

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 658

FINAL READING

Introduced by Friend, 10.

Read first time January 21, 2009

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to the State Natural Gas Regulation Act;
2 to amend sections 66-1802, 66-1839, and 84-712.05,
3 Reissue Revised Statutes of Nebraska, and section
4 66-1801, Revised Statutes Cumulative Supplement,
5 2008; to define and redefine terms; to provide for
6 loans for negotiations; to provide procedures for
7 infrastructure system replacement cost recovery; to
8 harmonize provisions; and to repeal the original
9 sections.

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

1 Section 1. Section 66-1801, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 66-1801 Sections 66-1801 to 66-1864 and sections 4, 5,
4 and 6 of this act shall be known and may be cited as the State
5 Natural Gas Regulation Act.

6 Sec. 2. Section 66-1802, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 66-1802 For purposes of the State Natural Gas Regulation
9 Act:

10 (1) Agricultural ratepayer means a ratepayer whose usage
11 of natural gas does not qualify the ratepayer as a high-volume
12 ratepayer and (a) whose principal use of natural gas is for
13 agricultural crop or livestock production, irrigation pumping, crop
14 drying, or animal feed or food production or (b) whose service is
15 provided on an interruptible basis;

16 (2) Appropriate pretax revenue means the revenue
17 necessary to produce net operating income equal to:

18 (a) The jurisdictional utility's weighted cost of capital
19 multiplied by the net original cost of eligible infrastructure
20 system replacements, including recognition of accumulated deferred
21 income taxes and accumulated depreciation associated with eligible
22 infrastructure system replacements which are included in an
23 infrastructure system replacement cost recovery charge;

24 (b) Recovery of state, federal, and local income or
25 excise taxes applicable to such income; and

- 1 (c) Recovery of depreciation expenses;
- 2 ~~(2)~~ (3) BTU means the amount of energy necessary to raise
- 3 the temperature of one pound of water one degree Fahrenheit;
- 4 ~~(3)~~ (4) City means any city or village in the State of
- 5 Nebraska;
- 6 ~~(4)~~ (5) Commission means the Public Service Commission;
- 7 (6) Eligible infrastructure system replacement means
- 8 jurisdictional utility plant projects that:
- 9 (a) Do not increase revenue by directly connecting the
- 10 infrastructure system replacement to new customers;
- 11 (b) Are in service and used and required to be used;
- 12 (c) Were not included in the jurisdictional utility's
- 13 rate base in its most recent general rate proceeding; and
- 14 (d) May enhance the capacity of the system but are only
- 15 eligible for infrastructure system replacement cost recovery to
- 16 the extent the jurisdictional utility plant project constitutes a
- 17 replacement of existing infrastructure;
- 18 ~~(5)~~ (7) Gas gathering system means a natural gas pipeline
- 19 system used primarily for transporting natural gas from a wellhead,
- 20 or from a metering point for natural gas produced by one or more
- 21 wells, to a point of entry into a main transmission line;
- 22 ~~(6)~~ (8) General rate filing means any filing
- 23 which requests changes in overall revenue requirements for a
- 24 jurisdictional utility but does not include a filing for an
- 25 infrastructure system replacement cost recovery charge;

1 ~~(7)~~ (9) High-volume ratepayer means a ratepayer whose
2 natural gas requirements equal or exceed five hundred therms per
3 day as determined by average daily consumption;

4 (10) Infrastructure system replacement cost recovery
5 charge revenue means revenue produced through an infrastructure
6 system replacement cost recovery charge exclusive of revenue from
7 all other rates and charges;

8 ~~(8)~~ (11) Interstate pipeline means any corporation,
9 company, individual, or association of persons or their trustees,
10 lessees, or receivers engaged in natural gas transportation subject
11 to the jurisdiction of the Federal Energy Regulatory Commission
12 under the federal Natural Gas Act, 15 U.S.C. 717 et seq., as such
13 act existed on January 1, 2003;

14 ~~(9)~~ (12) Intrastate natural gas utility business means
15 all of that portion of the business of a natural gas public utility
16 over which the commission has jurisdiction under the State Natural
17 Gas Regulation Act;

18 ~~(10)~~ (13) Jurisdictional utility means a natural gas
19 public utility subject to the jurisdiction of the commission.
20 Jurisdictional utility does not mean a natural gas public utility
21 which is not subject to the jurisdiction of the commission pursuant
22 to section 66-1803;

