



**Ninety-Ninth Legislature - First Session - 2005  
Committee Statement  
LB 384**

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**Hearing Date:** February 8, 2005  
**Committee On:** Urban Affairs

**Introducer(s):** (Combs, Cudaback)  
**Title:** Change and eliminate provisions relating to natural gas

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**Roll Call Vote – Final Committee Action:**

- Advanced to General File
  - Advanced to General File with Amendments
  - X Indefinitely Postponed
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**Vote Results:**

6	Yes	Friend, Connealy, Cornett, Janssen, Landis, Schimek
	No	
	Present, not voting	
1	Absent	Combs

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**Proponents:**

Senator Combs, Introducer  
Bud Becker  
Richard Haubensak

**Representing:**

NE Municipal Gas Asso.  
Cornerstone Energy

**Opponents:**

Chris Dibbern  
Lynn Rex  
Gus Skovgard  
Marvin Schultes  
Doug Clark

**Representing:**

NE Municipal Power Pool  
League of NE Municipalities  
Mid American Energy Company  
Hastings Utilities, City of Hastings  
Metropolitan Utilities District

**Neutral:**

None

**Representing:**

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**Summary of purpose and/or changes:** This legislation deals with natural gas utilities, both public and investor-owned, proposing to restrict the growth and activities of metropolitan utilities districts (MUD), to enhance the regulatory authority of the Public Service Commission with regard to natural gas, and to create exclusive service territories for natural gas utilities (again, both public and investor-owned). It's provisions would be applicable to primary, first and second class cities; villages; and metropolitan utilities districts.

Section-by-section summary:

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Sec. 1 – Amends the city/county merger statutes to “disconnect” transfers of the right to provide natural gas service from the boundary changes resulting from the newly created “municipal county,” making service territory boundaries and service transfers subject to PSC approval.

Sec. 2 - Restricts the current service authority granted to MUD to the area within the boundaries of the metropolitan class city it serves: beyond those boundaries, MUD would be subject to PSC jurisdiction. Rate and service authority of the board remain only with city boundaries.

Sec. 3 - Makes MUD condemnation authority subject to the State Natural Gas Regulation Act (SNGRA) as that act is amended by this bill.

Sec. 4 - Any extension or enlargement of MUD’s service territory would be subject to the SNGRA.

Sec. 5 – MUD natural gas system (infrastructure) expansion or enlargement would be subject to the SNGRA and PSC oversight.

Sec. 6 & 7 – Renders cities owning gas systems and MUD subject to the SNGRA regarding system supervision and control with PSC oversight.

Sec. 8 – Provides that MUD would be treated in the same manner as jurisdictional investor-owned utilities under the Municipal Natural Gas System Condemnation Act .

Sec. 9 – The service area provisions of this bill become part of the State Natural Gas Regulation Act.

Sec. 10 - Amends the State Natural Gas Regulation Act to make MUD a ‘jurisdictional utility’ when it is operating outside of the boundaries of its parent metropolitan class city.

Sec. 11 - Extends the authority of the PSC to all provisions of the Act and to jurisdiction over MUD and cities owing their own systems with regard to portions of the system outside of the corporate boundaries of the cities: outside city limits they all share the same status as jurisdictional utilities.

Sec. 12 - Removes the sunset provision on general regulatory surcharge to finance Commission operations.

Sec. 13 - Removes reference to LB 78 and substitutes new language of this bill regarding double-piping and service territory expansion.

Sec. 14 - Defines “authorized natural gas provider” as including jurisdictional utilities, natural gas utilities not subject to the act; cities providing natural gas service, MUD and other public utilities district established prior to Jan. 1, 2005.

Sec. 15 - Defines service territory standards:

Each authorized natural gas provider keeps the area it was serving on January 1, 2005.

Commission sets assigned territory under statutory standards where two authorized providers are serving customers within the same city.

Prohibits extensions of pipelines into another utility’s assigned area unless approved by the PSC.

Prohibits (as statutes do for MUD and jurisdictional utilities) extensions of gas service by city systems or public utilities districts unless they are economically feasible.

Sec. 16 – Sets out the “map” process for defining service territories.

All authorized natural gas providers file, within 90 days, with the PSC, maps of area served, the exclusive service area. PSC may require updates from time to time.

The PSC develops a composite map of all maps filed. The commission must assign areas currently without service for inclusion within assigned service area of an authorized provider based on these factors:

If requested by only one provider, and factors set out later are met, the area goes to that provider,

Contracts between two or more providers designating service areas are valid and enforceable if approved by the Commission.

A list of factors for consideration in approving assignment follow (basically establishing priority on the proximity of existing pipelines, the avoidance of double-piping or crossing existing lines, and the growth patterns of neighboring municipalities).

Assignment is based on the public interest and there are specified presumptions as to what is in the public interest:

That MUD serves Omaha and its extraterritorial zoning jurisdiction;

That Jurisdictional utilities serving cities also serve their extraterritorial zoning jurisdiction;

That cities served by MUD under franchise serve the entire city and its extraterritorial zoning jurisdiction;

That city-owned and operated systems serve their city and its extraterritorial zoning jurisdiction; and

That exempt utilities serve the extraterritorial zoning jurisdiction of cities they serve.

There is a joint planning obligation for all utilities serving neighboring areas.

Sec. 17 – Commission must prepare up-dated maps after exercising authority granted in section 16.

Sec. 18 – Prohibits any service to new area prior to commission approval.

Sec. 19 – Obligation created to render adequate service within exclusive territory. Commission may investigate and review, following hearing and determination of facts, may assign territory to another provider.

Sec. 20 - Provides that municipal annexation into area which is part of another service territory does not change right to serve or alter service territory.

Sec. 21 – Provides for application by potential customer for service and obligation to serve if economically feasible.

Sec. 22 – Prohibition on MUD franchise solicitation and interference (language taken from current LB 78 and transferred to SNGRA).

Sec. 23 – Prohibition on MUD being granted authority to serve as a marketer of natural gas.

Sec. 24 – Conforms language of existing statute.

Sec. 25 & Sec. 26 – Repealers.

**Explanation of amendments, if any:**

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**Senator Mike Friend, Chairperson**