

E AND R AMENDMENTS TO LB 1072

Introduced by Enrollment and Review Committee: McGill, 26,  
Chairperson

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Section 66-1838, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           66-1838 (1) The provisions of this section apply only to  
6 general rate filings.

7           (2) Except as provided in subsection (3) of this section,  
8 a jurisdictional utility shall provide written notice to each city  
9 that will be affected by a proposed change in rates simultaneously  
10 with the filing with the commission of a request for a change  
11 in rates pursuant to the State Natural Gas Regulation Act. Such  
12 notice shall identify the cities that will be affected by the rate  
13 filing. The jurisdictional utility shall also file the information  
14 prescribed by the act and rules and regulations for rate changes  
15 adopted and promulgated by the commission with each city affected  
16 by such proposed rate change in electronic or digital format or,  
17 upon request, as paper documents.

18           (3) A jurisdictional utility may determine not to  
19 participate in negotiations with affected cities. Such decision,  
20 if indicated by written notice in the initial rate filing to the  
21 commission, shall relieve it from the duty of supplying notice to  
22 such cities as specified in subsection (2) of this section. The  
23 jurisdictional utility shall, not later than fifteen days after

1 the initial filing, inform the commission by written notice of any  
2 decision not to participate in negotiations.

3 (4) Affected cities shall have a period of sixty days  
4 after the date of such filing within which to adopt a resolution  
5 evidencing their intent to negotiate an agreed rate change with the  
6 jurisdictional utility. A copy of the resolution adopted by each  
7 city under this section, notice of the rejection by a city of such  
8 a resolution, or written notice by an authorized officer of the  
9 city of the city's rejection of negotiations shall be provided to  
10 the commission and to the jurisdictional utility within seven days  
11 after its adoption.

12 (5) Any city may, at any time, by resolution adopted  
13 by its governing body and filed with the commission, indicate  
14 its rejection of participation in any future negotiations  
15 pertaining to any rate change whenever the same may be filed.  
16 Such resolution shall be treated as a duly filed notice of  
17 rejection of participation in negotiations for any rate filing by  
18 a jurisdictional utility at any time thereafter. The city filing  
19 a resolution pursuant to this subsection shall be bound thereby  
20 until such time as a resolution by the governing body of that city  
21 revoking its prior rejection of participation is filed with the  
22 commission.

23 (6) If the commission receives resolutions adopted prior  
24 to the expiration of the sixty-day period provided for in  
25 subsection (4) of this section evidencing the intent to negotiate  
26 from cities representing more than fifty percent of the ratepayers  
27 within the affected cities, the commission shall certify the case

1 for negotiation between such cities and the jurisdictional utility  
2 and shall take no action upon the rate filing until the negotiation  
3 period and any stipulated extension has expired or an agreement  
4 on rates is submitted, whichever occurs first. The commission's  
5 certification shall be issued within eight business days after  
6 the earlier of (a) receipt of a copy of the resolutions from  
7 cities representing fifty percent or more of ratepayers within the  
8 affected cities or (b) the end of the sixty-day period provided for  
9 in subsection (4) of this section.

10 (7) When (a) the commission receives notice or has  
11 written documentary evidence on file from cities representing more  
12 than fifty percent of the ratepayers within the affected cities  
13 which notice or documents either expressly reject negotiations  
14 or reject such a resolution or (b) the commission receives  
15 written notice from the jurisdictional utility expressly rejecting  
16 negotiations, the rate change review by the commission shall  
17 proceed immediately from the date when the commission makes such a  
18 determination or receives such notice.

19 (8) When the sixty-day period provided for in subsection  
20 (4) of this section has expired without the receipt by the  
21 commission of resolutions from cities representing more than fifty  
22 percent of the ratepayers within the affected cities evidencing  
23 their intent to negotiate an agreed rate change review by the  
24 commission with the jurisdictional utility, the rate change shall  
25 proceed immediately from the date when the commission makes such a  
26 determination.

27 (9) If commission certification to pursue negotiations

1 is received, cities adopting resolutions to negotiate and the  
2 jurisdictional utility shall enter into good faith negotiations  
3 over such proposed rate change.

4 (10) (a) The jurisdictional utility's filed rates may be  
5 placed into effect as interim rates, subject to refund, upon  
6 the adoption of final rates sixty days after the filing with  
7 the commission, if the commission certifies the rate filing for  
8 negotiations.

9 (b) If the rate filing is not certified by the commission  
10 for negotiations, the jurisdictional utility's filed rates may  
11 be placed into effect as interim rates, subject to refund, upon  
12 the adoption of final rates, ninety days after filing with the  
13 commission.

14 (11) Negotiations between the cities and the  
15 jurisdictional utility shall continue for a period not to  
16 exceed ninety days after the date of the rate filing, except that  
17 the parties may mutually agree to extend such period to a future  
18 date certain and shall provide such stipulation to the commission.

19 (12) Notwithstanding any other provision of law, any  
20 information exchanged between the jurisdictional utility and cities  
21 is not a public record within the meaning of sections 84-712  
22 to 84-712.09 and its disclosure to the commission, its staff,  
23 the public advocate, or any other person or corporation, for any  
24 purpose, is expressly prohibited.

25 (13) If the cities and the jurisdictional utility reach  
26 agreement upon new rates, such agreement shall be reduced to  
27 writing, including proposed findings of fact, proposed conclusions

1 of law, and a proposed commission order, and filed with the  
2 commission. If cities representing more than fifty percent of the  
3 ratepayers within the cities affected by the proposed rate change  
4 enter into an agreement upon new rates and such agreement is filed  
5 with and approved by the commission, such rates shall be effective  
6 and binding upon all of the jurisdictional utility's ratepayers  
7 affected by the rate filing.

