

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2279

AN ACT

To repeal sections 393.275, 407.300, 660.115, and 660.135, RSMo, and to enact in lieu thereof twelve new sections relating to utilities, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 393.275, 407.300, 660.115, and 660.135, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 393.108, 393.171, 393.275, 407.300, 407.301, 407.302, 407.303, 570.055, 570.056, 660.115, 660.135, and 1, to read as follows:

393.108. For purposes of this section, the hot weather rule shall mean the period of time from June first to September thirtieth, in which the discontinuance of gas and electric service to all residential users, including all residential tenants of apartment buildings, for nonpayment of bills where gas or electricity is used as the source of cooling or to operate the only cooling equipment at the residence, is prohibited in the following situations:

(1) On any day when the National Weather Service local

forecast between 6:00 a.m. and 9:00 p.m. for the following
twenty-four hours predicts that the temperature shall rise above
ninety-five degrees Fahrenheit or that the heat index shall rise
above one hundred five degrees Fahrenheit;

(2) On any day when utility personnel are not available to
reconnect utility service during the immediately succeeding day
or days and the National Weather Service local forecast between
6:00 a.m. and 9:00 p.m. predicts that the temperature during the
period of unavailability shall rise above ninety-five degrees
Fahrenheit or that the heat index shall rise above one hundred
five degrees Fahrenheit; and

(3) In any other applicable situations provided for in
rules established and amended by the public service commission.

393.171. 1. The commission shall have the authority to
grant the permission and approval specified in section 393.170,
after the construction or acquisition of any electric plant
located in a first class county without a charter form of
government has been completed if the commission determines that
the grant of such permission and approval is necessary or
convenient for the public service. Any such permission and
approval shall, for all purposes, have the same effect as the
permission and approval granted prior to such construction or
acquisition. This subsection is enacted to clarify and specify
the law in existence at all times since the original enactment of
section 393.170.

2. No permission or approval granted for an electric plant
by the commission under subsection 1 of this section, nor any
special use permit issued for any such electric plant by the

1 governing body of the county in which the electric plant is
2 located, shall extinguish, render moot, or mitigate any suit or
3 claim pending or otherwise allowable by law by any landowner or
4 other legal entity for monetary damages allegedly caused by the
5 operation or existence of such electric plant. Expenses incurred
6 by an electrical corporation in association with the payment of
7 any such damages shall not be recoverable, in any form at any
8 time, from the rate payers of any such electrical corporation.

9 3. The commission's authority under subsection 1 of this
10 section shall expire on August 28, 2009.

11 393.275. 1. The commission shall notify the governing body
12 of each city or county imposing a business license tax pursuant
13 to section 66.300, 92.045, 94.110, 94.270 or 94.360, RSMo, or a
14 similar tax adopted pursuant to charter provisions in any
15 constitutional charter city with a population of at least three
16 hundred fifty thousand inhabitants which is located in more than
17 one county, on gross receipts of any gas corporation, electric
18 corporation, water corporation or sewer corporation of any tariff
19 increases authorized for such firm doing business in that city or
20 county if the approved increase exceeds seven percent. The
21 commission shall include with such notice to any city or county
22 the percentage increase approved for the utility, together with
23 an estimate of the annual increase in gross receipts resulting
24 from the tariff increase on customers residing in that city or
25 county. The provisions of this subsection shall not apply to
26 rate adjustments in the purchase price of natural gas which are
27 approved by the commission.

28 2. The governing body of each city or county notified of a

1 tariff increase as provided in subsection 1 of this section shall
2 reduce the tax rate of its business license tax on the gross
3 receipts of utility corporations. Within sixty days of the
4 effective date of the tariff increase, the tax rate shall be
5 reduced to the extent necessary so that revenue for the ensuing
6 twelve months will be approximately equal to the revenue received
7 during the preceding twelve months plus a growth factor. The
8 growth factor shall be equal to the average of the additional
9 revenue received in each of the preceding three years. However,
10 a city or county may maintain the tax rate of its business
11 license tax on the gross receipts of utility corporations without
12 reduction if an ordinance to maintain the tax rate is enacted by
13 the governing body of the city or an order to maintain the tax
14 rate is issued by the governing body of the county after
15 September 28, 1985. The provisions of this subsection shall not
16 apply to rate adjustments in the purchase price of natural gas
17 which are approved by the commission and such purchased gas
18 adjustment rates shall include the gas cost portion of net write-
19 offs incurred by the gas corporation in providing service to
20 system sales customers upon the filing and approval of new rate
21 schedules applicable to such customers. Such rate schedules
22 shall be designed to simultaneously decrease the gas
23 corporation's base rates and increase its purchased gas
24 adjustment rates by like amounts so as to reasonably ensure that
25 the gas cost portion of the net write-offs applicable to such
26 customers, as such portion is determined by the commission, is
27 only being recovered once through the gas corporation's purchased
28 gas adjustment rates. Increases and decreases in the gas cost

