

AM3531  
LB 650  
LSN-04-01

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AMENDMENTS TO LB 650

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

3           "Section 1. Section 13-2802, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           13-2802. Whenever creation of a municipal county is  
6 proposed involving a city of the metropolitan class, the  
7 interjurisdictional planning commission shall include in its plan a  
8 recommendation with regard to the territory within which any  
9 metropolitan utilities district shall have and may exercise the  
10 power of eminent domain pursuant to subsection (2) of section  
11 14-2116. The plan shall further include a recommendation with  
12 regard to the territory which shall be deemed to be within the  
13 corporate boundary limits or extraterritorial zoning jurisdiction  
14 of a municipality or a municipality dissolved by the creation of  
15 the municipal county for purposes of ~~sections 57-1301 to 57-1307~~  
16 the State Natural Gas Regulation Act. The question of creation of  
17 the municipal county shall not be submitted to a vote under section  
18 13-2810 until a law adopting the provisions required by this  
19 section has been enacted.

20           Sec. 2. Section 66-1801, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           66-1801. Sections 66-1801 to 66-1857 and sections 5 to  
23 12 of this act shall be known and may be cited as the State Natural  
24 Gas Regulation Act.

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1                   Sec. 3.    Section 66-1804, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   66-1804.   (1) The commission shall have full power,  
4 authority, and jurisdiction to regulate natural gas public  
5 utilities and may do all things necessary and convenient for the  
6 exercise of such power, authority, and jurisdiction.    Except as  
7 provided in the Nebraska Natural Gas Pipeline Safety Act of 1969,  
8 and notwithstanding any other provision of law, such power,  
9 authority, and jurisdiction shall extend to, but not be limited to,  
10 all matters encompassed within the State Natural Gas Regulation  
11 Act. ~~and sections 57-1301 to 57-1307.~~

12                   (2) The State Natural Gas Regulation Act and all grants  
13 of power, authority, and jurisdiction in the act made to the  
14 commission shall be liberally construed, and all incidental powers  
15 necessary to carry into effect the provisions of the act are  
16 expressly granted to and conferred upon the commission.

17                   Sec. 4.    Section 66-1852, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19                   66-1852.   (1) Except as provided in sections 5 to 12 of  
20 this act, 57-1301 to 57-1307 as those statutes govern  
21 ~~jurisdictional utilities and metropolitan utilities districts,~~ no  
22 person, public or private, shall extend duplicative or redundant  
23 natural gas mains or other natural gas services into any area which  
24 has existing natural gas utility infrastructure or where a contract  
25 has been entered into for the placement of natural gas utility  
26 infrastructure.

27                   (2) This section shall not apply in any area in which two

1 or more jurisdictional utilities share authority to provide natural  
2 gas within the same territory under franchises issued by the same  
3 city.

4           Sec. 5. (1) Except as provided in subsection (2) of this  
5 section, the initial boundaries of the exclusive service areas of  
6 jurisdictional utilities, cities, and metropolitan utilities  
7 districts shall extend to any location at which any jurisdictional  
8 utility, city, and metropolitan utilities district was providing  
9 natural gas service to customers on March 15, 2004.

10           (2) Where two or more jurisdictional utilities are  
11 providing natural gas service to customers within the same area  
12 pursuant to franchise agreements with the same city, such  
13 jurisdictional utilities shall possess and may exercise equal  
14 authority in the exclusive service area of such city and its  
15 extraterritorial jurisdiction.

