

AMENDMENTS TO LB 1115

Introduced by Urban Affairs

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

3 Section 1. The Legislature declares it is the public
4 policy of this state to provide adequate natural gas pipeline
5 facilities and service in order to expand and diversify the
6 Nebraska economy resulting in increased employment, new and
7 expanded businesses and industries, and new and expanded sources
8 of tax revenue.

9 Sec. 2. For purposes of sections 1 to 7 of this act:

10 (1) City means a city of the first or second class or
11 village;

12 (2) Jurisdictional utility has the same meaning as in
13 section 66-1802;

14 (3) Natural gas pipeline facility means a pipeline, pump,
15 compressor, or storage or other facility, structure, or property
16 necessary, useful, or incidental in the transportation of natural
17 gas; and

18 (4) Rural infrastructure development means planning,
19 financing, development, acquisition, construction, owning,
20 operating, and maintaining a natural gas pipeline facility or
21 entering into agreements with an interstate pipeline for existing,
22 new, or expanded capacity on the interstate pipeline's system for
23 the transportation of natural gas necessary to supply unserved or

1 underserved areas; and

2 (5) Unserved or underserved area means an area in this
3 state lacking adequate natural gas pipeline capacity to meet the
4 demand of existing or potential end-use customers as determined by
5 the jurisdictional utility presently serving the area. Unserved or
6 underserved area does not include any area within a city of the
7 primary or metropolitan class.

8 Sec. 3. A city that has been authorized to utilize funds
9 pursuant to the Local Option Municipal Economic Development Act
10 for purposes of sections 1 to 7 and 11 of this act shall have
11 all necessary powers to implement and to carry out its powers and
12 duties under such sections.

13 Sec. 4. A jurisdictional utility may undertake rural
14 infrastructure development necessary to supply unserved or
15 underserved areas in or adjacent to areas presently served by the
16 jurisdictional utility and not served by another jurisdictional
17 utility.

18 Sec. 5. Prior to undertaking rural infrastructure
19 development, a jurisdictional utility shall consider factors
20 such as the economic impact to the area, economic feasibility,
21 whether other options may be more in the public interest, such as
22 utilization of any existing or planned interstate or intrastate
23 pipeline facilities of private persons, companies, firms, or
24 corporations, and the likelihood of successful completion and
25 ongoing operation of the facility.

26 Sec. 6. A jurisdictional utility shall not be subject to
27 the State Natural Gas Regulation Act to the extent it is exercising

1 power granted in section 4 of this act except as specifically
2 provided otherwise but shall be subject to sections 75-501 to
3 75-503.

4 Sec. 7. Sections 1 to 6 of this act do not apply to a
5 natural gas utility owned or operated by a city or a metropolitan
6 utilities district.

7 Sec. 8. Section 18-2705, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 18-2705 Economic development program ~~shall mean~~ means any
10 project or program utilizing funds derived from local sources of
11 revenue for the purpose of providing direct or indirect financial
12 assistance to a qualifying business or the payment of related costs
13 and expenses or both, without regard to whether that business is
14 identified at the time the project or program is initiated or is
15 to be determined by specified means at some time in the future.
16 An economic development program may include, but shall not be
17 limited to, the following activities: Direct loans or grants to
18 qualifying businesses for fixed assets or working capital or both;
19 loan guarantees for qualifying business; grants for public works
20 improvements which are essential to the location or expansion of,
21 or the provision of new services by, a qualifying business; grants
22 or loans for job training; the purchase of real estate, options for
23 such purchases, and the renewal or extension of such options; the
24 issuance of bonds as provided for in the Local Option Municipal
25 Economic Development Act; and payments for salaries and support of
26 city staff to implement the economic development program or the
27 contracting of such to an outside entity. For cities of the first

1 and second class and villages, an economic development program may
2 also include grants or loans for the construction or rehabilitation
3 for sale or lease of housing for persons of low or moderate income.
4 For cities of the first and second class and villages, an economic
5 development program may also include grants, loans, or funds for
6 rural infrastructure development as defined in section 2 of this
7 act. An economic development program may be conducted jointly by
8 two or more cities after the approval of the program by the voters
9 of each participating city.

10 Sec. 9. Section 18-2710.01, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 18-2710.01 (1) If the proposed economic development
13 program involves the making of grants or loans for the construction
14 or rehabilitation for sale or lease of housing for persons of low
15 or moderate income, the proposed plan shall specify (a) the income
16 levels which will qualify persons for participation in the housing
17 program and (b) the criteria for determining the adjustments to
18 be made to the income of persons to determine their qualification
19 for participation. For purposes of the Local Option Municipal
20 Economic Development Act, the city shall determine low-income and
21 moderate-income standards for the economic development program by
22 basing such standards upon existing federal government guidelines
23 or standards for qualifying for any federal housing assistance
24 program as such levels may be modified by the consideration of
25 existing local and regional economic conditions and income levels.

