have the authority over natural gas utilities for the following purposes:

(a) To approve territorial agreements between and among natural gas utilities. However, nothing in this chapter shall be construed to alter existing territorial agreements between the parties to such agreements.

(b) To resolve, upon petition of a utility or on its own motion, any territorial dispute involving service areas between and among natural gas utilities. In resolving territorial disputes, the commission may consider, but not be limited to consideration of, the ability of the utilities to expand services within their own capabilities and the nature of the area involved, including population, the degree of urbanization of the area, its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services.

(c) For purposes of this subsection, "natural gas utility" means any utility which supplies natural gas or manufactured gas or liquefied gas with air admixture, or similar gaseous substance by pipeline, to or for the public and includes gas public utilities, gas districts, and natural gas utilities or municipalities or agencies thereof.

(4) Any customer shall be given an opportunity to present oral or written communications in commission proceedings to approve territorial agreements or resolve territorial disputes. If the commission proposes to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut it. Any substantially affected customer shall have the right to intervene in such proceedings.

(5) The commission shall further have jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to as-

sure an adequate and reliable source of energy for operational and emergency purposes in Florida and the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities.

(6) The commission shall further have exclusive jurisdiction to prescribe and enforce safety standards for transmission and distribution facilities of all public electric utilities, cooperatives organized under the Rural Electric Cooperative Law, and electric utilities owned and operated by municipalities. In adopting safety standards, the commission shall:

(a) Adopt the 1984 edition of the National Electrical Safety Code (ANSI C2) as initial standards; and

(b) Adopt, after review, any new edition of the National Electrical Safety Code (ANSI C2).

The standards prescribed by the current 1984 edition of the National Electrical Safety Code (ANSI C2) shall constitute acceptable and adequate requirements for the protection of the safety of the public, and compliance with the minimum requirements of that code shall constitute good engineering practice by the utilities. The administrative authority referred to in the 1984 edition of the National Electrical Safety Code is the commission. However, nothing herein shall be construed as superseding, repealing, or amending the provisions of s. 403.523(1) and (14).

(7)(a) By July 1, 1990, the commission shall make a determination as to the cost-effectiveness of requiring the installation of underground electric utility distribution and transmission facilities for all new construction, and for the conversion of overhead distribution and transmission facilities to underground distribution and transmission facilities when such facilities are replaced or relocated. In making such determination the commission shall consider the total cost involved including, but not limited to, the overall cost of accidental electrocutions and temporary and permanent disabilities to both the utility employees and others; vehicular accidents involving distribution and transmission facilities; ascertainable and measurable costs of adverse health effects; the differential between the rights-of-way required for underground versus overhead utilities; the cost differential due to the elimination of tree-trimming requirements; the cost differentials between underground and overhead utilities to be expected from repairing storm damage, as well as the incurred loss to the private sector as a result of outages due to storm damage, and costs of associated insurance, attorney's fees, and legal settlements and costs. Further, in making its determination, the commission shall survey the experiences of other states and utilities operating outside of Florida with respect to the cost-effectiveness of underground utilities. Upon a finding by the commission that the installation of underground distribution and transmission facilities is cost-effective, the commission shall require electric utilities, where feasible, to install such facilities.

(b) The commission shall, by July 1, 1990, make a determination as to the cost-effectiveness of converting existing overhead electric distribution and transmission facilities to underground facilities. In making this determination, the commission shall consider the factors specified in paragraph (a) and the original cost, depreci-

ated, of the existing facilities, plus their salvage value, if any. The commission shall report its findings to the Legislature by July 1, 1990.

History.—s. 4, ch. 26545, 1961, s. 1, ch. 63-288, s. 1, ch. 63-279, s. 1, ch. 65-52, s. 1, ch. 74-196, s. 3, ch. 76-168, s. 1, ch. 77-457, ss. 3, 16, ch. 80-35, s. 2, ch. 81-318, s. 4, ch. 86-173, ss. 2, 20, 22, ch. 89-292

Note.—Repealed effective October 1, 1999, by s. 22, ch. 89-292, and scheduled for review pursuant to s. 11 61

1366.041 Rate fixing; adequacy of facilities as criterion.—

(1) In fixing the just, reasonable, and compensatory rates, charges, fares, tolls, or rentals to be observed and charged for service within the state by any and all public utilities under its jurisdiction, the commission is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources; provided that no public utility shall be denied a reasonable rate of return upon its rate base in any order entered pursuant to such proceedings. In its consideration thereof, the commission shall have authority, and it shall be the commission's duty, to hear service complaints, if any, that may be presented by subscribers and the public during any proceedings involving such rates, charges, fares, tolls, or rentals; however, no service complaints shall be taken up or considered by the commission at any proceedings involving rates, charges, fares, tolls, or rentals unless the utility has been given at least 30 days' written notice thereof, and any proceeding may be extended, prior to final determination, for such period; further, no order hereunder shall be made effective until a reasonable time has been given the utility involved to correct the cause of service complaints, considering the factor of growth in the community and availability of necessary equipment.

