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I N   S E N A T E

(PREFILED)

January 6, 2016

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Introduced by Sen. LATIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law, in relation to streetlight replacement and savings; and to repeal section 70-a of the public service law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 70-a of the public service law is REPEALED and a  
2     new section 70-a is added to read as follows:  
3     S 70-A. STREETLIGHT REPLACEMENT AND SAVINGS. 1. DEFINITIONS. WHEN USED  
4     IN THIS SECTION, THE FOLLOWING TERM SHALL HAVE THE FOLLOWING MEANING  
5     "LIGHTING EQUIPMENT" MEANS ALL EQUIPMENT USED TO LIGHT STREETS IN THE  
6     MUNICIPALITY, THE OPERATION AND MAINTENANCE OF WHICH IS CURRENTLY  
7     CHARGED TO THE MUNICIPALITY, INCLUDING LIGHTING BALLASTS, FIXTURES, AND  
8     OTHER EQUIPMENT NECESSARY FOR THE CONVERSION OF ELECTRICITY INTO STREET  
9     LIGHTING SERVICE, BUT EXCLUDING THE UTILITY POLES UPON WHICH THE LIGHT-  
10    ING EQUIPMENT IS FIXED. LIGHTING EQUIPMENT SHALL INCLUDE, BUT NOT BE  
11    LIMITED TO, DECORATIVE STREET AND AREA LIGHTING EQUIPMENT AND  
12    SOLID-STATE (LED) LIGHTING TECHNOLOGIES.  
13    2. STREETLIGHT INVESTMENT. (A) ANY MUNICIPALITY RECEIVING STREET  
14    LIGHTING SERVICE FROM AN ELECTRIC CORPORATION PURSUANT TO AN ELECTRIC  
15    RATE TARIFF PROVIDING FOR THE USE BY SUCH MUNICIPALITY OF LIGHTING  
16    EQUIPMENT OWNED BY THE ELECTRIC CORPORATION, AT THE MUNICIPALITY'S  
17    OPTION, UPON SIXTY DAYS NOTICE TO THE ELECTRIC CORPORATION AND TO THE  
18    DEPARTMENT, AND SUBJECT TO THE PROVISIONS OF PARAGRAPHS (B), (C) AND (D)  
19    OF THIS SUBDIVISION, MAY:  
20    (1) CONVERT ITS STREET LIGHTING SERVICE FROM THE MUNICIPALITY'S  
21    CURRENT TARIFF RATE TO AN ALTERNATIVE TARIFF RATE PROVIDING FOR DELIVERY  
22    SERVICE BY THE ELECTRIC CORPORATION OF ELECTRICITY, WHETHER OR NOT  
23    SUPPLIED BY THE ELECTRIC CORPORATION, OVER DISTRIBUTION FACILITIES AND  
24    WIRES OWNED BY THE ELECTRIC CORPORATION TO LIGHTING EQUIPMENT OWNED OR  
25    LEASED BY THE MUNICIPALITY, AND FURTHER PROVIDING FOR THE USE BY SUCH

