

(S. B. 598)

(No. 141)

(Approved August 2, 2006)

AN ACT

To amend Sections 14, 21, and 61 of Act No. 109 of June 28, 1962, as amended, better known as the “Public Service Act of Puerto Rico,” to authorize the Public Interest Attorneys of the Public Service Commission to initiate procedures before the Court of First Instance, to order compliance with the agreements of said entity; authorize the Public Service Commission to resort to the courts to seek a cease and desist order to enforce its decisions; and for other purposes.

STATEMENT OF MOTIVES

The Public Service Commission has the authority to grant franchises, authorizations, for the granting of which, no other legal procedure has been fixed for public service companies subject to its jurisdiction and the public carriers. Furthermore, it has the power to conduct investigations, establish and enforce the necessary regulations to carry out its functions, sanction noncompliance of its orders and regulations, impose administrative fines, and order the cease and desist of the omission of exploiting the service as authorized and noncompliance with its orders and regulations.

Public Interest Attorneys are the officials responsible for representing the Public Service Commission in cases of violations of the law and of the regulations and provisions of the Commission. In administrative procedures before the latter.

Among the powers delegated to the Commission is that of supervising public service companies and public carriers. On many occasions, the

Commission becomes aware of situations, in which its regulations are to be or are violated, so that in order to be more efficient, it is necessary for the Commission to resort directly to the Court of First Instance through its attorneys to impede violations and demand compliance with its provisions. At present, resorting to the Court in cases where the body concessionaires violate the law and the provisions of the Commission must be done through the Department of Justice.

At present, there is a special procedure for any authorized agent or official of the Public Service Commission to be able to file a petition before the Court of First Instance, but it only provides for cases where a company or entity, acting as a public service company, fails to comply with the law or the regulations of the Commission or any law or regulations related to the protection of life, public health and safety. This situation is only effective in emergency situations in which life, public health or safety are at risk.

The interest of this Legislature is that these Law professionals represent the Commission in the Courts of Justice of Puerto Rico, since they are the most knowledgeable and experienced professionals in special matters relative to the regulations of the Public Service Commission of Puerto Rico.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Subsection b of Section 14 of Act No. 109 of June 28, 1962, as amended, is hereby amended to read as follows:

“(a) ...

(b) The Commission shall be, further empowered to impose administrative fines and other administrative sanctions under this part, to carry out investigations and interventions, to require any type of information that may be necessary for the proper fulfillment of its powers, to direct or request from the courts, through the Public Interest Attorneys, that they

order the cessation of activities or acts under Section 51 or 51A or of any other provision of this Act; to impose and order the payment of costs, expenses, and lawyer fees; as well as the payment of expenses and fees for professional and advisory services, incurred in the investigations, hearings, and proceedings before the Commission, and to order that any such act be performed in compliance of the provisions of this Act.”

Section 2.- Section 21 of Act No. 109 of June 28, 1962, as amended, is hereby amended to read as follows:

“Section 21.- It shall be the duty of the Commission to require that the Secretary of Justice, on behalf of the Commonwealth of Puerto Rico, institutes those civil or criminal procedures that may be necessary to enforce the provisions of this Act and the rules approved thereunder. The resources of appeal shall be instituted through the Office of the Solicitor General attached to the Department of Justice. When the action to be instituted is to enjoin and bar public service companies, contract carriers or persons from committing or continuing to commit any act or to punish any acts committed in violation of the provisions of this Act, the same may be instituted by the Public Interest Attorneys of the Commission. In addition to the judicial actions established in this Act, the Commission is hereby empowered to impose administrative penalties and fines for violations of this Act and the rules approved thereunder incurred by public service companies, contract carriers or by any person subject to its provisions. Administrative fines shall not exceed ten thousand (10,000) dollars for each violation, it being understood that each day the violation persists shall be deemed as a separate violation up to a maximum of two hundred and fifty thousand (250,000) dollars. Administrative fines imposed pursuant to this Act shall never exceed five percent (5%) of the gross sales, fifteen percent (15%) of the net income

or ten percent (10%) of the net assets of the enterprise or person penalized, whichever is greater, corresponding to the most recent taxable year. In the event a public service company, contract carrier or other person subject to the provisions of this Act shows contumacy in the commission or continuation of actions for which an administrative fine has been imposed or in the commission or continuation of actions in violation of this Act and its regulations, or shows contumacy in obeying any order or resolution issued by the Commission, the latter may, in the exercise of its discretion, impose administrative fines of up to a maximum of fifty thousand (50,000) dollars a day, it being understood that every day the violation persists shall be deemed as a separate violation up to a maximum of five hundred thousand (500,000) dollars for any of the actions set forth herein. In such cases of contumacy and through the unanimous decision of the Commission, fines may be imposed for up to double the limits on the basis of sales, income or assets established in this Act, up to maximum of five hundred thousand (500,000) dollars.”

Section 3.- Section 51-A of Act No. 109 of June 28, 1962, as amended, is hereby amended to read as follows:

“Section 51-A.- Any duly authorized official or agent of the Public Service Commission may present before any judge of the Court of First Instance of Puerto Rico a sworn petition alleging that the public service company or entity acting as such, as referred to in the petition, is not complying with the provisions of this Act and/or the rules and regulations approved thereunder, or with any Act, rule, and regulation relative to the protection of the life, health, safety, and welfare of the general public, setting forth acts or omissions that constituted said violation and naming the persons held responsible therefor. The Court shall issue a provisional order

addressed to said persons requiring them, under contempt of court, to stop all activity with regard to the conditions set forth in the petition, until the right thereto is judicially settled...”

Section 4.- The appearance of public interest attorneys shall be for the sole purpose of demanding compliance with the cease and desist orders and said appearance shall not have the effect of granting juridical personality to the Public Service Commission.”

Section 5.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 141 (S.B. 598) of the 3rd Session of the 15th Legislature of Puerto Rico:

AN ACT to amend Sections 14, 21, and 61 of Act No. 109 of June 28, 1962, as amended, better known as the “Public Service Act of Puerto Rico,” to authorize the Public Interest Attorneys of the Public Service Commission to initiate procedures before the Court of First Instance, to order compliance with the agreements of said entity; authorize the Public Service Commission to resort to the courts to seek a cease and desist order to enforce its decisions; and for other purposes,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 26th of February of 2006.

Francisco J. Domenech
Director