16           Sec. 6. Except as provided in sections 8 and 9 of this  
17 act, the formal boundaries of the exclusive service areas of  
18 jurisdictional utilities, cities, or metropolitan utilities  
19 districts shall be established by the commission upon the following  
20 basis:

21           (1) Except as provided in subdivision (4) of this  
22 section, for any city owning, maintaining, and operating a natural  
23 gas distribution system, the exclusive service area for the city  
24 shall be its initial service area boundaries and all the territory  
25 within the corporate boundaries of the city and its  
26 extraterritorial zoning jurisdiction as established by its  
27 governing body pursuant to state law as such extraterritorial

1 zoning jurisdiction existed on March 15, 2004, and as such  
2 jurisdiction may be extended on such basis from time to time, when  
3 the city formally expresses its intention to provide natural gas  
4 service and evidences such intent;

5 (2) Except as provided in subdivision (4) of this  
6 section, for any metropolitan utilities district, the exclusive  
7 service area for the district shall be all the territory within the  
8 initial service area boundaries of the district and all the  
9 territory where the district provides natural gas service within  
10 the entire corporate boundaries of any city and shall extend to the  
11 extraterritorial zoning jurisdiction of any such city as  
12 established by its governing body pursuant to state law as such  
13 extraterritorial zoning jurisdiction existed on March 15, 2004, and  
14 as such jurisdiction may be extended on such basis from time to  
15 time;

16 (3) Except as provided in subdivision (4) of this  
17 section, for any jurisdictional utility, the exclusive service area  
18 for the utility shall be the initial service area boundaries of the  
19 area within which the utility provided natural gas service on March  
20 15, 2004, and any area into which it has extended such service  
21 subsequent to such date as authorized or recognized by the  
22 commission; and

23 (4) For any jurisdictional utility, metropolitan  
24 utilities district, or city providing natural gas service to an  
25 entire city under a franchise agreement with that city, the  
26 exclusive service area for such jurisdictional utility,  
27 metropolitan utilities district, or city shall extend to the

1 corporate boundaries of the city and to its extraterritorial  
2 jurisdiction as established by its governing body pursuant to state  
3 law as such extraterritorial jurisdiction existed on March 15,  
4 2004, and as such extraterritorial jurisdiction may be extended on  
5 such basis from time to time.

6           Sec. 7. (1) Within ninety days following the effective  
7 date of this section, each jurisdictional utility, city, and  
8 metropolitan utilities district shall file with the commission a  
9 detailed map or maps of its exclusive service area as it exists on  
10 March 15, 2004, drawn to a scale of not less than one inch per mile  
11 or drawn to a larger scale, if required for clarity, showing the  
12 location of its natural gas pipelines and related facilities as of  
13 March 15, 2004. The commission may require that such maps be  
14 updated as often as the commission deems reasonably necessary to  
15 carry out its responsibilities under the State Natural Gas  
16 Regulation Act.

17           (2) The commission shall prepare or cause to be prepared  
18 a composite map of this state showing the exclusive service areas  
19 of jurisdictional utilities, cities, and metropolitan utilities  
20 districts as submitted by such entities pursuant to this section.

21           (3) The form and detail of all maps shall be determined  
22 by the commission.

23           Sec. 8. (1) The initial exclusive service area  
24 boundaries for each jurisdictional utility, city, or metropolitan  
25 utilities district shall be shown by the maps filed in accordance  
26 with section 7 of this act. After notice and hearing provided to  
27 the affected jurisdictional utilities, cities, or metropolitan

1 utilities districts, the commission by order shall thereafter  
2 modify those boundaries as set forth in the State Natural Gas  
3 Regulation Act.

4 (2) When an exclusive service area is modified by the  
5 commission to transfer areas including then existing customers then  
6 served by the facilities of another jurisdictional utility, city,  
7 or metropolitan utilities district, unless a voluntary exchange of  
8 facilities is agreed upon by the parties involved and approved by  
9 the commission, the commission shall require the transfer of the  
10 facilities presently serving these customers, subject to the  
11 Municipal Natural Gas System Condemnation Act and any other  
12 relevant state statute governing condemnation.