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

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1 MUNICIPALITY OF THE SPACE ON ANY POLE, LAMP POST, OR OTHER MOUNTING  
2 SURFACE PREVIOUSLY USED BY THE ELECTRIC CORPORATION FOR THE MOUNTING OF  
3 THE LIGHTING EQUIPMENT. THE ALTERNATIVE TARIFF RATE SHALL PROVIDE FOR  
4 MONTHLY BILLS FOR STREET AND AREA LIGHTING THAT SHALL INCLUDE A SCHEDULE  
5 OF ENERGY CHARGES BASED ON A DETERMINATION OF ANNUAL KILOWATT-HOUR USAGE  
6 PER LUMEN RATING OR NOMINAL WATTAGE OF ALL TYPES OF LIGHTING EQUIPMENT,  
7 BUT SHALL NOT INCLUDE FACILITY, SUPPORT, MAINTENANCE, OR ACCESSORY  
8 CHARGES. THE NEW TARIFF SHALL USE EXISTING USAGE CALCULATION METHODS  
9 AND EXISTING RATES FOR ANY CURRENTLY EXISTING LIGHTING EQUIPMENT, ONLY  
10 SETTING REASONABLE NEW RATES FOR NEWLY ADOPTED LIGHTING EQUIPMENT. THE  
11 ALTERNATIVE TARIFF SHALL BE STRUCTURED SO AS TO ALLOW OPTIONS FOR VARI-  
12 OUS STREET LIGHTING CONTROLS, INCLUDING BUT NOT LIMITED TO BOTH CONVEN-  
13 TIONAL DUSK/DAWN OPERATION USING PHOTOCCELL OR SCHEDULING CONTROLS, AS  
14 WELL AS SCHEDULE-BASED DIMMING OR ON/OFF CONTROLS THAT DIM OR TURN OFF  
15 STREET LIGHTS DURING PERIODS OF LOW ACTIVITY. THE ELECTRIC CORPORATION,  
16 IN CONSULTATION WITH THE DEPARTMENT, SHALL FILE THE ALTERNATIVE TARIFF  
17 WITH THE COMMISSION WITHIN SIXTY DAYS OF THE NOTICE BY A MUNICIPALITY TO  
18 EXERCISE THE MUNICIPALITY'S OPTION TO CONVERT ITS LIGHTING EQUIPMENT AND  
19 THE COMMISSION SHALL THEN ISSUE A DECISION WITHIN SIXTY DAYS AFTER THE  
20 FILING TO EFFECTUATE THE PURPOSES AND PROVISIONS OF THIS SECTION;

21 (2) PURCHASE ELECTRICITY FOR USE IN SUCH MUNICIPAL LIGHTING EQUIPMENT  
22 FROM THE ELECTRIC CORPORATION OR ANY OTHER PERSON ALLOWED BY LAW TO  
23 PROVIDE ELECTRICITY; AND

24 (3) AFTER DUE DILIGENCE, INCLUDING AN ANALYSIS OF THE COST IMPACT TO  
25 THE MUNICIPALITY, ACQUIRE ALL OF THE PUBLIC STREET AND AREA LIGHTING  
26 EQUIPMENT OF THE ELECTRIC CORPORATION IN THE MUNICIPALITY, COMPENSATING  
27 THE ELECTRIC CORPORATION AS NECESSARY, IN ACCORDANCE WITH PARAGRAPH (B)  
28 OF THIS SUBDIVISION.

29 (B) ANY MUNICIPALITY EXERCISING THE OPTION TO CONVERT ITS LIGHTING  
30 EQUIPMENT PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION MUST COMPENSATE  
31 THE ELECTRIC CORPORATION FOR THE ORIGINAL COST, LESS DEPRECIATION AND  
32 LESS AMORTIZATION, OF ANY ACTIVE OR INACTIVE EXISTING PUBLIC LIGHTING  
33 EQUIPMENT OWNED BY THE ELECTRIC CORPORATION AND INSTALLED IN THE MUNICI-  
34 PALITY AS OF THE DATE THE MUNICIPALITY EXERCISES ITS RIGHT OF ACQUISI-  
35 TION PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, NET OF ANY SALVAGE  
36 VALUE. UPON SUCH PAYMENT, THE MUNICIPALITY SHALL HAVE THE RIGHT TO USE,  
37 ALTER, REMOVE, OR REPLACE SUCH ACQUIRED LIGHTING EQUIPMENT IN ANY WAY  
38 THE MUNICIPALITY DEEMS APPROPRIATE. ANY CONTRACT A MUNICIPALITY ENTERS  
39 FOR SUCH SERVICES MUST REQUIRE APPROPRIATE LEVELS OF TRAINING CERTIF-  
40 ICATION OF PERSONNEL PROVIDING POLE SERVICE FOR PUBLIC AND WORKER SAFE-  
41 TY, EVIDENCE OF TWENTY-FOUR HOUR CALL CAPACITY AND A COMMITTED TIMELY  
42 RESPONSE SCHEDULE FOR BOTH EMERGENCY AND ROUTINE OUTAGES. THE MUNICI-  
43 PALITY MAY ALSO REQUEST THAT THE ELECTRIC CORPORATION REMOVE ANY PART OF  
44 SUCH LIGHTING EQUIPMENT THAT IT DOES NOT ACQUIRE FROM THE ELECTRIC  
45 CORPORATION IN WHICH CASE THE MUNICIPALITY SHALL REIMBURSE THE ELECTRIC  
46 CORPORATION THE COST OF REMOVAL BY THE ELECTRIC CORPORATION, ALONG WITH  
47 THE ORIGINAL COST, LESS DEPRECIATION AND LESS AMORTIZATION, OF THE  
48 REMOVED PART, NET OF ANY SALVAGE VALUE.