23 (14) Jurisdictional utility plant projects means only the
24 following:

25 (a) Mains, valves, service lines, regulator stations,

1 vaults, and other pipeline system components installed to comply
2 with state or federal safety requirements as replacements for
3 existing facilities;

4 (b) Main relining projects, service line insertion
5 projects, joint encapsulation projects, and other similar projects
6 extending the useful life or enhancing the integrity of pipeline
7 system components undertaken to comply with state or federal safety
8 requirements; and

9 (c) Facility relocations required due to construction or
10 improvement of a highway, road, street, public way, or other public
11 work by or on behalf of the United States, this state, a political
12 subdivision of this state, or another entity having the power of
13 eminent domain, if the costs related to such relocations have not
14 been reimbursed to the jurisdictional utility;

15 ~~(11)~~ (15) Natural gas public utility means any
16 corporation, company, individual, or association of persons
17 or their trustees, lessees, or receivers that owns, controls,
18 operates, or manages, except for private use, any equipment, plant,
19 or machinery, or any part thereof, for the conveyance of natural
20 gas through pipelines in or through any part of this state. Natural
21 gas public utility does not mean a natural gas utility owned or
22 operated by a city or a metropolitan utilities district. Natural
23 gas public utility does not include any activity of an otherwise
24 jurisdictional corporation, company, individual, or association
25 of persons or their trustees, lessees, or receivers as to the

1 marketing or sale of compressed natural gas for end use as motor
2 vehicle fuel. Natural gas public utility does not include any gas
3 gathering system or interstate pipeline;

4 ~~(12)~~ (16) Rate means every compensation, charge, fare,
5 toll, tariff, rental, and classification, or any of them, demanded,
6 observed, charged, or collected by any jurisdictional utility for
7 any service;

8 ~~(13)~~ (17) Rate area means the geographic area within
9 the state served by a single natural gas public utility through
10 a common pipeline system from the same natural gas supply source
11 within the common system for which the utility has similar costs
12 for serving ratepayers of the same class; and

13 ~~(14)~~ (18) Therm is equivalent to one hundred thousand
14 BTUs.

15 Sec. 3. Section 66-1839, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 66-1839 (1) The Municipal Rate Negotiations Revolving
18 Loan Fund is created. The fund shall be used to make loans to
19 cities for rate negotiations under section 66-1838 or negotiations
20 or litigation under section 6 of this act. Only one loan may
21 be made for each rate filing made by a jurisdictional utility
22 within the scope of ~~such~~ each section. Money in the Municipal
23 Natural Gas Regulation Revolving Loan Fund that is not necessary to
24 finance rate proceedings initiated prior to May 31, 2003, shall be
25 transferred to the Municipal Rate Negotiations Revolving Loan Fund

1 on May 31, 2003, and repayments of loans or other obligations owing
2 to the Municipal Natural Gas Regulation Revolving Loan Fund on May
3 31, 2003, shall be deposited in the Municipal Rate Negotiations
4 Revolving Loan Fund upon receipt. Any obligations against or
5 commitments of money from the Municipal Natural Gas Regulation
6 Revolving Loan Fund on May 31, 2003, shall be obligations or
7 commitments of the Municipal Rate Negotiations Revolving Loan Fund.

8 (2) The Municipal Rate Negotiations Revolving Loan Fund
9 shall be administered by the commission which shall adopt and
10 promulgate rules and regulations to carry out this section. The
11 rules and regulations shall include:

12 (a) Loan application procedures and forms; and

13 (b) Fund-use monitoring and quarterly accounting of fund
14 use.

15 (3) Applicants for a loan from the fund shall provide
16 a budget statement which specifies the proposed use of the loan
17 proceeds. Such proceeds may only be used for the costs and expenses
18 incurred by the city to analyze rate filings for the purposes
19 specified in section 66-1838 or section 6 of this act. Such costs
20 and expenses may include the cost of rate consultants and attorneys
21 and any other necessary costs related to the negotiation process or
22 litigation under section 6 of this act. Disbursements from the fund
23 shall be audited by the commission. The affected jurisdictional
24 utility may petition the commission to initiate a proceeding to
25 determine whether the disbursements from the fund were expended

1 by the negotiating cities consistent with the requirements of this
2 section.