13 (3) Contracts between jurisdictional utilities, cities,  
14 metropolitan utilities districts, or any combination of them, to  
15 designate exclusive service areas and customers to be served by any  
16 of those entities or for the exchange of customers between these  
17 entities, when approved by the commission, shall be valid and  
18 enforceable and shall be incorporated into the appropriate  
19 exclusive service areas established pursuant to subsection (1) of  
20 this section. The commission shall approve a contract if it finds  
21 that the contract will eliminate or avoid unnecessary duplication  
22 of facilities, will provide adequate natural gas service to all  
23 areas and customers affected, will promote the efficient and  
24 economical use and development of the natural gas systems of the  
25 contracting natural gas utilities, and is in the public interest.

26 (4) Except in accordance with the provisions of a  
27 customer choice program or other unbundling program approved by the

1 commission or as otherwise permitted in the State Natural Gas  
2 Regulation Act, a jurisdictional utility, city, or metropolitan  
3 utilities district shall not serve or offer to serve natural gas  
4 customers in an exclusive service area assigned to another natural  
5 gas utility and a jurisdictional utility, city, or metropolitan  
6 utilities district shall not construct facilities to serve natural  
7 gas customers in an exclusive service area assigned to another such  
8 jurisdictional utility, city, or metropolitan utilities district.  
9 The state, a jurisdictional utility, or any other person who is  
10 injured or threatened with injury by conduct prohibited by this  
11 section may initiate a contested case proceeding with the  
12 commission. Upon finding a violation of this section, the  
13 commission shall order appropriate corrective action, including  
14 discontinuance of the unlawful service to natural gas customers,  
15 removal of the unlawful facilities, and any combination of such  
16 remedies, or any other disposition the commission deems just and  
17 reasonable.

18           Sec. 9. Following the establishment of exclusive service  
19 areas pursuant to section 7 of this act, a jurisdictional utility,  
20 city, or metropolitan utilities district shall not construct or  
21 extend facilities into any area not presently within the exclusive  
22 service area of a jurisdictional utility, city, or metropolitan  
23 utilities district, or furnish natural gas service to a prospective  
24 customer not then being served by a jurisdictional utility, city,  
25 or metropolitan utilities district, except upon application to the  
26 commission for a modification of its existing exclusive service  
27 area. The commission shall, following a hearing on the matter,

1 determine whether it is in the public interest for the applying  
2 jurisdictional utility, city, or metropolitan utilities district or  
3 another such utility, city, or district to serve the area and in  
4 doing so, the commission shall be guided by a balance of the  
5 following factors:

6 (1) The expressed preferences of residents or landowners  
7 in the area regarding their choice for a natural gas service  
8 provider;

9 (2) The proximity of then existing natural gas mains to  
10 the area, including the length of time such lines have been in  
11 existence;

12 (3) The orderly development of natural gas utility  
13 infrastructure as a whole;

14 (4) The impact of granting the application on then  
15 existing and future ratepayers of jurisdictional utilities,  
16 metropolitan utilities districts, or cities owning, maintaining,  
17 and operating natural gas distribution systems;

18 (5) The economic feasibility of the utility providing  
19 service to projected customers within the area;

20 (6) The elimination or prevention of duplicative or  
21 redundant natural gas mains and facilities supplying the area;

22 (7) The willingness and good faith intent of the  
23 jurisdictional utility, metropolitan utilities district, or city  
24 owning, maintaining, and operating a natural gas distribution  
25 system to provide adequate and dependable service in the area to be  
26 assigned; and

27 (8) Whether the customers in the area have the right to

1 vote for the natural gas rate and service quality regulator for the  
2 area.

3           Sec. 10. A jurisdictional utility, city, or metropolitan  
4 utilities district shall furnish retail service, upon application,  
5 to any person within its exclusive service area if it is  
6 economically feasible to service and supply the person. The  
7 natural gas service shall be furnished by the jurisdictional  
8 utility, city, or metropolitan utilities district within a  
9 reasonable time after application is made.

