

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1087

Introduced by Nordquist, 7; Mello, 5.

Read first time January 18, 2012

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to compressed natural gas; to amend sections
2 66-1810 and 66-1825, Reissue Revised Statutes of
3 Nebraska; to adopt the Compressed Natural Gas Innovation
4 Act; to change provisions relating to jurisdictional
5 utilities and natural gas public utilities; to harmonize
6 provisions; and to repeal the original sections.

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

1 Section 1. Sections 1 to 7 of this act shall be known and
2 may be cited as the Compressed Natural Gas Innovation Act.

3 Sec. 2. For purposes of the Compressed Natural Gas
4 Innovation Act:

5 (1) Compressed natural gas innovation grant means a grant
6 paid to an eligible entity for a compressed natural gas innovation
7 project;

8 (2) Compressed natural gas innovation project means
9 infrastructure investment relating to storage, distribution, or
10 dispensing of compressed natural gas; and

11 (3) Eligible entity means a Nebraska resident, business,
12 or public utility.

13 Sec. 3. The Compressed Natural Gas Innovation Fund is
14 created. The fund shall be used by the State Energy Office to provide
15 compressed natural gas innovation grants and for administrative costs
16 relating to its duties under the Compressed Natural Gas Innovation
17 Act. The Legislature shall appropriate funds to the fund to implement
18 the act. Any money in the fund available for investment shall be
19 invested by the state investment officer pursuant to the Nebraska
20 Capital Expansion Act and the Nebraska State Funds Investment Act.

21 Sec. 4. The State Energy Office shall establish and
22 administer a grant program for compressed natural gas innovation
23 projects. An eligible entity may apply to the office for a compressed
24 natural gas innovation grant of up to two hundred thousand dollars.
25 The eligible entity shall pay at least eighty percent of the cost of

1 the compressed natural gas innovation project. The office shall:

2 (1) Not approve more than one grant for a compressed
3 natural gas innovation project in a county during the first five
4 years of the grant program; and

5 (2) Only approve a compressed natural gas innovation
6 project if it will be located within one mile of a portion of the
7 National System of Interstate and Defense Highways.

8 Sec. 5. (1) The Natural Gas Fuel Board is hereby
9 established to advise the State Energy Office regarding the promotion
10 of natural gas as a motor vehicle fuel in Nebraska. The board shall
11 provide recommendations relating to:

12 (a) Distribution and infrastructure development for
13 natural gas to be used as a motor vehicle fuel;

14 (b) Loans, grants, and tax incentives to encourage the
15 use of natural gas as a motor vehicle fuel for individuals and public
16 and private fleets; and

17 (c) Such other matters as it deems appropriate.

18 (2) The board shall consist of eight members appointed by
19 the Governor. The Governor shall make the initial appointments by
20 October 1, 2012. The board shall include:

21 (a) One member representing a jurisdictional utility as
22 defined in section 66-1802;

23 (b) One member representing a metropolitan utilities
24 district;

25 (c) One member representing the interests of the

1 transportation industry in this state;

2 (d) One member representing the interests of the business
3 community in this state, specifically fueling station owners or
4 operators;

5 (e) One member representing natural gas marketers or
6 pipelines in the state;

7 (f) One member representing automobile dealerships or
8 repair businesses in the state;

9 (g) One member representing labor interests in this
10 state; and

11 (h) One member representing environmental interests in
12 this state, specifically air quality.

13 (3) All appointments shall be subject to the approval of
14 a majority of the members of the Legislature if the Legislature is in
15 session, and if the Legislature is not in session, any appointment
16 shall be temporary until the next session of the Legislature, at
17 which time a majority of the members of the Legislature may approve
18 or disapprove such appointment.

19 (4) Members shall be appointed for terms of four years,
20 except that of the initial appointees the terms of the member
21 representing a jurisdictional utility and a metropolitan utilities
22 district shall expire on September 30, 2015, the terms of the members
23 representing the transportation industry, the business community,
24 natural gas marketers or pipelines, and automobile dealerships or
25 repair businesses shall expire on September 30, 2014, and the terms

1 of the members representing labor and environmental interests shall
2 expire on September 30, 2013. A member shall serve until a successor
3 is appointed and qualified.

4 (5) A vacancy on the board shall exist in the event of
5 death, disability, resignation, or removal for cause of a member. Any
6 vacancy on the board arising other than from the expiration of a term
7 shall be filled by appointment for the unexpired portion of the term.
8 An appointment to fill a vacancy shall be made by the Governor with
9 the approval of a majority of the Legislature, and any person so
10 appointed shall have the same qualifications as the person whom he or
11 she succeeds.

12 (6) The board shall meet at least once annually.

13 (7) The members shall not be reimbursed for expenses
14 associated with their appointment to the board.

15 Sec. 6. Beginning December 1, 2012, and annually on or
16 before December 1 thereafter, the State Energy Office shall submit a
17 report to the Legislature describing each compressed natural gas
18 innovation grant made during the preceding calendar year and the
19 compressed natural gas innovation project for which each such grant
20 was made.

21 Sec. 7. The State Energy Office may adopt and promulgate
22 rules and regulations to carry out the Compressed Natural Gas
23 Innovation Act.