1 portion of net write-offs shall thereafter be reflected in the
2 gas corporation's purchased gas adjustment rates pursuant to
3 tariff provisions approved by the commission provided, however,
4 that such tariff provisions shall:

5 (1) Limit increases or decreases in the gas cost portion of
6 net write-offs as reflected in purchased gas adjustment rates to
7 once each year;

8 (2) Require a true-up of the gas cost portion of net write-
9 offs as reflected in purchased gas adjustment rates once each
10 year; and

11 (3) Require commission review of the gas cost portion of
12 net write-offs as reflected in purchased gas adjustment rates
13 once each year to insure that the gas corporation is prudently
14 pursuing collection of amounts owed by its customers.

15 Based on its annual reviews of such collection efforts, the
16 commission shall prepare and submit a report to the general
17 assembly by December 1, 2011, comparing and describing any
18 changes made or experienced in the collection practices, level of
19 utility resources devoted to collection activities, amount and
20 percentage of net write-offs incurred, and regulations affecting
21 collection activities for the period beginning July 1, 2007, and
22 ending July 1, 2011.

23 407.300. 1. Every purchaser or collector of, or dealer in,
24 junk, scrap metal, or any secondhand property shall keep a
25 register [which shall contain the name and address of the person
26 from whom] containing a written or electronic record for each
27 purchase or trade in which each type of metal subject to the

provisions of this section is obtained for value. There shall be a separate record for each transaction involving any:

(1) Copper, brass, or bronze;

(2) Aluminum wire [or is purchased,], cable, pipe, tubing, bar, ingot, rod, fitting, or fastener; or

(3) Material containing copper or aluminum that is knowingly used for farming purposes as "farming" is defined in section 350.010, RSMo;

whatever may be the condition or length of such [copper wire or cable] metal. The record shall contain the following data: A copy of the driver's license or photo identification issued by the state or by the United States government or agency thereof to the person from whom the material is obtained, which shall contain a current address of the person from whom the material is obtained; [the residence or place of business and driver's license number of such person;] and the date, time, and place of and a full description of each such purchase or trade including the quantity by weight thereof[; and shall permit any peace officer to inspect the register at any reasonable time].

2. The records required under this section shall be maintained for a minimum of twenty-four months from when such material is obtained and shall be available for inspection by any law enforcement officer.

3. Anyone convicted of violating this section shall be [fined not less than twenty-five dollars nor more than five hundred dollars, or imprisoned for not less than thirty days nor more than six months, or both] guilty of a class A misdemeanor.

1 4. This section shall not apply to any of the following
2 transactions:

3 (1) Any transaction for which the total amount paid for all
4 regulated scrap metal purchased or sold does not exceed fifty
5 dollars;

6 (2) Any transaction for which the seller, including a farm
7 or farmer, has an existing business relationship with the scrap
8 metal dealer and is known to the scrap metal dealer making the
9 purchase to be an established business or political subdivision
10 that operates a business with a fixed location that can be
11 reasonably expected to generate regulated scrap metal and can be
12 reasonably identified as such a business; or

13 (3) Any transaction for which the type of metal subject to
14 subsection 1 of this section is a minor part of a larger item,
15 except for equipment used in the generation and transmission of
16 electrical power or telecommunications.

17 407.301. 1. No scrap metal dealer shall knowingly purchase
18 or possess a metal beer keg, whether damaged or undamaged, or any
19 reasonably recognizable part thereof, on any premises that the
20 dealer uses to buy, sell, store, shred, melt, cut, or otherwise
21 alter scrap metal except when the purchase is from the brewer or
22 its authorized representative. For purposes of this section,
23 "keg" shall have the same meaning as in section 311.082, RSMo.

24 2. Anyone who is found guilty of, or pleads guilty to,
25 violating this section shall be guilty of a class A misdemeanor
26 punishable only by fine. Nothing in this section shall be
27 construed to preclude a person violating this section from also
28 being prosecuted for any applicable criminal offense.

