

STATE OF NEW YORK

1721--A

Cal. No. 404

2025-2026 Regular Sessions

IN SENATE

January 13, 2025

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public service law, in relation to certain penalties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Short title. This act shall be known and may be cited as
2 the "utility penalty adjustment".
- 3 § 2. Subdivisions 2, 3 and 4 of section 25 of the public service law,
4 subdivision 2, paragraph (a) of subdivision 3 and paragraph (a) of
5 subdivision 4 as amended by chapter 375 of the laws of 1986 and subdivi-
6 sions 3 and 4 as added by chapter 665 of the laws of 1980, are amended
7 and a new subdivision 4-b is added to read as follows:
- 8 2. Any public utility company, corporation or person and the officers,
9 agents and employees thereof that knowingly fails or neglects to obey or
10 comply with a provision of this chapter or an order adopted under
11 authority of this chapter so long as the same shall be in force, shall
12 forfeit to the people of the state of New York a sum not exceeding [~~one~~]
13 two hundred ninety thousand dollars constituting a civil penalty for
14 each and every offense and, in the case of a continuing violation, each
15 day shall be deemed a separate and distinct offense.
- 16 3. Notwithstanding the provisions of subdivision two of this section,
17 any such public utility company, corporation or person and the officers,
18 agents and employees thereof that knowingly fails or neglects to obey or
19 comply with a provision of this chapter, or an order or regulation
20 adopted under the authority of this chapter, adopted specifically for
21 the protection of human safety, including but not limited to the commis-
22 sion's code of gas safety regulations shall, if it is determined by the
23 commission that such safety violation caused or constituted a contribut-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [~~-~~] is old law to be omitted.

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1 ing factor in bringing about a death or personal injury, forfeit to the
2 state of New York a sum not to exceed the greater of:

3 (a) [~~two~~ **seven** hundred [~~and fifty~~ **twenty** thousand dollars constitut-
4 ing a civil penalty for each separate and distinct offense; provided,
5 however, that for purposes of this paragraph each day of a continuing
6 violation shall not be deemed a separate and distinct offense. The total
7 period of a continuing violation, as well as every distinct violation,
8 shall be similarly treated as a separate and distinct offense for
9 purposes of this paragraph; or

10 (b) the maximum forfeiture determined in accordance with subdivision
11 two of this section.

12 4. Notwithstanding the provisions of subdivision one or two of this
13 section, a public utility company, corporation or person and the offi-
14 cers, agents and employees thereof that knowingly fails or neglects to
15 obey or comply with a provision of this chapter, or an order or regu-
16 lation adopted under authority of this chapter, designed to protect the
17 overall reliability and continuity of electric service, shall forfeit to
18 the state of New York a sum not to exceed the greater of:

19 (a) [~~five~~ **one million four** hundred **fifty** thousand dollars constitut-
20 ing a civil penalty for each separate and distinct offense; provided,
21 however, that for purposes of this paragraph each day of a continuing
22 violation shall not be deemed a separate and distinct offense. The total
23 period of a continuing violation, as well as every distinct violation,
24 shall be similarly treated as a separate and distinct offense for
25 purposes of this paragraph; or

26 (b) the maximum forfeiture determined in accordance with subdivision
27 two of this section.

28 4-b. On January first, two thousand twenty-seven, and on each follow-
29 ing January first, the penalties set forth in subdivisions two, three
30 and four of this section shall be increased by the sum of the rate of
31 inflation, if greater than zero, as measured by the change in the aver-
32 age for the twelve months through June of the current year, divided by
33 the average for the twelve months through June of the preceding year in
34 the consumer price index.

35 § 3. Subdivisions 3, 4, 5 and 6 of section 25-a of the public service
36 law, as added by section 2 of part X of chapter 57 of the laws of 2013,
37 are amended and two new subdivisions 7-a and 7-b are added to read as
38 follows:

39 3. Any combination gas and electric corporation determined by the
40 commission to have failed to reasonably comply as shown by a preponder-
41 ance of the evidence with a provision of this chapter, regulation or an
42 order adopted under authority of this chapter so long as the same shall
43 be in force shall forfeit a sum not exceeding the greater of [~~one~~ **two**
44 hundred **ninety** thousand dollars or two one-hundredths of one percent of
45 the annual intrastate gross operating revenue of the corporation, not
46 including taxes paid to and revenues collected on behalf of government
47 entities, constituting a civil penalty for each and every offense and,
48 in the case of a continuing violation, each day shall be deemed a sepa-
49 rate and distinct offense.