3 (4) The fund shall be audited as part of the regular
4 audit of the commission's budget, and copies of the audit shall
5 be available to all cities and any jurisdictional utility. Audits
6 conducted pursuant to this section are public records.

7 (5) Any money in the fund available for investment
8 shall be invested by the state investment officer pursuant to
9 the Nebraska Capital Expansion Act and the Nebraska State Funds
10 Investment Act. If the fund balance exceeds four hundred thousand
11 dollars, the income on the money in the fund shall be credited to
12 the permanent school fund until the balance of the Municipal Rate
13 Negotiations Revolving Loan Fund falls below such amount.

14 (6) A city which receives a loan under this section shall
15 be responsible to provide for the opportunity for all other cities
16 engaged in the same negotiations with the same jurisdictional
17 utility to participate in all negotiations. Such city shall not
18 exclude any other city from the information or benefits accruing
19 from the use of loan funds.

20 (7) Upon the conclusion of negotiations, regardless of
21 the result, the loan shall be repaid by the jurisdictional utility
22 to the commission within thirty days after the date upon which it
23 is billed by the commission. The utility shall recover the amount
24 paid on the loan by a special surcharge on ratepayers who are or
25 will be affected by the rate increase request. These ratepayers may

1 be billed on their monthly statements for a period not to exceed
2 twelve months, and the surcharge may be shown as a separate item on
3 the statements as a charge for rate negotiation expenses.

4 Sec. 4. (1) Beginning January 1, 2010, a jurisdictional
5 utility may file an application and proposed rate schedules
6 with the commission to establish or change infrastructure system
7 replacement cost recovery charge rate schedules that will allow
8 for the adjustment of the jurisdictional utility's rates and
9 charges to provide for the recovery of costs for eligible
10 infrastructure system replacements. The commission shall not
11 approve any infrastructure system replacement cost recovery charge
12 rate schedules if such schedules would produce total annualized
13 infrastructure system replacement cost recovery charge revenue
14 below the lesser of one million dollars or one-half percent of
15 the jurisdictional utility's base revenue level approved by the
16 commission in the jurisdictional utility's most recent general rate
17 proceeding. The commission shall not approve any infrastructure
18 system replacement cost recovery charge rate schedules if such
19 schedules would produce total annualized infrastructure system
20 replacement cost recovery charge revenue exceeding ten percent of
21 the jurisdictional utility's base revenue level approved by the
22 commission in the jurisdictional utility's most recent general rate
23 proceeding. Any infrastructure system replacement cost recovery
24 charge rate schedules and any future changes thereto shall be
25 calculated and implemented in accordance with the State Natural

1 Gas Regulation Act. Infrastructure system replacement cost recovery
2 charge revenue shall be subject to a refund based upon a finding
3 and order of the commission to the extent provided in subsections
4 (6) and (8) of section 5 of this act or as approved by the affected
5 cities to the extent provided in subsection (6) and subdivision
6 (7)(c) of section 6 of this act.

7 (2) The commission shall not approve any infrastructure
8 system replacement cost recovery charge rate schedules for any
9 jurisdictional utility that has not had a general rate proceeding
10 decided or dismissed by issuance of a commission order within
11 the sixty months immediately preceding the application by the
12 jurisdictional utility for an infrastructure system replacement
13 cost recovery charge.

14 (3) A jurisdictional utility shall not collect an
15 infrastructure system replacement cost recovery charge rate for a
16 period exceeding sixty months after its initial approval unless
17 within such sixty-month period the jurisdictional utility has filed
18 for or is the subject of a new general rate proceeding, except that
19 the infrastructure system replacement cost recovery charge rate
20 may be collected until the effective date of new rate schedules
21 established as a result of the new general rate proceeding or until
22 the general rate proceeding is otherwise decided or dismissed by
23 issuance of a commission order without new rates being established.

24 Sec. 5. (1) This section applies to applications for
25 an infrastructure system replacement cost recovery charge by a

1 jurisdictional utility whose last general rate filing was not the
2 subject of negotiations with affected cities as provided for in
3 section 66-1838.