26 (2) In establishing the criteria to be applied in
27 determining appropriate adjustments to the income of persons

1 seeking consideration for participation in the program pursuant
2 to subsection (1) of this section, the city shall consider the
3 following factors:

4 (a) The amount of income of the person which is available
5 for housing needs;

6 (b) The size of the family to reside in each housing
7 unit;

8 (c) The cost and condition of housing available in the
9 city;

10 (d) Whether the person or any member of the person's
11 family who will be residing in the housing unit is elderly, infirm,
12 or disabled;

13 (e) The ability of the person to compete successfully in
14 the private housing market and to pay the amounts the private
15 enterprise market requires for safe, sanitary, and uncrowded
16 housing; and

17 (f) Such other factors as the city determines which are
18 particularly relevant to the conditions facing persons seeking new
19 or rehabilitated housing in the city.

20 (3) If the proposed economic development program involves
21 the making of grants, loans, or funds for rural infrastructure
22 development as defined in section 2 of this act, the proposed
23 program shall specify a summary of the terms and conditions of the
24 proposed agreement as provided in subsection (2) of section 11 of
25 this act.

26 Sec. 10. Section 66-1801, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 66-1801 Sections 66-1801 to 66-1867 and section 11 of
2 this act shall be known and may be cited as the State Natural Gas
3 Regulation Act.

4 Sec. 11. (1) Prior to undertaking rural infrastructure
5 development pursuant to sections 1 to 7 of this act, a
6 jurisdictional utility shall file a rural infrastructure surcharge
7 tariff with the commission consistent with the proposed rate
8 increases negotiated in the agreement with the electing city or
9 cities. The filing may be a joint filing with other jurisdictional
10 utilities and may affect more than one electing city. With the
11 rural infrastructure surcharge tariff, the jurisdictional utility
12 shall file:

13 (a) A map of the unserved or underserved area it proposes
14 to serve;

15 (b) A description of the project;

16 (c) Information regarding support of the project from
17 individuals, businesses, or government entities;

18 (d) An executed agreement with the electing city or
19 cities; and

20 (e) The factors the jurisdictional utility has considered
21 pursuant to section 4 of this act.

22 (2) An agreement submitted pursuant to subdivision (1)(d)
23 of this section may include, but shall not be limited to, terms and
24 conditions that address the following:

25 (a) Inclusion of representatives of the following
26 possible parties: The jurisdictional utility; an interstate natural
27 gas pipeline company; current and prospective customers; and any

1 other interested parties;

2 (b) Impact on other cities, jurisdictional utilities,
3 interstate natural gas pipeline companies, and current and
4 prospective customers;

5 (c) The possibility of a joint filing with other
6 jurisdictional utilities and agreements with other electing cities;

7 (d) The factors set forth in section 4 of this act;

8 (e) The capacity of the project;

9 (f) The potential to enhance demand for natural gas
10 capacity created by the project;

11 (g) Ownership of the project or parts of the project;

12 (h) Participation by the electing city or cities and
13 other parties to determine the customer or customers which will
14 receive the additional natural gas capacity created by the project;

15 (i) Any matters involving rights-of-way and easements and
16 fees, taxes, and surcharges related thereto;

17 (j) The payment of costs of the rural infrastructure
18 development, including, but not limited to: (i) Proposed rate
19 increases for customers of the electing city or cities and within
20 a city's extraterritorial zoning jurisdiction, including direct
21 customers and residential or commercial customers; (ii) any city
22 funds, including funds from the Local Option Municipal Economic
23 Development Act, which may be used to pay for consultants, issue
24 bonds, lower proposed rate increases, or otherwise finance the
25 rural infrastructure development project; and (iii) contributions
26 from direct customers or other sources, including, but not limited
27 to, state or federal grants or loans; and

1 (k) Reimbursement of costs to the electing city or cities
2 or ratepayers of the electing city or cities, including ratepayers
3 in a city's extraterritorial zoning jurisdiction.

4 (3) A jurisdictional utility may file a gas supply cost
5 adjustment tariff with the commission, consistent with the proposed
6 rate increases negotiated in the agreement with the electing city
7 or cities, that adjusts the jurisdictional utility's residential
8 or commercial customer rates to provide for the recovery of, but
9 not limited to, costs related to ongoing gas supply, transmission,
10 pipeline capacity, storage, financial instruments, or interstate
11 pipeline charges or other related costs for rural infrastructure
12 development.

13 (4) A rural infrastructure surcharge tariff or gas supply
14 adjustment tariff shall become effective immediately upon filing
15 with the commission of all items required under this section.