50 4. Notwithstanding the provisions of subdivision three of this
51 section, any such combination gas and electric corporation determined by
52 the commission to have failed to reasonably comply with a provision of
53 this chapter, or an order or regulation adopted under the authority of
54 this chapter specifically for the protection of human safety or
55 prevention of significant damage to real property, including, but not
56 limited to, the commission's code of gas safety regulations shall, if it

1 is determined by the commission by a preponderance of the evidence that
2 such safety violation caused or constituted a contributing factor in
3 bringing about: (a) a death or personal injury; or (b) damage to real
4 property in excess of fifty thousand dollars, forfeit a sum not to
5 exceed the greater of:

6 (i) [~~two~~] seven hundred [~~fifty~~] twenty thousand dollars or three one-
7 hundredths of one percent of the annual intrastate gross operating
8 revenue of the corporation, not including taxes paid to and revenues
9 collected on behalf of government entities, whichever is greater,
10 constituting a civil penalty for each separate and distinct offense;
11 provided, however, that for purposes of this paragraph, each day of a
12 continuing violation shall not be deemed a separate and distinct
13 offense. The total period of a continuing violation, as well as every
14 distinct violation, shall be similarly treated as a separate and
15 distinct offense for purposes of this paragraph; or

16 (ii) the maximum forfeiture determined in accordance with subdivision
17 three of this section.

18 5. Notwithstanding the provisions of subdivision three or four of this
19 section, a combination gas and electric corporation determined by the
20 commission to have failed to reasonably comply by a preponderance of the
21 evidence with a provision of this chapter, or an order or regulation
22 adopted under authority of this chapter, designed to protect the overall
23 reliability and continuity of electric service, including but not limit-
24 ed to the restoration of electric service following a major outage event
25 or emergency, shall forfeit a sum not to exceed the greater of:

26 (a) [~~five~~] one million four hundred fifty thousand dollars or four
27 one-hundredths of one percent of the annual intrastate gross operating
28 revenue of the corporation, not including taxes paid to and revenues
29 collected on behalf of government entities, whichever is greater,
30 constituting a civil penalty for each separate and distinct offense;
31 provided, however, that for purposes of this paragraph each day of a
32 continuing violation shall not be deemed a separate and distinct
33 offense. The total period of a continuing violation, as well as every
34 distinct violation shall be similarly treated as a separate and distinct
35 offense for purposes of this paragraph; or

36 (b) the maximum forfeiture determined in accordance with subdivision
37 three of this section.

38 6. Any officer of any combination gas and electric corporation deter-
39 mined by the commission to have violated the provisions of subdivision
40 three, four, or five of this section, and who knowingly violates a
41 provision of this chapter, regulation or an order adopted under authori-
42 ty of this chapter so long as the same shall be in force shall forfeit a
43 sum not to exceed [~~one~~] two hundred ninety thousand dollars constituting
44 a civil penalty for each and every offense and, in the case of a contin-
45 uing violation, each day shall be deemed a separate and distinct
46 offense.

47 7-a. Notwithstanding the provisions of subdivision three, four, five,
48 or six of this section, a combination gas and electric corporation
49 determined by the commission to have failed to satisfy its duty of
50 candor with the public shall forfeit a sum not to exceed five hundred
51 thousand dollars constituting a civil penalty for each and every offense
52 and, in the case of a continuing violation, each day shall be deemed a
53 separate and distinct offense.

54 7-b. On January first, two thousand twenty-seven, and on each follow-
55 ing January first, the penalties set forth in subdivisions three, four,
56 five, six and seven-a of this section shall be increased by the sum of

1 the rate of inflation, if greater than zero, as measured by the change
2 in the average for the twelve months through June of the current year,
3 divided by the average for the twelve months through June of the preced-
4 ing year in the consumer price index.

5 § 4. This act shall take effect on the ninetieth day after it shall
6 have become a law.