4 (2) When a jurisdictional utility governed by this
5 section files an application with the commission seeking to
6 establish or change any infrastructure system replacement cost
7 recovery charge rate schedules, it shall submit to the commission
8 with the application proposed infrastructure system replacement
9 cost recovery charge rate schedules and supporting documentation
10 regarding the calculation of the proposed infrastructure system
11 replacement cost recovery charge rate schedules, including (a) a
12 list of eligible projects, (b) a description of the projects, (c)
13 the location of the projects, (d) the purpose of the projects,
14 (e) the dates construction began and ended, (f) the total expenses
15 for each project at completion, and (g) the extent to which such
16 expenses are eligible for inclusion in the calculation of the
17 infrastructure system replacement cost recovery charge.

18 (3)(a) When an application, along with any associated
19 proposed rate schedules and documentation, is filed pursuant to
20 subsection (2) of this section, the public advocate shall conduct
21 an examination of the proposed infrastructure system replacement
22 cost recovery charge rate schedules.

23 (b) The public advocate shall cause an examination to
24 be made of information regarding the jurisdictional utility to
25 confirm that the underlying costs are in accordance with the

1 State Natural Gas Regulation Act and to confirm proper calculation
2 of the proposed infrastructure system replacement cost recovery
3 charge rates and rate schedules. The commission shall require a
4 report regarding such examination to be prepared and filed with
5 the commission not later than sixty days after the application
6 is filed. No other revenue requirement or ratemaking issue shall
7 be examined in consideration of the application or associated
8 proposed rate schedules filed pursuant to the act unless the
9 consideration of such affects the determination of the validity of
10 the proposed infrastructure system replacement cost recovery charge
11 rate schedules.

12 (c) The commission shall hold a hearing on the
13 application and any associated rate schedules at which the public
14 advocate shall present his or her report and shall act as trial
15 staff before the commission. The commission shall issue an order
16 to become effective not later than one hundred twenty days after
17 the application is filed, except that the commission may, for good
18 cause, extend such period for an additional thirty days.

19 (d) If the commission finds that an application complies
20 with the requirements of the act, the commission shall enter
21 an order authorizing the jurisdictional utility to impose an
22 infrastructure system replacement cost recovery charge rate that is
23 sufficient to recover appropriate pretax revenue, as determined by
24 the commission pursuant to the act.

25 (4) A jurisdictional utility may apply for a change in

1 any infrastructure system replacement cost recovery charge rate
2 schedules approved pursuant to this section no more than once in
3 any twelve-month period. Any such application for a change shall be
4 pursued in the manner provided for in this section.

5 (5) In determining the appropriate pretax revenue, the
6 commission shall consider the following factors:

7 (a) The net original cost of eligible infrastructure
8 system replacements. For purposes of this section, the net
9 original cost means the original cost of eligible infrastructure
10 system replacements minus associated retirements of existing
11 infrastructure;

12 (b) The accumulated deferred income taxes associated with
13 the eligible infrastructure system replacements;

14 (c) The accumulated depreciation associated with the
15 eligible infrastructure system replacements;

16 (d) The state, federal, and local income tax or excise
17 tax rates at the time of such determination;

18 (e) The jurisdictional utility's actual regulatory
19 capital structure as determined during the most recent general rate
20 proceeding of the jurisdictional utility;

21 (f) The actual cost rates for the jurisdictional
22 utility's debt and preferred stock as determined during the most
23 recent general rate proceeding of the jurisdictional utility;

24 (g) The jurisdictional utility's cost of common equity as
25 determined during the most recent general rate proceeding of the

1 jurisdictional utility; and

2 (h) The depreciation rates applicable to the eligible
3 infrastructure system replacements at the time of the most recent
4 general rate proceeding of the jurisdictional utility.

5 (6) (a) The monthly infrastructure system replacement cost
6 recovery charge rate shall be allocated among the jurisdictional
7 utility's classes of customers in the same manner as costs for
8 the same type of facilities were allocated among classes of
9 customers in the jurisdictional utility's most recent general rate
10 proceeding. An infrastructure system replacement cost recovery
11 charge rate shall be assessed to customers as a monthly fixed
12 charge and not based on volumetric consumption. Such monthly charge
13 shall not increase more than fifty cents per residential customer
14 over the base rates in effect at the time of the initial filing
15 for any infrastructure system replacement cost recovery charge rate
16 schedules. Thereafter, each subsequent filing shall not increase
17 the monthly charge by more than fifty cents per residential
18 customer over that charge in existence at the time of the most
19 recent application for any infrastructure system replacement cost
20 recovery charge rate schedules.

