

ONE HUNDRED SECOND LEGISLATURE - SECOND SESSION - 2012
COMMITTEE STATEMENT
LB1115

Hearing Date: Tuesday February 07, 2012
Committee On: Urban Affairs
Introducer: Flood
One Liner: Authorize construction and operation of natural gas pipeline facilities by jurisdictional utilities

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 7 Senators Ashford, Coash, Cook, Krist, Lambert, McGill, Smith
Nay:
Absent:
Present Not Voting:

Proponents:
Senator Flood
Scott Zaruba
Sue Fuchtmann
Greg Oswald
Curtis Lancaster
Dennis Houston
Jessica Kolterman

Representing:
Self
Black Hills Energy
City of Norfolk
Lindsay Corp.
Faith Regional Health Services
Norfolk Area Chamber of Commerce
Nebraska Farm Bureau Federation

Opponents:

Representing:

Neutral:
Lynn Rex
Laura Demman

Representing:
League of Nebraska Municipalities
Nebraska Public Service Commission

Summary of purpose and/or changes:

LB 1115 is a bill to provide for a streamlined process to implement a plan to construct rural natural gas infrastructure, in a less regulated atmosphere that is outside of the Natural Gas Act. The purpose of this is to provide natural gas to underserved or unserved areas in our state to meet the demand of existing or potential end-use business customers.

Comments/Analysis:

Section 1 declares it the policy of the State of Nebraska to provide adequate natural gas pipeline facilities and service in order to expand and diversify our economy.

Section 2 sets out definitions necessary for this bill, specifically including under-served and unserved areas meaning rural areas in the state lacking adequate natural gas pipeline capacity to meet the demand of existing or potential customers as determined by the jurisdictional utility. It specifically does not include any area within a city of the primary or metropolitan class.

Section 3 gives a jurisdictional utility the authority to plan, finance, develop, acquire, construct, own, operate, and

maintain a natural gas pipeline facility or enter into an agreement with an interstate pipeline for existing, new, or expanded capacity for the transportation of natural gas necessary to supply unserved or under-served areas.

Section 4 of the bill lays out the different factors that a jurisdictional utility shall take into consideration prior to constructing a natural gas pipeline.

Section 5 of the bill specifically states that a jurisdictional utility exercising the powers granted in this bill shall not be subject to the State Natural Gas Regulation Act, except as specifically provided.

Section 6 states clearly that sections 1 through 5 of this bill do not apply to a metropolitan utilities district.

Section 7 amends Neb.Rev.Stat. 66-1801 to include section 8 of this act to be known and cited as the State Natural Gas Regulation Act.

Section 8 adds new language to allow a jurisdictional utility to file a rural infrastructure system development cost recovery charge tariff with the public service commission that adjusts the jurisdictional utility's residential and commercial customer rates to provide for the recovery of costs for the rural infrastructure system development into unserved or underserved areas as discussed in sections 1 through 6 of this bill.

Subsection (2) has new language to allow a jurisdictional utility to file a gas supply cost adjustment tariff with the public service commission that adjusts the jurisdictional utility's residential and commercial customer rates to provide for the recovery of, but not limited to, costs related to ongoing gas supply, transmission, pipeline capacity, storage, financial instruments, or interstate pipeline charges or other related costs for rural infrastructure system development.

Subsection (3) requires the public service commission to approve any rural infrastructure system development costs recovery charge or gas supply cost adjustment tariff if the service would benefit the economic development of the unserved or underserved areas in or near an area served by the jurisdictional utility.

Subsection (4) states any rural infrastructure development cost recovery charge or gas supply cost adjustment tariffs, and any future changes thereto, whether applied to high volume customers, or general system residential and commercial customers, shall be calculated and implemented in a manner proposed by the jurisdictional utility.

Subsection (5) allows the rural infrastructure system development costs recovery charge or the gas supply cost adjustment tariff and any future changes thereto, to first be applied to customers receiving direct service from the facility developed in the underserved and unserved areas. It goes on to state that if the resulting rates are uneconomic or commercially unreasonable to the customers in the underserved and unserved rural areas, the jurisdictional utility shall recover their costs that are above the rate determined to be economically and commercially reasonable from the jurisdictional utility's general system residential and commercial customers in a manner proposed by the jurisdictional utility (meaning their customers in areas other than the unserved and underserved rural areas).

