

FIRST REGULAR SESSION

HOUSE BILL NO. 635

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES THRELKELD, LOWE AND SPRENG (Co-sponsors).

Read 1st time March 10, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1870L.011

AN ACT

To repeal section 386.756, RSMo, and to enact in lieu thereof one new section relating to HVAC services by utilities.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 386.756, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.756, to read as follows:

386.756. 1. Except by an affiliate, a utility may not engage in HVAC services, unless otherwise provided in subsection 7 or subsection 8 of this section.

2. No affiliate or utility contractor may use any vehicles, service tools, instruments, employees, or any other utility assets, the cost of which are recoverable in the regulated rates for utility service, to engage in HVAC services unless the utility is compensated for the use of such assets at cost to the utility.

3. A utility may not use or allow any affiliate or utility contractor to use the name of such utility to engage in HVAC services unless the utility, affiliate or utility contractor discloses, in plain view and in bold type on the same page as the name is used on all advertisements or in plain audible language during all solicitations of such services, a disclaimer that states the services provided are not regulated by the public service commission.

4. A utility may not engage in or assist any affiliate or utility contractor in engaging in HVAC services in a manner which subsidizes the activities of such utility, affiliate or utility contractor to the extent of changing the rates or charges for the utility's regulated services above or below the rates or charges that would be in effect if the utility were not engaged in or assisting any affiliate or utility contractor in engaging in such activities.

5. Any affiliates or utility contractors engaged in HVAC services shall maintain accounts, books and records separate and distinct from the utility.

19 6. The provisions of this section shall apply to any affiliate or utility contractor engaged
20 in HVAC services that is owned, controlled or under common control with a utility providing
21 regulated utility service in this state or any other state.

22 7. A utility engaging in HVAC services in this state five years prior to August 28, 1998,
23 may continue providing, to existing as well as new customers, the same type of services as those
24 provided by the utility five years prior to August 28, 1998. **The provisions of this section only**
25 **apply to the area of service which the utility was actually supplying service to on a daily**
26 **basis on August 28, 1993. The provisions of this section shall not apply to any subsequently**
27 **expanded areas of service made by a utility through either existing affiliates or subsidiaries**
28 **or through affiliates or subsidiaries purchased after August 28, 1993.**

29 8. The provisions of this section shall not be construed to prohibit a utility from
30 providing emergency service, providing any service required by law or providing a program
31 pursuant to an existing tariff, rule or order of the public service commission.

32 9. A utility that violates any provision of this section is guilty of a civil offense and may
33 be subject to a civil penalty of up to twelve thousand five hundred dollars for each violation.
34 **The attorney general may enforce the provisions of this section pursuant to any powers**
35 **granted to him or her pursuant to any relevant provisions provided by Missouri statutes**
36 **or the Missouri Constitution.**

37 10. **No utility may claim an exemption as provided under subsection 7 of this**
38 **section if a utility or its affiliates do not comply with the same state and local laws and**
39 **regulations as required by commercial HVAC contractors. If the attorney general, local**
40 **prosecutor, or public service commission finds that a utility has continually ignored state**
41 **and local laws and regulations, then the utility and their affiliates shall be prohibited from**
42 **providing HVAC services.**