10           Sec. 11. Whenever any city is furnished natural gas  
11 pursuant to a franchise agreement with a jurisdictional utility, no  
12 metropolitan utilities district or other city proposing to provide  
13 natural gas service pursuant to a franchise agreement shall solicit  
14 such city to enter into a franchise agreement or promote  
15 discontinuance of natural gas service with the jurisdictional  
16 utility, unless a specific invitation to submit a proposal on such  
17 franchise has been formally presented to the board of directors of  
18 the metropolitan utilities district or the governing body of the  
19 city proposing to provide natural gas service pursuant to a  
20 franchise agreement. For purposes of this section, a specific  
21 invitation to submit a proposal shall mean a resolution adopted by  
22 the governing body of a city. Whenever a specific invitation to  
23 submit a proposal is received by the board of directors of a  
24 metropolitan utilities district or the governing body of a city  
25 proposing to provide natural gas service pursuant to a franchise  
26 agreement, the invitation shall be considered by the board or the  
27 governing body of the city in open public session at its next

1 regularly scheduled meeting.

2           Sec. 12.       All books, records, vouchers, papers,  
3 contracts, engineering designs, and any other data of a  
4 metropolitan utilities district relating to the public interest of  
5 an extension or enlargement of natural gas mains or natural gas  
6 services, whether in written or electronic form, shall be open and  
7 made available for public inspection, investigation, comment, or  
8 protest upon reasonable request during business hours, except that  
9 such books, records, vouchers, papers, contracts, designs, and  
10 other data shall be subject to section 84-712.05.

11           Sec. 13. Section 75-109.01, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           75-109.01. Except as otherwise specifically provided by  
14 law, the Public Service Commission shall have jurisdiction, as  
15 prescribed, over the following subjects:

16           (1) Common carriers, generally, pursuant to sections  
17 75-101 to 75-158;

18           (2) Grain pursuant to the Grain Dealer Act and the Grain  
19 Warehouse Act and sections 89-1,104 to 89-1,108;

20           (3) Manufactured homes and recreational vehicles pursuant  
21 to the Uniform Standard Code for Manufactured Homes and  
22 Recreational Vehicles;

23           (4) Modular housing units pursuant to the Nebraska  
24 Uniform Standards for Modular Housing Units Act;

25           (5) Motor carrier registration and safety pursuant to  
26 sections 75-301 to 75-322, 75-369.03, 75-370, 75-371, 75-383, and  
27 75-384;

1                   (6) Pipeline carriers and rights-of-way pursuant to the  
2 State Natural Gas Regulation Act and sections ~~57-1301 to 57-1307~~  
3 ~~and~~ 75-501 to 75-503;

4                   (7) Railroad carrier safety pursuant to sections 74-918,  
5 74-919, 74-1323, and 75-401 to 75-430;

6                   (8) Telecommunications carriers pursuant to the Automatic  
7 Dialing-Announcing Devices Act, the Emergency Telephone  
8 Communications Systems Act, the Enhanced Wireless 911 Services Act,  
9 the Intrastate Pay-Per-Call Regulation Act, the Nebraska  
10 Telecommunications Regulation Act, the Nebraska Telecommunications  
11 Universal Service Fund Act, the Telecommunications Relay System  
12 Act, the Telephone Consumer Slamming Prevention Act, and sections  
13 86-574 to 86-580;

14                   (9) Transmission lines and rights-of-way pursuant to  
15 sections 70-301 and 75-702 to 75-724;

16                   (10) Water service pursuant to the Water Service  
17 Regulation Act; and

18                   (11) Jurisdictional utilities governed by the State  
19 Natural Gas Regulation Act. If the provisions of Chapter 75 are  
20 inconsistent with the provisions of the State Natural Gas  
21 Regulation Act, the provisions of the State Natural Gas Regulation  
22 Act control.

23                   Sec. 14. Original sections, 13-2802, 66-1801, 66-1804,  
24 66-1852, and 75-109.01, Reissue Revised Statutes of Nebraska, are  
25 repealed.

26                   Sec. 15. The following sections are outright repealed:  
27 Sections 57-1301 to 57-1307, Revised Statutes Supplement, 2002."