8 (14) Any agreement filed with the commission shall be  
9 presumed in the public interest, and absent any clear evidence on  
10 the face of the agreement that it is contrary to the standards and  
11 provisions of the State Natural Gas Regulation Act, the agreement  
12 shall be approved by the commission within a reasonable time.

13 (15) (a) Except as provided in subdivision (c) of this  
14 subsection, if the negotiations fail to result in an agreement  
15 upon new rates, the rates requested in the rate filing shall  
16 become final and no longer subject to refund if the commission  
17 has not taken final action within two hundred ten days after the  
18 date of the expiration of the negotiation period or after the  
19 date upon which the jurisdictional utility and the cities file a  
20 written agreement that the negotiations have failed and that the  
21 rate change review by the commission should proceed as provided in  
22 subsection (7) of this section.

23 (b) Except as provided in subdivision (c) of this  
24 subsection, if the filing is not certified for negotiations,  
25 the rate requested in the rate filing shall become final and no  
26 longer subject to refund if the commission has not taken final  
27 action within ~~two hundred ten~~ one hundred eighty days after the

1 date of the ~~filing~~ expiration of the sixty-day period provided for  
2 in subsection (4) of this section or the date that the commission  
3 receives notice or has accumulated written documentary evidence  
4 on file from cities representing more than fifty percent of the  
5 ratepayers within the affected cities, whichever is earlier, if  
6 such notice or documents either expressly reject negotiations or  
7 reject such a resolution.

8 (c) The commission may extend the ~~two-hundred-ten-day~~  
9 deadlines specified in subdivision (a) or (b) of this subsection  
10 by a period not to exceed an additional sixty days upon a  
11 finding that additional time is necessary to properly fulfill its  
12 responsibilities in the proceeding.

13 (16) Within thirty days after such changes have been  
14 authorized by the commission or become effective, copies of  
15 all tariffs, schedules, and classifications, and all terms  
16 or conditions of service, except those determined to be  
17 confidential under rules and regulations adopted and promulgated  
18 by the commission, shall be available for public inspection in  
19 every office and facility open to the general public of the  
20 jurisdictional utility in this state.

21 Sec. 2. Section 66-1852, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23 66-1852 (1) Except as otherwise expressly authorized in  
24 the State Natural Gas Regulation Act, no person, public or private,  
25 shall extend duplicative or redundant natural gas mains or other  
26 natural gas services into any area which has existing natural gas  
27 utility infrastructure or where a contract has been entered into

1 for the placement of natural gas utility infrastructure.

2 (2) The prohibition in subsection (1) of this section  
3 shall not apply in any area in which two or more jurisdictional  
4 utilities share authority to provide natural gas within the same  
5 territory under franchises issued by the same city.

6 (3) The prohibition in subsection (1) of this section  
7 shall not apply to the extension by a jurisdictional utility of  
8 a transmission line connecting to distribution facilities owned or  
9 operated by a jurisdictional utility, a city, or a metropolitan  
10 utilities district.

11 (4) (a) The prohibition in subsection (1) of this section  
12 shall not apply to the extension by a metropolitan utilities  
13 district of a transmission line connecting to distribution  
14 facilities owned or operated by such metropolitan utilities  
15 district.

16 (b) The extension by a metropolitan utilities district  
17 of a transmission line connecting to distribution facilities owned  
18 or operated by such metropolitan utilities district shall not  
19 constitute an enlargement or expansion of its natural gas service  
20 area and shall not be considered part of its natural gas service  
21 area.

22 (c) The extension of a transmission line by a  
23 jurisdictional utility as provided in subsection (3) of this  
24 section shall not constitute an enlargement or expansion of the  
25 jurisdictional utility's natural gas service area and shall not be  
26 considered part of its natural gas service area if the transmission  
27 line makes its connection to distribution facilities in a county in

1 which the natural gas service area or a portion of the natural gas  
2 service area of a metropolitan utilities district is located.

3 (5) The prohibition in subsection (1) of this section  
4 shall not apply to the extension by a city that owns or operates a  
5 natural gas utility of a transmission line that connects to its own  
6 distribution facilities.

7 (6) For purposes of this section, a transmission line  
8 means a pipeline, other than a gathering pipeline, distribution  
9 pipeline, or service line, that transports natural gas.

10 (7) Nothing in this section shall be construed to  
11 authorize a jurisdictional utility to extend a transmission line to  
12 a high-volume ratepayer with an existing source and adequate  
13 supply of natural gas that is located outside the area in  
14 which that jurisdictional utility has existing natural gas utility  
15 infrastructure.

16 Sec. 3. Section 75-130.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 75-130.01 With respect to any matter of fact or law at  
19 issue in a contested case and notwithstanding any other provision  
20 of law, a member, staff, or agent of the Public Service Commission  
21 shall not during the pendency of any contested case heard before  
22 the commission have any ex parte communication with any party  
23 having an interest in the outcome of the contested case. For  
24 purposes of this section, the definitions in section 84-901 shall  
25 apply. Notwithstanding subdivision (4)(c) of section 84-901, this  
26 section applies to all communications by a party in contested cases  
27 under the State Natural Gas Regulation Act, including, but not



1 limited to, general rate filings under section 66-1838.

2           Sec. 4. Original sections 66-1838 and 75-130.01, Reissue  
3 Revised Statutes of Nebraska, and section 66-1852, Revised Statutes  
4 Cumulative Supplement, 2006, are repealed.

5           2. On page 1, line 3, after "Nebraska" insert ", and  
6 section 66-1852, Revised Statutes Cumulative Supplement, 2006"; and  
7 in line 5 after the first "to" insert "extension of natural gas  
8 transmission lines and to".