

## CHAPTER 15

### SANCTIONS AND ADMINISTRATIVE PENALTIES

#### **§1501. Utility liable for civil damages**

If a public utility violates this Title, causes or permits a violation of this Title or omits to do anything that this Title requires it to do it may be liable in damages to the person injured as a result. Recovery under this section does not affect a recovery by the State of the penalty prescribed for the violation. [PL 1987, c. 141, Pt. A, §6 (NEW).]

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

#### **§1502. Contempt**

Every public utility or person that fails to comply with an order, decision, rule, direction, demand or requirement of the commission or of a commissioner is in contempt of the commission and shall be punished by the commission for contempt in the same manner as contempt is punished by courts of record. Punishment for contempt is not a bar to and does not affect any other remedy prescribed in this Title, but is cumulative and in addition to other remedies. [PL 1987, c. 141, Pt. A, §6 (NEW).]

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

#### **§1503. Refusal to obey or comply**

**(REPEALED)**

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 2003, c. 505, §20 (RP).

#### **§1504. Each day, distinct offense**

**(REPEALED)**

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 2003, c. 505, §20 (RP).

#### **§1505. Illegal issue of stocks, bonds or notes**

**(REPEALED)**

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 2003, c. 505, §20 (RP).

#### **§1506. Misappropriation of proceeds**

**(REPEALED)**

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 2003, c. 505, §20 (RP).

#### **§1507. False statements as to issue of stocks, bonds or notes**

**(REPEALED)**

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 2003, c. 505, §20 (RP).

**§1507-A. False statements**

It is a Class C crime for any person to make or cause to be made, in any document filed with the commission or in any proceeding under this Title, any statement that, at the time and in light of the circumstances under which it is made, is false in any material respect and that the person knows is false in any material respect. [PL 2003, c. 505, §21 (NEW).]

SECTION HISTORY

PL 2003, c. 505, §21 (NEW).

**§1508. Punishment where no penalty**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 2003, c. 505, §22 (RP).

**§1508-A. Administrative penalty**

**1. Penalty.** Unless otherwise specified in law, the commission may, in an adjudicatory proceeding, impose an administrative penalty as specified in this section.

A. For willful violations of this Title, a commission rule or a commission order by a public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or competitive electricity provider, the commission may impose an administrative penalty for each violation in an amount that does not exceed \$5,800 or .25% of the annual gross revenue that the public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or competitive electricity provider received from sales in the State, whichever amount is lower. Each day a violation continues constitutes a separate offense. The maximum administrative penalty for any related series of violations may not exceed \$575,000 or 5% of the annual gross revenue that the public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or competitive electricity provider received from sales in the State, whichever amount is lower. [RR 2021, c. 2, Pt. A, §121 (COR).]

B. For a violation in which a public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or competitive electricity provider was explicitly notified by the commission that it was not in compliance with the requirements of this Title, a commission rule or a commission order and that failure to comply could result in the imposition of administrative penalties, the commission may impose an administrative penalty that does not exceed \$575,000. [PL 2021, c. 318, §7 (AMD).]

B-1. In addition to any penalty imposed on a competitive electricity provider under paragraph A or B, the commission may:

(1) For a willful violation of this Title by any 3rd-party sales agent undertaking the retail sale or marketing of electricity on behalf of a competitive electricity provider, impose an additional administrative penalty on the competitive electricity provider in an amount that does not exceed \$5,000 or .25% of the annual gross revenue that the 3rd-party sales agent received from sales and commissions in the State. Each day a violation continues constitutes a separate offense. The maximum administrative penalty for any related series of violations may not exceed \$500,000 or 5% of the annual gross revenue that 3rd-party sales agent received from sales and commissions in the State, whichever amount is lower; and

(2) For a violation in which a 3rd-party sales agent was explicitly notified by the commission that it was not in compliance with the requirements of this Title, a commission rule or a commission order and that failure to comply could result in the imposition of administrative

penalties or the termination of the 3rd-party sales agent's registration, impose an administrative penalty that does not exceed \$500,000 and may terminate the registration of the 3rd-party sales agent. [PL 2021, c. 108, §3 (NEW).]

C. The commission may impose an administrative penalty in an amount that does not exceed \$1,200 on any person that is not a public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier, competitive electricity provider or 3rd-party sales agent undertaking the retail sale or marketing of electricity on behalf of a competitive electricity provider and that violates this Title, a commission rule or a commission order. Each day a violation continues constitutes a separate offense. The administrative penalty may not exceed \$29,000 for any related series of violations. [PL 2021, c. 108, §4 (AMD); PL 2021, c. 318, §7 (AMD).]

D. In addition to the administrative penalties authorized by this subsection, the commission may require disgorgement of profits or revenues realized as a result of a violation of this Title, a commission rule or a commission order. [PL 2003, c. 505, §23 (NEW).]

E. In accordance with section 301, subsection 1-A, paragraph G, the commission shall impose an administrative penalty on a transmission and distribution utility in an amount that does not exceed \$1,000,000 or 10% of its annual gross revenue received from ratepayers in the State, whichever amount is less, that fails to meet a standard established by the commission pursuant to section 301, subsection 1-A in the previous calendar year. Each calendar year that the transmission and distribution utility fails to meet the standard constitutes a separate offense. The commission shall use the proceeds from the penalty imposed under this paragraph to assist low-income customers. [PL 2021, c. 702, §5 (NEW).]

[RR 2021, c. 2, Pt. A, §121 (COR).]

**2. Considerations.** In determining the amount of an administrative penalty under this section, the commission shall take into account:

A. The severity of the violation, including the intent of the violator and the nature, circumstances, extent and gravity of the prohibited act; [PL 2003, c. 505, §23 (NEW).]

