

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1115

Introduced by Flood, 19.

Read first time January 19, 2012

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to jurisdictional utilities; to amend sections
2 66-1801, 66-1808, and 66-1831, Reissue Revised Statutes
3 of Nebraska; to authorize construction and operation of
4 natural gas pipeline facilities as prescribed; to
5 harmonize provisions; and to repeal the original
6 sections.

7 Be it enacted by the people of the State of Nebraska,

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

7 Sec. 2. For purposes of sections 1 to 6 of this act:

8 (1) Jurisdictional utility has the same meaning as in
9 section 66-1802;

10 (2) Natural gas pipeline facility means a pipeline, pump,
11 compressor, or storage or other facility, structure, or property
12 necessary, useful, or incidental in the transportation of natural
13 gas; and

14 (3) Unserved or underserved area means a rural area in
15 this state lacking adequate natural gas pipeline capacity to meet the
16 demand of existing or potential end-use customers as determined by a
17 jurisdictional utility. Unserved or underserved area does not include
18 any area within a city of the primary or metropolitan class.

19 Sec. 3. A jurisdictional utility may plan, finance,
20 develop, acquire, construct, own, operate, and maintain a natural gas
21 pipeline facility or enter into agreements with an interstate
22 pipeline for existing, new, or expanded capacity on the interstate
23 pipeline's system for the transportation of natural gas necessary to
24 supply unserved or underserved areas.

25 Sec. 4. Prior to constructing a natural gas pipeline

1 facility, a jurisdictional utility shall consider factors such as the
2 economic impact to the area, economic feasibility, whether other
3 options may be more in the public interest, such as utilization of
4 any existing or planned interstate or intrastate pipeline facilities
5 of private persons, companies, firms, or corporations, and the
6 likelihood of successful completion and ongoing operation of the
7 facility.

8 Sec. 5. A jurisdictional utility exercising the power
9 granted in section 3 of this act shall not be subject to the State
10 Natural Gas Regulation Act except as specifically provided otherwise
11 but shall be subject to sections 75-501 to 75-503.

12 Sec. 6. Sections 1 to 5 of this act do not apply to a
13 metropolitan utilities district.

14 Sec. 7. Section 66-1801, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 66-1801 Sections 66-1801 to 66-1867 and section 8 of this
17 act shall be known and may be cited as the State Natural Gas
18 Regulation Act.

19 Sec. 8. (1) A jurisdictional utility may file a rural
20 infrastructure system development cost recovery charge tariff with
21 the commission that adjusts the jurisdictional utility's residential
22 and commercial customer rates to provide for the recovery of costs
23 for rural infrastructure system development into unserved or
24 underserved areas pursuant to sections 1 to 6 of this act.

25 (2) A jurisdictional utility may file a gas supply cost

1 adjustment tariff with the commission that adjusts the jurisdictional
2 utility's residential and commercial customer rates to provide for
3 the recovery of, but not limited to, costs related to ongoing gas
4 supply, transmission, pipeline capacity, storage, financial
5 instruments, or interstate pipeline charges or other related costs
6 for rural infrastructure system development into unserved or
7 underserved areas pursuant to sections 1 to 6 of this act.

8 (3) The commission shall approve any rural infrastructure
9 system development cost recovery charge or gas supply cost adjustment
10 tariff if such service would benefit the economic development of the
11 unserved or underserved areas in or near an area served by the
12 jurisdictional utility notwithstanding the provisions of section
13 66-1825.

14 (4) Any rural infrastructure system development cost
15 recovery charge or gas supply cost adjustment tariff, and any future
16 changes thereto, applied to high-volume customers obtaining direct
17 service and to general system residential and commercial customers
18 subject to jurisdiction of the commission shall be calculated and
19 implemented in a manner proposed by the jurisdictional utility.

20 (5) The rural infrastructure system development cost
21 recovery charge or gas supply cost adjustment tariff and any future
22 changes thereto shall first be applied to customers receiving direct
23 service from the facility developed in the unserved or underserved
24 system area. If such resulting rates are uneconomic or commercially
25 unreasonable to those customers, the jurisdictional utility shall

1 recover the costs above the rates determined by the jurisdictional
2 utility to be economical or commercially reasonable from general
3 system residential and commercial customers in a manner proposed by
4 the jurisdictional utility.

5 (6) A jurisdictional utility may collect a rural
6 infrastructure system development cost recovery charge or gas supply
7 cost adjustment tariff for a period exceeding sixty months after its
8 initial filing and until costs are fully recovered even if the
9 jurisdictional utility has not filed for or is the subject of a new
10 general rate proceeding within that period of time.