21 (b) At the end of each twelve-month period during
22 which the infrastructure system replacement cost recovery charge
23 rate schedules are in effect, the jurisdictional utility shall
24 reconcile the differences between the revenue resulting from
25 the infrastructure system replacement cost recovery charge and

1 the appropriate pretax revenue as found by the commission for
2 that period and shall submit the reconciliation and any proposed
3 infrastructure system replacement cost recovery charge rate
4 schedules adjustment to the commission for approval to recover or
5 refund the difference, as appropriate, through adjustments of the
6 infrastructure system replacement cost recovery charge rate.

7 (7) (a) A jurisdictional utility that has implemented
8 any infrastructure system replacement cost recovery charge rate
9 schedules pursuant to the act shall cease to collect such
10 charges when new base rates and charges become effective for the
11 jurisdictional utility following a commission order establishing
12 customer rates in a general rate proceeding.

13 (b) In any subsequent general rate proceeding involving
14 a jurisdictional utility which is collecting charges pursuant
15 to any infrastructure system replacement cost recovery charge
16 rate schedules, the commission shall reconcile any previously
17 unreconciled infrastructure system replacement cost recovery charge
18 revenue as necessary to ensure that the revenue matches as closely
19 as possible to the appropriate pretax revenue as found by the
20 commission for that period.

21 (8) In the event the commission disallows, during
22 a subsequent general rate proceeding, recovery of costs
23 associated with eligible infrastructure system replacements
24 previously included in any infrastructure system replacement cost
25 recovery charge rate schedules, the commission shall order the

1 jurisdictional utility to make such rate adjustments as necessary
2 to recognize and account for any such overcollections.

3 (9) Nothing in this section shall be construed to
4 limit the authority of the commission to review and consider
5 infrastructure system replacement costs along with other costs
6 during any general rate proceeding of any jurisdictional utility.

7 Sec. 6. (1) This section applies to applications for
8 an infrastructure system replacement cost recovery charge by a
9 jurisdictional utility whose last general rate filing was the
10 subject of negotiations with affected cities as provided for in
11 section 66-1838.

12 (2) When a jurisdictional utility governed by this
13 section files an application with the commission seeking to
14 establish or change any infrastructure system replacement
15 cost recovery charge rate schedules, it shall submit proposed
16 infrastructure system replacement cost recovery charge rate
17 schedules and supporting documentation regarding the calculation
18 of the proposed infrastructure system replacement cost recovery
19 charge rate schedules with the application and shall provide
20 written notice to each city that will be affected by the proposed
21 infrastructure system replacement cost recovery charge rates
22 simultaneously with the filing with the commission. Such notice
23 shall identify the cities that will be affected by the filing.
24 The jurisdictional utility shall file copies of the notice with
25 the commission and shall file with the affected cities the

1 information prescribed by this section with each city affected by
2 the proposed infrastructure system replacement cost recovery charge
3 in electronic or digital form or, upon request, in paper form.

4 (3) The jurisdictional utility shall file with the
5 cities and the commission the infrastructure system replacement
6 cost recovery charge rate schedules and supporting documentation
7 regarding the calculation of the proposed infrastructure system
8 replacement cost recovery charge rate schedules, including (a) a
9 list of eligible projects, (b) a description of the projects, (c)
10 the location of the projects, (d) the purpose of the projects,
11 (e) the dates construction began and ended, (f) the total expenses
12 for each project at completion, and (g) the extent to which such
13 expenses are eligible for inclusion in the calculation of the
14 infrastructure system replacement cost recovery charge rate.

15 (4) (a) Affected cities shall have a period of thirty days
16 after the date of such filing within which to adopt a resolution
17 evidencing their intent to negotiate an infrastructure system
18 replacement cost recovery charge rate with the jurisdictional
19 utility. A copy of the resolution in support of negotiations
20 adopted by each city under this section or a copy of the resolution
21 of the rejection of the offer of negotiations shall be provided
22 to the commission and the jurisdictional utility within seven days
23 after its adoption.

24 (b) If the commission receives resolutions adopted prior
25 to the expiration of the thirty-day period provided for in

1 subdivision (a) of this subsection evidencing the intent from
2 cities representing more than fifty percent of the ratepayers
3 within the affected cities to negotiate with the jurisdictional
4 utility an infrastructure system replacement cost recovery charge
5 rate, the commission shall certify the case for negotiation between
6 such cities and the jurisdictional utility and shall take no action
7 upon the application and filings regarding such charge until the
8 negotiation period and any stipulated extension has expired or an
9 agreement on rates is submitted, whichever occurs first.