16 (5) Any rural infrastructure surcharge tariff or gas
17 supply cost adjustment tariff, and any future changes thereto,
18 applied to high-volume customers obtaining direct service and
19 to general system residential or commercial customers subject to
20 jurisdiction of the commission shall be calculated and implemented
21 in a manner proposed by the jurisdictional utility consistent with
22 the proposed rate increases negotiated in the agreement with the
23 electing city or cities.

24 (6) The rural infrastructure surcharge tariff or gas
25 supply cost adjustment tariff, and any future changes thereto,
26 shall first be applied to customers receiving direct service from
27 the rural infrastructure development. If such resulting rates

1 are uneconomic or commercially unreasonable to those customers,
2 the jurisdictional utility shall recover the costs above the
3 rates determined by the jurisdictional utility to be economical
4 or commercially reasonable from general system residential or
5 commercial customers in the electing city in a manner proposed
6 by the jurisdictional utility consistent with the proposed rate
7 increases negotiated in the agreement with the electing city or
8 cities.

9 (7) A jurisdictional utility may collect a rural
10 infrastructure surcharge or gas supply adjustment until costs are
11 fully recovered even if the jurisdictional utility has not filed
12 for or is the subject of a new general rate proceeding within that
13 period of time.

14 (8) No more than once annually, the commission may
15 initiate a proceeding and conduct a public hearing to determine
16 whether the rural infrastructure surcharge of a jurisdictional
17 utility reflects the actual costs of the rural infrastructure
18 development and to reconcile any amounts collected from rate
19 payers with actual costs incurred by the jurisdictional utility.
20 The commission shall make a decision as to whether the rural
21 infrastructure surcharge reflects actual costs within ninety days
22 after initiating the proceeding. The rural infrastructure surcharge
23 shall be presumed to reflect the actual costs of the rural
24 infrastructure development, unless the contrary is shown.

25 (9) Any refund, including interest thereon, shall be
26 made to presently served ratepayers in the electing city by an
27 appropriate adjustment shown as a credit on subsequent bills

1 during a period selected by the jurisdictional utility, not to
2 exceed twelve months, or by a cash refund at the option of
3 the jurisdictional utility. The jurisdictional utility shall not
4 be required to provide such refunds to ratepayers served at
5 competitively set or negotiated rates or under alternative rate
6 mechanisms when the ratepayer is paying less than the full rate
7 determined pursuant to the gas supply cost adjustment rate schedule
8 or under a customer choice or unbundling program.

9 (10) A jurisdictional utility is not required to proceed
10 with rural infrastructure development in an unserved or underserved
11 area unless required to do so under an agreement with an electing
12 city or cities.

13 (11) A jurisdictional utility utilizing a rural
14 infrastructure surcharge shall separately identify the surcharge on
15 each customer's bill using language sufficiently clear to identify
16 the purpose of the surcharge.

17 (12) For purposes of this section:

18 (a) City means a city of the first or second class or
19 village;

20 (b) Electing city means a city that has elected through
21 its governing body to benefit from additional natural gas supply
22 made possible by a rural infrastructure development and has
23 executed an agreement with the jurisdictional utility serving
24 the city and the city's extraterritorial zoning jurisdiction to
25 provide the additional natural gas supply in accordance with terms
26 and conditions mutually acceptable to the city and jurisdictional
27 utility consistent with the agreement negotiated pursuant to

1 subsection (2) of this section;

2 (c) Rural infrastructure development means planning,
3 financing, development, acquisition, construction, owning,
4 operating, and maintaining a natural gas pipeline facility or
5 entering into agreements with an interstate pipeline for existing,
6 new, or expanded capacity on the interstate pipeline's system for
7 the transportation of natural gas necessary to supply unserved or
8 underserved areas; and

9 (d) Rural infrastructure surcharge means a surcharge
10 through which a jurisdictional utility may recover costs for rural
11 infrastructure development.

12 Sec. 12. Section 66-1808, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 66-1808 (1) The provisions of this section do not apply
15 to general rate filings.

16 (2) Unless the commission otherwise orders, no
17 jurisdictional utility shall make effective any changed rate or any
18 term or condition of service pertaining to the service or rates
19 of such utility, except by filing the same with the commission
20 at least thirty days prior to the proposed effective date. The
21 commission, for good cause, may allow such changed rate or any term
22 or condition of service pertaining to the service or rates of any
23 such utility, to become effective on less than thirty days' notice.
24 If the commission allows a change to become effective on less than
25 thirty days' notice, the effective date of the allowed change shall
26 be the date established in the commission order approving such
27 change or the date of the order if no effective date is otherwise

1 established. Any such proposed change shall be shown by filing with
2 the commission a schedule showing the changes, and such changes
3 shall be plainly indicated by proper reference marks in amendments
4 or supplements to existing tariffs, schedules, or classifications,
5 or in new issues thereof.

