

§3206-A. Marketing; investor-owned utilities; penalties

1. Penalties. The commission shall require an investor-owned transmission and distribution utility to divest an affiliated competitive provider if the commission determines in an adjudicatory proceeding that:

- A. The distribution utility or an affiliated competitive provider has knowingly violated section 3205 or section 3206 or any rule adopted by the commission pursuant to those sections; and [PL 1999, c. 398, Pt. G, §4 (NEW).]
- B. The violation resulted or had the potential to result in substantial injury to retail consumers of electric energy or to the competitive retail market for electric energy. [PL 1999, c. 398, Pt. G, §4 (NEW).]

The commission may impose administrative penalties of up to \$143,000 for a violation of section 3205 or section 3206 or any rule adopted by the commission pursuant to those sections. Each day of a violation constitutes a separate offense. In addition, the commission may require disgorgement of profits or revenues realized as a result of a violation of section 3205 or section 3206 or any rule adopted by the commission pursuant to those sections.
[PL 2021, c. 318, §12 (AMD).]

2. Prohibition; divestiture. If, after the effective date of this section, 10% or more of the stock of an investor-owned transmission and distribution utility is purchased by an entity:

- A. The purchasing entity and any related entity may not sell or offer for sale generation service to any retail consumer of electric energy in this State; and [PL 1999, c. 398, Pt. G, §4 (NEW).]
- B. If, in an adjudicatory proceeding, the commission determines that an affiliated competitive provider obtains an unfair market advantage as a result of the purchase, the commission shall order the investor-owned transmission and distribution utility to divest the affiliated competitive provider. [PL 1999, c. 398, Pt. G, §4 (NEW).]

If the commission orders a divestiture pursuant to this subsection, the distribution utility must complete the divestiture within 12 months of the order to divest, unless the commission grants an extension. Upon application by the distribution utility, the commission may grant an extension for the purpose of permitting the utility to complete a divestiture that has been initiated in good faith but not finalized within the 12-month period. The commission shall oversee and approve a divestiture in accordance with rules adopted pursuant to section 3204, subsection 4.
[PL 2023, c. 405, Pt. A, §126 (AMD).]

3. Effect of divestiture. If the commission orders an investor-owned transmission and distribution utility to divest an affiliated competitive provider pursuant to this section, the investor-owned transmission and distribution utility may not have an affiliated interest in a competitive electricity provider after the divestiture.
[PL 1999, c. 398, Pt. G, §4 (NEW).]

As used in this section, the term "affiliated competitive provider" means a competitive electricity provider whose relationship with an investor-owned transmission and distribution utility qualifies it as an affiliated interest. [PL 1999, c. 398, Pt. G, §4 (NEW).]

SECTION HISTORY

PL 1999, c. 398, §G4 (NEW). PL 2003, c. 505, §30 (AMD). PL 2021, c. 318, §12 (AMD). PL 2023, c. 405, Pt. A, §126 (AMD).

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