10 (c) If the commission receives copies of resolutions
11 from cities representing more than fifty percent of the ratepayers
12 within the affected cities which expressly reject negotiations, the
13 infrastructure system replacement cost recovery charge rate review
14 shall proceed immediately from the date when the commission makes
15 such a determination in the manner provided for in section 5 of
16 this act.

17 (d) If commission certification to pursue negotiations is
18 entered, the cities that have adopted resolutions to negotiate and
19 the jurisdictional utility shall enter into good faith negotiations
20 over the proposed infrastructure system replacement cost recovery
21 charge rate.

22 (e) Negotiations between the cities and the
23 jurisdictional utility shall continue for a period not to
24 exceed thirty days after the date of the commission's certification
25 to pursue negotiations, except that the parties may mutually agree

1 to extend such period to a future date certain and shall provide
2 such stipulation to the commission.

3 (f) If the cities and the jurisdictional utility reach
4 agreement upon the proposed infrastructure system replacement cost
5 recovery charge rate schedules, such agreement shall be put into
6 writing and filed with the commission. If cities representing
7 more than fifty percent of the ratepayers within the cities
8 affected by the proposed infrastructure system replacement cost
9 recovery charge rate schedules enter into an agreement upon such
10 charges and the agreement is filed with and approved by the
11 commission, such infrastructure system replacement cost recovery
12 charge rate schedules shall be effective and binding upon all of
13 the jurisdictional utility's ratepayers within the affected cities.
14 The commission shall enter its order either approving or rejecting
15 such infrastructure system replacement cost recovery charge rate
16 schedules within thirty days after the date of the filing of the
17 agreement with the commission.

18 (g) Any agreement filed with the commission shall be
19 presumed in the public interest, and absent any clear evidence on
20 the face of the agreement that it is contrary to the standards and
21 provisions of the State Natural Gas Regulation Act, the agreement
22 shall be approved by the commission.

23 (h) If the negotiations fail to result in an agreement
24 upon any infrastructure system replacement cost recovery charge
25 rate schedules within the time permitted by this section for such

1 negotiations, the jurisdictional utility may formally notify the
2 commission of this fact and the matter shall be submitted for
3 determination by the commission as a contested proceeding with the
4 affected cities as one party and the jurisdictional utility as the
5 other. The affected cities and the jurisdictional utility shall
6 submit any documents, data, or information in support of the city's
7 or jurisdictional utility's position to the commission in a report
8 to be filed not later than fourteen days after the commission
9 receives notice that negotiations have failed and formally notifies
10 the parties that it will be hearing the matter as a contested case.
11 The commission shall hold a hearing in the case not later than
12 thirty-five days after the receipt of the reports of both parties.
13 In determining the appropriate pretax revenue of the jurisdictional
14 utility, the commission shall consider the factors set out in
15 subsection (5) of section 5 of this act. A final determination
16 by the commission shall be rendered by the commission within
17 twenty-one days after the adjournment of the hearing.

18 (i) If information filed pursuant to subdivision (h)
19 of this subsection is not considered a public record within the
20 meaning of sections 84-712 to 84-712.09, such information may
21 be submitted to the commission by the jurisdictional utility or
22 affected cities for the limited purpose of consideration by the
23 commission under this section subject to a protective order issued
24 by the commission.

25 (j) Within thirty days after any infrastructure system

1 replacement cost recovery charge rate schedules approved by the
2 commission pursuant to this section become effective, copies of
3 all documents relating to such infrastructure system replacement
4 cost recovery charge rate schedules, except those determined to be
5 confidential under rules and regulations adopted and promulgated by
6 the commission or that may be withheld from the public pursuant to
7 subdivision (h) or (j) of this subsection, shall be available for
8 public inspection in every office and facility open to the general
9 public of the jurisdictional utility in this state.

10 (5) A jurisdictional utility may apply for a change in
11 any infrastructure system replacement cost recovery charge rate
12 schedules approved pursuant to this section no more than once in
13 any twelve-month period. Any such application for a change shall be
14 pursued in the manner provided for in this section.