6 (3) Whenever any jurisdictional utility files with the
7 commission the changes desired to be made and put in force by
8 such utility, the commission, either upon complaint or upon its
9 own motion, may give notice and hold a hearing upon such proposed
10 changes. Pending such hearing, the commission may suspend the
11 operation of such change and defer the effective date of such
12 change in rate or any term or condition of service pertaining to
13 the service or rates of any such utility, by delivering to such
14 utility a statement in writing of its reasons for such suspension.
15 The commission may not suspend a tariff filed pursuant to section
16 11 of this act.

17 (4) The commission shall not delay the effective date of
18 the proposed change in rate or any term or condition of service
19 pertaining to the service or rates of any such jurisdictional
20 utility, more than one hundred eighty days beyond the date the
21 utility filed its application requesting the proposed change. If
22 the commission does not suspend the proposed change within thirty
23 days after the date the same is filed by the utility, such proposed
24 change shall be deemed approved by the commission and shall take
25 effect on the proposed effective date. If the commission has not
26 issued a final order on the proposed change in any rate or any
27 term or condition of service pertaining to the service or rates

1 of any such utility, within one hundred eighty days after the
2 date the utility files its application requesting the proposed
3 change, then the proposed change shall be deemed approved by the
4 commission and the proposed change shall be effective immediately,
5 except that (a) in any proceeding initiated as a result of a
6 filing by a utility of new or changed rates or terms and conditions
7 of service, the commission shall, within thirty days of the
8 receipt of such filing, review the applications, documents, and
9 submissions made with such filing to determine whether or not they
10 conform to the minimum requirements of the commission regarding
11 such filings as established by applicable rule, regulation, or
12 commission order. If such applications, documents, or submissions
13 fail to substantially conform with such requirements, they will
14 be deemed defective and the filing shall not be deemed to have
15 been made until such applications, documents, and submissions are
16 determined to be in conformity by the commission with minimum
17 standards, and (b) nothing in this subsection shall preclude the
18 jurisdictional utility and the commission from agreeing to a waiver
19 or an extension of the one-hundred-eighty-day period.

20 (5) Except as provided in subsection (4) of this section,
21 no change shall be made in any rate or in any term or condition
22 of service pertaining to the service or rates of any such
23 jurisdictional utility, without the consent of the commission.
24 Within thirty days after such changes have been authorized by
25 the commission or become effective as provided in subsection
26 (4) of this section, copies of all tariffs, schedules, and
27 classifications, and all terms or conditions of service, except

1 those determined to be confidential under rules and regulations
2 adopted by the commission, shall be available for public inspection
3 in every office and facility open to the general public of such
4 jurisdictional utility in this state.

5 (6) Except as to the time limits prescribed in subsection
6 (4) of this section, proceedings under this section shall be
7 conducted in accordance with rules and regulations adopted and
8 promulgated pursuant to section 75-110.

9 Sec. 13. Section 66-1831, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 66-1831 (1) The public advocate shall have the power to:

12 (a) Investigate the legality and reasonableness of rates,
13 charges, and practices of jurisdictional utilities except for
14 tariffs subject to section 11 of this act;

15 (b) Petition for relief, request, initiate, and intervene
16 in any proceeding before the commission concerning such utilities
17 except for tariffs subject to section 11 of this act;

18 (c) Represent and appear for ratepayers and the public in
19 proceedings before the commission and in any negotiations or other
20 measures to resolve disputes that give rise to such proceedings
21 except for tariffs subject to section 11 of this act;

22 (d) Represent and appear for ratepayers and the public
23 in any negotiations or other measures to resolve disputes that
24 give rise to proceedings before the commission and make and seek
25 approval of agreements to settle such disputes except for tariffs
26 subject to section 11 of this act; and

27 (e) Make motions for rehearing or reconsideration,

1 appeal, or seek judicial review of any order or decision of the
2 commission regarding jurisdictional utilities except for tariffs
3 subject to section 11 of this act.

4 (2) The public advocate shall not advocate for or on
5 behalf of any single individual, organization, or entity.

6 (3) The public advocate may enter into stipulations with
7 other parties in any proceeding to balance the interests of those
8 it represents with the interests of the jurisdictional utilities as
9 a means of improving the quality of resulting decisions in a highly
10 technical environment and minimizing the cost of regulation.

11 Sec. 14. Original sections 18-2705, 18-2710.01, 66-1801,
12 66-1808, and 66-1831, Reissue Revised Statutes of Nebraska, are
13 repealed.