24 Sec. 8. Section 66-1810, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 66-1810 (1) A jurisdictional utility may provide service
2 at negotiated rates, contracts, and terms and conditions of service
3 under contract to high-volume ratepayers. Service under the contracts
4 shall be provided on such terms and conditions and for such rates or
5 charges as the jurisdictional utility and the high-volume ratepayer
6 agree, without regard to any rates, tolls, tariffs, or charges the
7 jurisdictional utility may have filed with the commission. Upon the
8 request of the commission, the jurisdictional utility shall file such
9 contracts with the commission. The contracts are not public records
10 within the meaning of sections 84-712 to 84-712.09 and their
11 disclosure to any other person or corporation for any purpose is
12 expressly prohibited, except that they may be used by the commission
13 in any investigation or proceeding. Except as provided in this
14 subsection, high-volume ratepayers shall not be subject to the
15 jurisdiction of the commission.

16 (2) A jurisdictional utility may change any rate or other
17 charge demanded or received from or terms and conditions applicable
18 to its agricultural ratepayers and interruptible ratepayers not
19 otherwise qualifying as high-volume ratepayers, upon notice to the
20 commission and to the public. The commission may not suspend such
21 rate or charge filed by a jurisdictional utility, except that the
22 commission, after hearing and order, may change any such rate or
23 other charge demanded or received from a jurisdictional utility's
24 agricultural ratepayers upon complaint effective as of the date of
25 the order, if such rate or other charge is found in such complaint

1 proceeding to be unduly preferential or unjustly discriminatory. The
2 provisions of this subsection apply notwithstanding any provision in
3 the State Natural Gas Regulation Act to the contrary.

4 (3) A jurisdictional utility may change any rate or other
5 charge demanded or received from or terms and conditions applicable
6 to its motor vehicle rate, upon notice to the commission and to the
7 public. The commission may not suspend such rate or charge filed by a
8 jurisdictional utility. This subsection applies notwithstanding any
9 provision in the State Natural Gas Regulation Act to the contrary.

10 Sec. 9. Section 66-1825, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 66-1825 (1) Every rate made, demanded, or received by any
13 natural gas public utility shall be just and reasonable. Rates shall
14 not be unreasonably preferential or discriminatory and shall be
15 reasonably consistent in application to a class of ratepayers. Rates
16 negotiated with agricultural ratepayers and high-volume ratepayers in
17 conformity with the State Natural Gas Regulation Act and motor
18 vehicle rates shall not be considered discriminatory.

19 (2) No jurisdictional utility shall, as to rates or terms
20 and conditions of service, make or grant any unreasonable preference
21 or advantage to any person or subject any person to any unreasonable
22 prejudice or disadvantage.

23 (3) The commission, in the exercise of its power and duty
24 to determine just and reasonable rates for natural gas public
25 utilities, shall give due consideration to the public need for

1 adequate, efficient, and reasonable natural gas service and to the
2 need of the jurisdictional utility for revenue sufficient to enable
3 it to meet the cost of furnishing the service, including adequate
4 provisions for depreciation of its utility property used and useful
5 in rendering service to the public, and to earn a fair and reasonable
6 return upon the investment in such property.

7 (4) Cost of service shall include operating expenses and
8 a fair and reasonable return on rate base, less appropriate credits.

9 (5) In determining a fair and reasonable return on the
10 rate base of a jurisdictional utility, a rate-of-return percentage
11 shall be employed that is representative of the utility's weighted
12 average cost of capital including, but not limited to, long-term
13 debt, preferred stock, and common equity capital.

14 (6) The rate base of the jurisdictional utility shall
15 consist of the utility's property, used and useful in providing
16 utility service, including the applicable investment in utility
17 plant, less accumulated depreciation and amortization, allowance for
18 working capital, such other items as may be reasonably included, and
19 reasonable allocations of common property, less such investment as
20 may be reasonably attributed to other than investor-supplied capital
21 unless such deduction is otherwise prohibited by law.

22 (7) Operating expenses shall consist of expenses
23 prudently incurred to provide natural gas service including (a) a
24 reasonable allocation of common expenses as authorized and limited by
25 section 66-1819 and (b) the quantity and type of purchased services

1 regulated by the Federal Energy Regulatory Commission.

2 (8) In determining the cost of service, the Public
3 Service Commission shall give effect to all costs and allocations as
4 reflected in the rate schedules approved by the Federal Energy
5 Regulatory Commission.

6 (9) The Public Service Commission may include in a
7 jurisdictional utility's rate base the full or partial value of
8 stranded investment which was prudently incurred when the investment
9 actually was, or reasonably was expected to be, used and useful in
10 providing service to ratepayers and was stranded due to changes in
11 regulation or other circumstances reasonably beyond the utility's
12 control and subject to any reasonable obligation of the utility to
13 mitigate the cost.

14 (10) Subsidization is prohibited. For purposes of this
15 subsection, subsidization means the establishment of rates to be
16 collected from a ratepayer or class of ratepayers of a jurisdictional
17 utility that (a) include costs that properly are includable in rates
18 charged to other ratepayers or classes of ratepayers of the utility,
19 or other persons, firms, companies, or corporations doing business
20 with the jurisdictional utility, (b) exclude costs that properly are
21 includable in rates charged to such ratepayers or classes of
22 ratepayers, or (c) include costs that properly are chargeable or
23 allocable to a nonregulated private enterprise engaged in by such
24 jurisdictional utility.

25 Sec. 10. Original sections 66-1810 and 66-1825, Reissue

1 Revised Statutes of Nebraska, are repealed.