

**§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).

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