49 (C) WHEN A MUNICIPALITY EXERCISES ITS OPTION PURSUANT TO THIS SECTION,  
50 THE MUNICIPALITY SHALL NOTIFY THE ELECTRIC CORPORATION OF ANY ALTER-  
51 ATIONS TO STREET AND AREA LIGHTING INVENTORY WITHIN SIXTY DAYS OF THE  
52 ALTERATION. THE ELECTRIC CORPORATION SHALL THEN ADJUST ITS MONTHLY BILL-  
53 ING DETERMINATIONS TO REFLECT THE ALTERATION WITHIN SIXTY DAYS.

54 (D) WHEN A MUNICIPALITY EXERCISES ITS OPTION PURSUANT TO PARAGRAPH (A)  
55 OF THIS SUBDIVISION, ANYONE OTHER THAN THE ELECTRIC CORPORATION CONTROL-  
56 LING THE RIGHT TO USE SPACE ON ANY POLE, LAMP POST, OR OTHER MOUNTING

1 SURFACE PREVIOUSLY USED BY THE ELECTRIC CORPORATION IN SUCH MUNICIPALITY  
2 SHALL ALLOW THE MUNICIPALITY TO ASSUME THE RIGHTS AND OBLIGATIONS OF THE  
3 ELECTRIC CORPORATION WITH RESPECT TO SUCH SPACE FOR THE UNEXPIRED TERM  
4 OF ANY LEASE, EASEMENT, OR OTHER AGREEMENT UNDER WHICH THE ELECTRIC  
5 CORPORATION USED SUCH SPACE; PROVIDED, HOWEVER, THAT:

6 (1) THE MUNICIPALITY IS SUBJECT TO THE SAME TERMS AND CONDITIONS THAT  
7 POLE OWNERS MAKE TO OTHERS THAT ATTACH TO THE POLES; AND

8 (2) IN THE ASSUMPTION OF THE RIGHTS AND OBLIGATIONS OF THE ELECTRIC  
9 CORPORATION BY SUCH A MUNICIPALITY, SUCH MUNICIPALITY SHALL IN NO WAY OR  
10 FORM RESTRICT, IMPEDE, OR PROHIBIT UNIVERSAL ACCESS FOR THE PROVISION OF  
11 ELECTRIC AND OTHER SERVICES.

12 (E) ANY DISPUTE REGARDING THE TERMS OF THE ALTERNATIVE TARIFF, THE  
13 COMPENSATION TO BE PAID THE ELECTRIC CORPORATION, OR ANY OTHER MATTER  
14 ARISING IN CONNECTION WITH THE EXERCISE OF THE OPTION PROVIDED IN PARA-  
15 GRAPH (A) OF THIS SUBDIVISION, INCLUDING, BUT NOT LIMITED TO, THE TERMS  
16 ON WHICH SPACE IS TO BE PROVIDED TO THE MUNICIPALITY IN ACCORDANCE WITH  
17 PARAGRAPH (C) OF THIS SUBDIVISION, SHALL BE RESOLVED BY THE COMMISSION  
18 WITHIN NINETY DAYS OF ANY REQUEST FOR SUCH RESOLUTION BY THE MUNICI-  
19 PALITY OR ANY PERSON INVOLVED IN SUCH DISPUTE.

20 S 2. This act shall take effect on the ninetieth day after it shall  
21 have become a law.