(2) The power and authority herein conferred upon the commission shall not cancel or amend any existing punitive powers of the commission but shall be supplementary thereto and shall be construed liberally to further the legislative intent that adequate service be rendered by public utilities in the state in consideration for the rates, charges, fares, tolls, and rentals fixed by said commission and observed by said utilities under its jurisdiction.

(3) The term "public utility" as used herein means all persons or corporations which the commission has the authority, power, and duty to regulate for the purpose of fixing rates and charges for services rendered and requiring the rendition of adequate service.

(4) No electric utility may collect impact fees designed to recover capital costs in initiating new service unless the utility can demonstrate and the commission finds that such fees are fair, just, and reasonable and are collected from the ultimate utility customer of record at such time as or after permanent electric service is provided. This prohibition shall not apply to underground electric distribution lines or line extension charges collected pursuant to approved tariffs.

History.—ss. 1, 2, 3, 4, ch. 67-326, s. 3, ch. 76-168, s. 1, ch. 77-457, s. 53, ch.

78-95, ss. 4, 16, ch. 80-35, s. 2, ch. 81-318, ss. 3, 20, 22, ch. 89-292

Note.—Repealed effective October 1, 1999, by s. 22, ch. 89-292, and scheduled for review pursuant to s. 11 61

1366.05 Powers.—

(1) In the exercise of such jurisdiction, the commission shall have power to prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, and service rules and regulations to be observed by each public utility; to require repairs, improvements, additions, and extensions to the plant and equipment of any public utility when reasonably necessary to promote the convenience and welfare of the public and secure adequate service or facilities for those reasonably entitled thereto; to employ and fix the compensation for such examiners and technical, legal, and clerical employees as it deems necessary to carry out the provisions of this chapter; and to prescribe all rules and regulations reasonably necessary and appropriate for the administration and enforcement of this chapter.

(2) Every public utility, as defined in s. 366.02, which in addition to the production, transmission, delivery or furnishing of heat, light, or power also sells appliances or other merchandise shall keep separate and individual accounts for the sale and profit deriving from such sales. No profit or loss shall be taken into consideration by the commission from the sale of such items in arriving at any rate to be charged for service by any public utility.

(3) The commission shall provide for the examination and testing of all meters used for measuring any product or service of a public utility.

(4) Any consumer or user may have any such meter tested upon payment of the fees fixed by the commission.

(5) The commission shall establish reasonable fees to be paid for testing such meters on the request of the consumers or users, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the meter is found defective or incorrect to the disadvantage of the consumer or user, in excess of the degree or amount of tolerance customarily allowed for such meters, or as may be provided for in rules and regulations of the commission.

(6) The commission may purchase materials, apparatus, and standard measuring instruments for such examination and tests.

(7) The commission shall have the power to require reports from all electric utilities to assure the development of adequate and reliable energy grids.

(8) If the commission determines that there is probable cause to believe that inadequacies exist with respect to the energy grids developed by the electric utility industry, it shall have the power, after proceedings as provided by law, and after a finding that mutual benefits will accrue to the electric utilities involved, to require installation or repair of necessary facilities, including generating plants and transmission facilities, with the costs to be distributed in proportion to the benefits received, and to take all necessary steps to ensure compliance. The electric utilities involved in any action taken or orders issued pursuant to this subsection shall have full power and authority, notwithstanding any general or

special laws to build, operate, or facilities and shall powers granted subsection shall of the Electric 403.517.

(9) The com and other data b nies, including il tions, or allocat and such affilia also require suc sure that a utility activities.

History.—s. 5, ch. 265 s. 53, ch. 78-95, ss. 5, 1 22, ch. 89-292

Note.—Repealed eff for review pursuant to s

1366.051 Coq commission juri generation and the public when ply of the entire by a cogenerati utility in whose s er producer is l with applicable such cogenerati generator or sm tricity to any oth mission shall et chase of power erators or small which a public from a cogener rates for power erators or small authorize a rate avoided costs. / cremental costs pacity, or both, erators or small erate itself or pu mission may use full avoided cap power producer its financial stab ed costs are lik over the term d the commission ments and the tors in determini transmission or customer to tra customer at one another location sion of this serv conditions asso are not likely to the utility's gene ers or adversely