

# STATE OF NEW YORK

1741

2023-2024 Regular Sessions

## IN ASSEMBLY

January 20, 2023

Introduced by M. of A. DINOWITZ, SIMON, STERN, TAYLOR, DICKENS, THIELE, WEPRIN, SEAWRIGHT, JACOBSON, OTIS -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to civil penalties on certain public utility companies, corporations or persons and the officers, agents and employees thereof

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

1 Section 1. Subdivision 2, paragraph (a) of subdivision 3 and paragraph  
2 (a) of subdivision 4 of section 25 the public service law, as amended by  
3 chapter 375 of the laws of 1986, are amended to read as follows:

4 2. Any public utility company, corporation or person and the officers,  
5 agents and employees thereof that knowingly fails or neglects to obey or  
6 comply with a provision of this chapter or an order adopted under  
7 authority of this chapter so long as the same shall be in force, shall  
8 forfeit to the people of the state of New York a sum not exceeding [~~one~~  
9 ~~hundred thousand~~] two million dollars constituting a civil penalty for  
10 each and every offense and, in the case of a continuing violation, each  
11 day shall be deemed a separate and distinct offense.

12 (a) [~~two hundred and fifty thousand~~] five million dollars constituting  
13 a civil penalty for each separate and distinct offense; provided, howev-  
14 er, that for purposes of this paragraph each day of a continuing  
15 violation shall not be deemed a separate and distinct offense. The total  
16 period of a continuing violation, as well as every distinct violation,  
17 shall be similarly treated as a separate and distinct offense for  
18 purposes of this paragraph; or

19 (a) [~~five hundred thousand~~] ten million dollars constituting a civil  
20 penalty for each separate and distinct offense; provided, however, that  
21 for purposes of this paragraph each day of a continuing violation shall  
22 not be deemed a separate and distinct offense. The total period of a  
23 continuing violation, as well as every distinct violation, shall be

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

LBD00903-01-3

1 similarly treated as a separate and distinct offense for purposes of  
2 this paragraph; or

3 § 2. Subdivision 3, subparagraph (i) of paragraph (b) of subdivision 4  
4 and paragraph (a) of subdivision 5 of section 25-a of the public service  
5 law, as added by section 2 of part X of chapter 57 of the laws of 2013,  
6 are amended to read as follows:

7 3. Any combination gas and electric corporation determined by the  
8 commission to have failed to reasonably comply as shown by a preponder-  
9 ance of the evidence with a provision of this chapter, regulation or an  
10 order adopted under authority of this chapter so long as the same shall  
11 be in force shall forfeit a sum not exceeding the greater of [~~one~~  
12 ~~hundred thousand~~] two million dollars or two one-hundredths of one  
13 percent of the annual intrastate gross operating revenue of the corpo-  
14 ration, not including taxes paid to and revenues collected on behalf of  
15 government entities, constituting a civil penalty for each and every  
16 offense and, in the case of a continuing violation, each day shall be  
17 deemed a separate and distinct offense.

18 (i) [~~two hundred fifty thousand~~] five million dollars or three one-  
19 hundredths of one percent of the annual intrastate gross operating  
20 revenue of the corporation, not including taxes paid to and revenues  
21 collected on behalf of government entities, whichever is greater,  
22 constituting a civil penalty for each separate and distinct offense;  
23 provided, however, that for purposes of this paragraph, each day of a  
24 continuing violation shall not be deemed a separate and distinct  
25 offense. The total period of a continuing violation, as well as every  
26 distinct violation, shall be similarly treated as a separate and  
27 distinct offense for purposes of this paragraph; or

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

38 § 3. This act shall take effect immediately.