

shall be a separate and distinct offense, and in case of a continuing violation each day shall be deemed a separate offense. An action to recover such forfeiture may be brought in any court of competent jurisdiction in this State in the name of the State of Maryland, and shall be commenced and prosecuted to final judgment by counsel of the commission. In any such action all penalties and forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a penalty of forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture; if the defendant in such action shall prove that during any portion of the time for which it is sought to recover penalties or forfeitures for a violation of an order of the commission the defendant was actually and in good faith prosecuting the suit, or proceeding in the courts to set aside such order, the court shall remit the penalties or forfeitures incurred during pendency of such suit, action or proceeding. All moneys recovered in any such action, together with the costs thereof, shall be paid to the state treasurer, except one-fourth thereof, which shall be paid to the mayor and city council of Baltimore.

Whenever the commission shall be of the opinion that a gas corporation or electrical corporation is failing or omitting, or about to fail or omit, to do anything required of it by law or by order of the commission, or is doing anything or about to do anything or about to permit anything to be done, contrary to or in violation of law or of any order of the commission, it shall direct counsel to the commission to commence an action or proceeding before one of the judges of the supreme bench of Baltimore City or in one of the circuit courts of the counties, in the name of the commission, for the purpose of having such violation stopped and prevented either by mandamus or injunction. Counsel to the commission shall thereupon begin such action or proceeding by a petition in any of said courts, as the case may require, alleging the violation or the threatened violation complained of, and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify the time, not exceeding twenty days after service of a copy of the petition, within which the gas corporation or electrical corporation complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct, without other or formal pleadings, and without respect to any technical requirement. Such other persons or corporations as it shall seem to the court necessary or proper to join as parties in order to make its order, judgment or writs effective may be joined as parties upon application of counsel to the commission. The final judgment in any such action or proceeding shall either dismiss the action or proceeding, or direct that a writ of mandamus or an injunction issue as prayed for in the petition, or in such modified or other form as the court may determine will afford the appropriate relief.

If it be alleged and established in an action brought in any court for the collection of any charge for gas or electricity, that a price has been demanded in excess of that fixed by the commission, or by law in the municipality or county wherein the action arose, no recovery shall be had therein, but the fact that such excessive charges have been made shall be a complete defense to such action.

See notes to secs. 397 and 403.