11 (7) A jurisdictional utility is not required to proceed
12 with infrastructure system development in an unserved or underserved
13 area if, in the judgment of the jurisdictional utility, such
14 development is not in either the long-term interest of its customers
15 or the long-term interest of the jurisdictional utility.

16 (8) The regulation provided in this section is intended
17 to be regulation by a state commission within the meaning of 15
18 U.S.C. 717(c).

19 Sec. 9. Section 66-1808, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 66-1808 (1) The provisions of this section do not apply
22 to general rate filings.

23 (2) Unless the commission otherwise orders, no
24 jurisdictional utility shall make effective any changed rate or any
25 term or condition of service pertaining to the service or rates of

1 such utility, except by filing the same with the commission at least
2 thirty days prior to the proposed effective date. The commission, for
3 good cause, may allow such changed rate or any term or condition of
4 service pertaining to the service or rates of any such utility, to
5 become effective on less than thirty days' notice. If the commission
6 allows a change to become effective on less than thirty days' notice,
7 the effective date of the allowed change shall be the date
8 established in the commission order approving such change or the date
9 of the order if no effective date is otherwise established. Any such
10 proposed change shall be shown by filing with the commission a
11 schedule showing the changes, and such changes shall be plainly
12 indicated by proper reference marks in amendments or supplements to
13 existing tariffs, schedules, or classifications, or in new issues
14 thereof.

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

1 (4) The commission shall not delay the effective date of
2 the proposed change in rate or any term or condition of service
3 pertaining to the service or rates of any such jurisdictional
4 utility, more than one hundred eighty days beyond the date the
5 utility filed its application requesting the proposed change. If the
6 commission does not suspend the proposed change within thirty days
7 after the date the same is filed by the utility, such proposed change
8 shall be deemed approved by the commission and shall take effect on
9 the proposed effective date. If the commission has not issued a final
10 order on the proposed change in any rate or any term or condition of
11 service pertaining to the service or rates of any such utility,
12 within one hundred eighty days after the date the utility files its
13 application requesting the proposed change, then the proposed change
14 shall be deemed approved by the commission and the proposed change
15 shall be effective immediately, except that (a) in any proceeding
16 initiated as a result of a filing by a utility of new or changed
17 rates or terms and conditions of service, the commission shall,
18 within thirty days of the receipt of such filing, review the
19 applications, documents, and submissions made with such filing to
20 determine whether or not they conform to the minimum requirements of
21 the commission regarding such filings as established by applicable
22 rule, regulation, or commission order. If such applications,
23 documents, or submissions fail to substantially conform with such
24 requirements, they will be deemed defective and the filing shall not
25 be deemed to have been made until such applications, documents, and

1 submissions are determined to be in conformity by the commission with
2 minimum standards, and (b) nothing in this subsection shall preclude
3 the jurisdictional utility and the commission from agreeing to a
4 waiver or an extension of the one-hundred-eighty-day period.

5 (5) Except as provided in subsection (4) of this section,
6 no change shall be made in any rate or in any term or condition of
7 service pertaining to the service or rates of any such jurisdictional
8 utility, without the consent of the commission. Within thirty days
9 after such changes have been authorized by the commission or become
10 effective as provided in subsection (4) of this section, copies of
11 all tariffs, schedules, and classifications, and all terms or
12 conditions of service, except those determined to be confidential
13 under rules and regulations adopted by the commission, shall be
14 available for public inspection in every office and facility open to
15 the general public of such jurisdictional utility in this state.

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

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

22 66-1831 (1) The public advocate shall have the power to:

23 (a) Investigate the legality and reasonableness of rates,
24 charges, and practices of jurisdictional utilities except for tariffs
25 subject to section 8 of this act;

1 (b) Petition for relief, request, initiate, and intervene
2 in any proceeding before the commission concerning such utilities
3 except for tariffs subject to section 8 of this act;

4 (c) Represent and appear for ratepayers and the public in
5 proceedings before the commission and in any negotiations or other
6 measures to resolve disputes that give rise to such proceedings
7 except for tariffs subject to section 8 of this act;

8 (d) Represent and appear for ratepayers and the public in
9 any negotiations or other measures to resolve disputes that give rise
10 to proceedings before the commission and make and seek approval of
11 agreements to settle such disputes except for tariffs subject to
12 section 8 of this act; and

13 (e) Make motions for rehearing or reconsideration,
14 appeal, or seek judicial review of any order or decision of the
15 commission regarding jurisdictional utilities except for tariffs
16 subject to section 8 of this act.

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

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

24 Sec. 11. Original sections 66-1801, 66-1808, and 66-1831,
25 Reissue Revised Statutes of Nebraska, are repealed.