Subsection (6) allows a jurisdictional utility to collect their rural infrastructure system development cost recovery charge or gas supply tariff for a period exceeding sixty months (5 years) after its initial filing and until costs are fully recovered even if the jurisdictional utility has not filed for or is filing for a new general rate proceeding during that period of time.

Subsection (7) states that a jurisdictional utility is not required to proceed with infrastructure development in an unserved or underserved area if the development is not in the long-term interest of either the jurisdictional utility or its customers.

Section 9 of the bill amends 66-1808 to add language that prohibits the public service commission from suspending a tariff filed in accordance with section 8 of the act.

Explanation of amendments:

This amendment to LB 1115 (Flood) Rural Natural Gas Infrastructure Bill has several changes that have been worked

out and agreed to by the following parties: The League of Nebraska Municipalities, The City of Norfolk, North Western Gas, Black Hills Energy, SourceGas, and The Nebraska Public Service Commission. Matt Boever from Speaker Flood's office and I have been present at all the meetings working on this amendment. The following will be an explanation of the changes that are new to the amendment.

Comments/Analysis:

Section 1 is the same as in the original bill.

Section 2 contains some new definitions. Cities of the first or second class or villages are included, along with a new definition of rural infrastructure development. There are also some language changes in subsection 5 to the definition of unserved or underserved area that make clear that the jurisdictional utility currently serving in the area is the one who will be working to expand service there.

Section 3 is new, and grants authority to a city to carry out its powers and duties to utilize funds authorized under an LB 840 plan to facilitate this type of infrastructure development.

Section 4 is also new, it allows a jurisdictional utility to undertake rural infrastructure development necessary to supply unserved or underserved areas in or adjacent to area presently served by the jurisdictional utility and not by another jurisdictional utility. This section cleared up concerns from the Natural Gas companies with respect to their territories in the state.

Section 5 contains some small wording changes that were worked out by the interested parties, but did not substantively change the meaning of this section.

Section 6 also contains some wording changes, to better clarify that, in this situation, a jurisdictional utility is not subject to the State Natural Gas Act.

Section 7 is essentially the same

Section 8 is entirely new, it adds permissive language to the LB 840 statutes to allow cities of the first and second class and villages to introduce and LB 840 plan for approval by their voters to dedicate funds for rural infrastructure development as defined in section 2 of this act.

Section 9 is an additional new section to the LB 840 statutes, requiring a summary of the terms and conditions of the proposed agreement for the rural infrastructure development that the city has entered into, if the proposed economic development program involves making grants, loans, or funds available for the infrastructure development by the city.

Section 10 has no changes.

Section 11 is new, requiring a jurisdictional utility to file proposed rural infrastructure surcharge tariffs with the Public Service Commission consistent with the proposed rate increases negotiated in the agreement with the electing city(s), prior to undertaking rural infrastructure development. There is a list of what is to be filed by the utility with the surcharge tariff, including the agreement with the city, map of the underserved area, and payment of costs including proposed rates for customers in the electing city(s).

Subsection (3) has some language changes, this section allows a jurisdictional utility to file a gas supply cost adjustment tariff with the commission that adjusts the residential or commercial customers' rates to provide for the recovery of costs related to ongoing gas supply, transmission, or interstate pipeline changes or other related costs for rural infrastructure development.

Subsection (4) is new, it states that a rural infrastructure surcharge tariff or gas supply adjustment tariff shall become

effective immediately upon filing with the commission of all items required under section 11.

Subsection (5) has an addition at the end of the section to ensure that the tariffs are consistent with the proposed rate increases negotiated in the agreement with the electing city or cities.

Subsection (6) includes new protection for ratepayers, limiting the jurisdictional utility's ability to recover costs for rural infrastructure development to only the customers in the electing city who is benefiting from the development, who entered into the agreement with the utility.

Subsection 7 is the same

Subsection (8) is new, it details the Public Service Commission's involvement, and limits them to no more than once annually the authority to initiate a public hearing and determination of whether the rural surcharges reflect the actual costs of the development, and this must be completed within 90 days.

Subsection (9) provides for a refund to be made to ratepayers should it be determined they have overpaid for the infrastructure development.

Subsection (12) is a new definition section, the bill drafters office felt it was appropriate to take these definitions from section 2 and place them here, as this is the section of the bill that contains these terms.

All other sections of the bill are the same.

Amanda McGill, Chairperson