15 (6) (a) The monthly infrastructure system replacement cost
16 recovery charge rate shall be allocated among the jurisdictional
17 utility's classes of customers in the same manner as costs for
18 the same type of facilities were allocated among classes of
19 customers in the jurisdictional utility's most recent general rate
20 proceeding. An infrastructure system replacement cost recovery
21 charge rate shall be assessed to customers as a monthly fixed
22 charge and not based on volumetric consumption. Such monthly charge
23 shall not increase more than fifty cents per residential customer
24 over the base rates in effect at the time of the initial filing
25 for any infrastructure system replacement cost recovery charge rate

1 schedules. Thereafter, each subsequent filing shall not increase
2 the monthly charge by more than fifty cents per residential
3 customer over that charge in existence at the time of the most
4 recent application for any infrastructure system replacement cost
5 recovery charge rate schedules.

6 (b) At the end of each twelve-month period during
7 which the infrastructure system replacement cost recovery charge
8 rate schedules are in effect, the jurisdictional utility shall
9 reconcile the differences between the revenue resulting from an
10 infrastructure system replacement cost recovery charge and the
11 appropriate pretax revenue for that period and shall submit the
12 reconciliation and any proposed infrastructure system replacement
13 cost recovery charge rate schedules adjustment to the affected
14 cities for approval to recover or refund the difference, as
15 appropriate, through adjustments of the infrastructure system
16 replacement cost recovery charge rate. Review and approval of
17 such reconciliation or adjustment shall proceed in the manner set
18 out in the commission order on the initial application for an
19 infrastructure system replacement cost recovery charge rate.

20 (7)(a) A jurisdictional utility that has implemented
21 any infrastructure system replacement cost recovery charge rate
22 schedules pursuant to this section shall cease to collect such
23 charges when new base rates and charges become effective for the
24 jurisdictional utility following a commission order establishing or
25 approving customer rates in a subsequent general rate proceeding.

1 (b) In any subsequent general rate proceeding involving
2 a jurisdictional utility which is collecting charges pursuant to
3 any infrastructure system replacement cost recovery charge rate
4 schedules, the new general rates shall reflect a reconciliation of
5 any previously unreconciled infrastructure system replacement cost
6 recovery charge revenue as necessary to ensure that the revenue
7 matches as closely as possible to the appropriate pretax revenue
8 for that period as determined in the general rate proceeding.

9 (c) If, during a subsequent general rate proceeding, the
10 recovery of certain costs associated with eligible infrastructure
11 system replacements are disallowed, the new general rates approved
12 shall include such adjustments as are necessary to recognize and
13 account for any overcollections.

14 (8) Nothing in this section shall be construed to limit
15 the authority of the commission or affected cities engaged in
16 negotiations regarding a general rate filing with a jurisdictional
17 utility to review and consider infrastructure system replacement
18 cost recovery charge rates along with other costs during any
19 general rate proceeding of such jurisdictional utility.

20 Sec. 7. Section 84-712.05, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 84-712.05 The following records, unless publicly
23 disclosed in an open court, open administrative proceeding, or open
24 meeting or disclosed by a public entity pursuant to its duties, may
25 be withheld from the public by the lawful custodian of the records:

1 (1) Personal information in records regarding a student,
2 prospective student, or former student of any educational
3 institution or exempt school that has effectuated an election
4 not to meet state approval or accreditation requirements pursuant
5 to section 79-1601 when such records are maintained by and in
6 the possession of a public entity, other than routine directory
7 information specified and made public consistent with 20 U.S.C.
8 1232g, as such section existed on January 1, 2003;

9 (2) Medical records, other than records of births and
10 deaths and except as provided in subdivision (5) of this section,
11 in any form concerning any person; records of elections filed under
12 section 44-2821; and patient safety work product under the Patient
13 Safety Improvement Act;

14 (3) Trade secrets, academic and scientific research work
15 which is in progress and unpublished, and other proprietary or
16 commercial information which if released would give advantage to
17 business competitors and serve no public purpose;

18 (4) Records which represent the work product of an
19 attorney and the public body involved which are related to
20 preparation for litigation, labor negotiations, or claims made by
21 or against the public body or which are confidential communications
22 as defined in section 27-503;

23 (5) Records developed or received by law enforcement
24 agencies and other public bodies charged with duties of
25 investigation or examination of persons, institutions, or

1 businesses, when the records constitute a part of the examination,
2 investigation, intelligence information, citizen complaints or
3 inquiries, informant identification, or strategic or tactical
4 information used in law enforcement training, except that this
5 subdivision shall not apply to records so developed or received
6 relating to the presence of and amount or concentration of alcohol
7 or drugs in any body fluid of any person;

