

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.