B. The reasonableness of the violator's belief that the violator's action or lack of action was in conformance with this Title, a commission rule or a commission order; [PL 2003, c. 505, §23 (NEW).]

C. The violator's history of previous violations; [PL 2003, c. 505, §23 (NEW).]

D. The amount necessary to deter future violations; [PL 2003, c. 505, §23 (NEW).]

E. The violator's good faith attempts to comply after notification of a violation; and [PL 2003, c. 505, §23 (NEW).]

F. Such other matters as justice requires. [PL 2003, c. 505, §23 (NEW).]

[PL 2003, c. 505, §23 (NEW).]

#### SECTION HISTORY

PL 2003, c. 505, §23 (NEW). PL 2011, c. 623, Pt. B, §5 (AMD). PL 2021, c. 108, §§3, 4 (AMD). PL 2021, c. 318, §7 (AMD). PL 2021, c. 702, §5 (AMD). RR 2021, c. 2, Pt. A, §121 (COR).

#### §1509. Limitation on imposing penalty

An action that may result in the imposition of an administrative penalty under this chapter must be commenced within 5 years after the cause of action accrues. [PL 2003, c. 505, §24 (AMD).]

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 2003, c. 505, §24 (AMD).

#### §1510. Penalty for failure to file

**(REPEALED)**

## SECTION HISTORY

PL 1989, c. 86 (NEW). PL 2003, c. 505, §25 (RP).

**§1510-A. Disposition of administrative penalty**

The disposition of administrative penalties collected by the commission is governed by section 117, subsection 3. [PL 2005, c. 432, §2 (RPR).]

## SECTION HISTORY

PL 2003, c. 505, §26 (NEW). PL 2005, c. 432, §2 (RPR).

**§1511. Revocation; suspension**

The commission may, in an adjudicatory proceeding, suspend or revoke the authority of a public utility to provide service upon a finding that the public utility is unfit to provide safe, adequate and reliable service at rates that are just and reasonable. The commission shall provide notice and a reasonable opportunity for the public utility to comply with its obligations under this Title prior to suspending or revoking the authority of a public utility to provide service pursuant to this section. The authority granted in this section is in addition to the commission's authority under section 1321. [PL 2003, c. 505, §27 (NEW).]

## SECTION HISTORY

PL 2003, c. 505, §27 (NEW).

**§1512. Unauthorized service**

The commission may order any person to cease and desist from providing service if it finds that the person has not obtained commission authorization to provide the service as required by this Title. The commission may impose the sanctions and penalties of this chapter upon any person that provides service without first obtaining commission authorization as required by this Title. [PL 2003, c. 505, §27 (NEW).]

## SECTION HISTORY

PL 2003, c. 505, §27 (NEW).

**§1513. Divestiture of underperforming transmission and distribution utility**

The commission shall initiate an adjudicatory proceeding, on its own motion or at the request of the Public Advocate, in accordance with this section to determine whether divestiture of an investor-owned transmission and distribution utility is warranted if the utility consistently fails to meet the service standards established in section 301, subsection 1-A, consistently fails to meet the requirements of section 301, subsection 1 or is unable to fulfill its statutory duties as a public utility because it is financially impaired. If, at the conclusion of the adjudicatory proceeding, the commission determines that divestiture of a transmission and distribution utility is warranted, the commission shall order divestiture of or by the utility in accordance with this section. [PL 2021, c. 702, §6 (NEW).]

**1. Determination by the commission.** The commission shall order the owner of the transmission and distribution utility to divest the utility if the acquisition of the utility from a qualified buyer:

- A. Will result, over the long term, in net benefits to ratepayers in the form of lower rates or better service than the rates and service provided by the transmission and distribution utility; [PL 2021, c. 702, §6 (NEW).]
- B. Is for a fair and reasonable purchase price negotiated by a qualified buyer and the transmission and distribution utility or as determined by the Superior Court in accordance with subsection 2; [PL 2021, c. 702, §6 (NEW).]

C. Demonstrates that the qualified buyer has sufficient financial and technical capability, expertise and experience to own and operate the utility and the ability to comply with all of the legal requirements, including but not limited to achievement of policies pursuant to Title 38, section 576-A and section 577, subsection 1, of a transmission and distribution utility; and [PL 2021, c. 702, §6 (NEW).]

D. Will benefit ratepayers as determined in accordance with section 708, subsection 2, paragraph C, subparagraph (2). [PL 2021, c. 702, §6 (NEW).]  
[PL 2021, c. 702, §6 (NEW).]

**2. Superior Court review.** Notwithstanding any other provision of this Title, a transmission and distribution utility may apply by petition to the Superior Court of Kennebec County to determine a fair and reasonable price that provides just compensation for the sale of the transmission and distribution utility or its assets if the qualified buyer and transmission and distribution utility are unable to negotiate a price. The court shall hold a hearing on the petition in which the parties are permitted to present factual and expert testimony and other evidence concerning the value of the utility or its assets and shall render a decision. The decision of the Superior Court may be appealed to the Supreme Judicial Court sitting as the Law Court in the same manner as an appeal taken from a judgment of the Superior Court in a civil action.

[PL 2021, c. 702, §6 (NEW).]

**3. More than one buyer.** If more than one qualified buyer proposes to acquire the transmission and distribution utility or its assets, the commission shall order divestiture to the qualified buyer that will provide the greatest net benefits to ratepayers.

[PL 2021, c. 702, §6 (NEW).]

#### SECTION HISTORY

PL 2021, c. 702, §6 (NEW).

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