8 (6) Appraisals or appraisal information and negotiation
9 records concerning the purchase or sale, by a public body, of any
10 interest in real or personal property, prior to completion of the
11 purchase or sale;

12 (7) Personal information in records regarding personnel
13 of public bodies other than salaries and routine directory
14 information;

15 (8) Information solely pertaining to protection of the
16 security of public property and persons on or within public
17 property, such as specific, unique vulnerability assessments or
18 specific, unique response plans, either of which is intended
19 to prevent or mitigate criminal acts the public disclosure of
20 which would create a substantial likelihood of endangering public
21 safety or property; computer or communications network schema,
22 passwords, and user identification names; guard schedules; or lock
23 combinations;

24 (9) The security standards, procedures, policies, plans,
25 specifications, diagrams, access lists, and other security-related

1 records of the Lottery Division of the Department of Revenue and
2 those persons or entities with which the division has entered into
3 contractual relationships. Nothing in this subdivision shall allow
4 the division to withhold from the public any information relating
5 to amounts paid persons or entities with which the division has
6 entered into contractual relationships, amounts of prizes paid, the
7 name of the prize winner, and the city, village, or county where
8 the prize winner resides;

9 (10) With respect to public utilities and except as
10 provided in sections 43-512.06 and 70-101, personally identified
11 private citizen account payment information, credit information on
12 others supplied in confidence, and customer lists;

13 (11) Records or portions of records kept by a publicly
14 funded library which, when examined with or without other records,
15 reveal the identity of any library patron using the library's
16 materials or services;

17 (12) Correspondence, memoranda, and records of telephone
18 calls related to the performance of duties by a member of
19 the Legislature in whatever form. The lawful custodian of the
20 correspondence, memoranda, and records of telephone calls, upon
21 approval of the Executive Board of the Legislative Council, shall
22 release the correspondence, memoranda, and records of telephone
23 calls which are not designated as sensitive or confidential in
24 nature to any person performing an audit of the Legislature. A
25 member's correspondence, memoranda, and records of confidential

1 telephone calls related to the performance of his or her
2 legislative duties shall only be released to any other person with
3 the explicit approval of the member;

4 (13) Records or portions of records kept by public
5 bodies which would reveal the location, character, or ownership
6 of any known archaeological, historical, or paleontological site
7 in Nebraska when necessary to protect the site from a reasonably
8 held fear of theft, vandalism, or trespass. This section shall not
9 apply to the release of information for the purpose of scholarly
10 research, examination by other public bodies for the protection of
11 the resource or by recognized tribes, the Unmarked Human Burial
12 Sites and Skeletal Remains Protection Act, or the federal Native
13 American Graves Protection and Repatriation Act;

14 (14) Records or portions of records kept by public
15 bodies which maintain collections of archaeological, historical, or
16 paleontological significance which reveal the names and addresses
17 of donors of such articles of archaeological, historical, or
18 paleontological significance unless the donor approves disclosure,
19 except as the records or portions thereof may be needed to carry
20 out the purposes of the Unmarked Human Burial Sites and Skeletal
21 Remains Protection Act or the federal Native American Graves
22 Protection and Repatriation Act;

23 (15) Job application materials submitted by applicants,
24 other than finalists, who have applied for employment by any
25 public body as defined in section 84-1409. For purposes of

1 this subdivision, (a) job application materials means employment
2 applications, resumes, reference letters, and school transcripts
3 and (b) finalist means any applicant (i) who reaches the final pool
4 of applicants, numbering four or more, from which the successful
5 applicant is to be selected, (ii) who is an original applicant
6 when the final pool of applicants numbers less than four, or (iii)
7 who is an original applicant and there are four or fewer original
8 applicants; ~~and~~

9 (16) Social security numbers; credit card, charge card,
10 or debit card numbers and expiration dates; and financial account
11 numbers supplied to state and local governments by citizens; ~~and-~~

12 (17) Information exchanged between a jurisdictional
13 utility and city pursuant to section 6 of this act.

14 Sec. 8. Original sections 66-1802, 66-1839, and
15 84-712.05, Reissue Revised Statutes of Nebraska, and section
16 66-1801, Revised Statutes Cumulative Supplement, 2008, are
17 repealed.