

CHAPTER 1084**CIVIL PENALTIES FOR UTILITY VIOLATIONS***H.F. 2326*

AN ACT relating to the civil penalties established for violation of utility board statutes, regulations, or orders.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 476.51, Code Supplement 1991, is amended to read as follows:

476.51 CIVIL PENALTY.

A public utility which, after written notice by the board of a specific violation, violates the same provision of this chapter, the same rule adopted by the board, or the same provision of an order lawfully issued by the board, is subject to a civil penalty, which may be levied by the board, of not less than one hundred dollars nor more than two thousand five hundred dollars per violation.

A public utility which willfully, after written notice by the board of a specific violation, violates a the same provision of this chapter, a the same rule adopted by the board, or a the same provision of an order lawfully issued by the board, is subject to a civil penalty, which may be levied by the board, of not more less than one hundred thousand dollars nor more than ten thousand dollars per violation or one thousand dollars per day of a continuing violation, whichever is greater. For the purposes of this section, "willful" means knowing and deliberate, with a specific intent to violate.

Each violation is a separate offense. In the case of a continuing violation, each day a violation continues, after the time specified for compliance in the written notice by the board, is a separate and distinct offense. Any civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in a compromise, the board may consider the appropriateness of the penalty in relation to the size of the public utility, the gravity of the violation, and the good faith of the public utility in attempting to achieve compliance following notification of a violation, and any other relevant factors.

The written notice given by the board to a public utility under this section shall specify an appropriate time for compliance.

PARAGRAPH DIVIDED. Civil penalties collected pursuant to this section shall be forwarded by the executive secretary of the board to the treasurer of state to be credited to the energy research and development fund and to be used only for the low income home energy assistance program and the weatherization assistance program administered by the division of community action agencies of the department of human rights. Penalties paid by a rate-regulated public utility pursuant to this section shall be excluded from the utility's costs when determining the utility's revenue requirement, and shall not be included either directly or indirectly in the utility's rates or charges to customers.

Notwithstanding the provisions of this section directing that civil penalties collected be deposited into the energy research and development fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all funds collected shall be deposited into the general fund of the state.

Approved April 14, 1992