1 407.302. 1. No scrap yard shall purchase any metal that
2 can be identified as belonging to a public or private cemetery or
3 to a political subdivision or electrical cooperative, municipal
4 utility, or a utility regulated under chapter 386 or 393, RSMo,
5 including bleachers, guardrails, signs, street and traffic lights
6 or signals, and manhole cover or covers, whether broken or
7 unbroken, from anyone other than the cemetery or monument owner,
8 political subdivision, electrical cooperative or utility, or
9 manufacturer of the metal or item described in this section
10 unless such person is authorized in writing by the cemetery or
11 monument owner, political subdivision, electrical cooperative or
12 utility, or manufacturer to sell the metal.

13 2. Anyone convicted of violating this section shall be
14 guilty of a class B misdemeanor.

15 407.303. 1. Any scrap metal dealer paying out an amount
16 that is five hundred dollars or more shall make such payment in
17 the form of a check or shall pay by any method in which a
18 financial institution makes and retains a record of the
19 transaction.

20 2. This section shall not apply to any transaction for
21 which the seller has an existing business relationship with the
22 scrap metal dealer and is known to the scrap metal dealer making
23 the purchase to be an established business or political
24 subdivision that operates a business with a fixed location that
25 can be reasonably expected to generate regulated scrap metal and
26 can be reasonably identified as such a business.

27 570.055. Any person who steals or appropriates, without
28 consent of the owner, any wire, electrical transformer, metallic

1 wire associated with transmitting telecommunications, or any
2 other device or pipe that is associated with conducting
3 electricity or transporting natural gas or other combustible
4 fuels shall be guilty of a class C felony.

5 570.056. Any person who steals or appropriates, without
6 consent of the owner, any property located on the premises of
7 electrical cooperatives or municipal utilities or utilities
8 regulated under chapter 386, RSMo, shall be guilty of a class D
9 felony.

10 660.115. 1. For each eligible household, an amount not
11 exceeding ~~[six]~~ eight hundred dollars for each fiscal year may be
12 paid from the utilicare stabilization fund to the primary or
13 secondary heating source supplier, or both, including suppliers
14 of heating fuels, such as gas, electricity, wood, coal, propane
15 and heating oil. For each eligible household, an amount not
16 exceeding ~~[six]~~ eight hundred dollars for each fiscal year may be
17 paid from the utilicare stabilization fund to the primary or
18 secondary cooling source supplier, or both; provided that the
19 respective shares of overall funding previously received by
20 primary and secondary heating and cooling source suppliers on
21 behalf of their customers shall be substantially maintained.

22 2. For an eligible household, other than a household
23 located in publicly owned or subsidized housing, an adult
24 boarding facility, an intermediate care facility, a residential
25 care facility or a skilled nursing facility, whose members rent
26 their dwelling and do not pay a supplier directly for the
27 household's primary or secondary heating or cooling source,
28 utilicare payments shall be paid directly to the head of the

1 household, except that total payments shall not exceed eight
2 percent of the household's annual rent or one hundred dollars,
3 whichever is less.

4 660.135. 1. Not more than five million dollars from state
5 general revenue shall be appropriated by the general assembly to
6 the utilicare stabilization fund established pursuant to section
7 660.136 for the support of the utilicare program established by
8 sections 660.100 to 660.136 for any fiscal year, except in
9 succeeding years the amount of state funds may be increased by a
10 percentage which reflects the national cost-of-living index or
11 seven percent, whichever is lower.

12 2. The department of social services ~~[may]~~ shall, in
13 coordination with the department of natural resources, apply a
14 portion of the funds appropriated annually by the general
15 assembly to the utilicare stabilization fund established pursuant
16 to section 660.136 to the low income weatherization assistance
17 program of the department of natural resources; provided that any
18 project financed with such funds shall be consistent with federal
19 guidelines for the Weatherization Assistance Program for
20 Low-Income Persons as authorized by 42 U.S.C. 6861.

21 Section 1. For any electric generation plant unlawfully
22 constructed after August 28, 2008, in any suit or claim brought
23 by any landowner or other legal entity for monetary damages
24 allegedly caused by the operation or existence of such electric
25 plant, the measure of damages shall be treble the actual damages
26 to the plaintiff's real estate proved as determined by a judge or
27 jury, plus court costs and reasonable attorney fees.

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