

5356

2015-2016 Regular Sessions

I N A S S E M B L Y

February 18, 2015

Introduced by M. of A. BRENNAN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to streetlight replacement and savings

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

1 Section 1. Short Title. This act shall be known and may be cited as  
2 the "streetlight replacement and savings act".

3 S 2. The public service law is amended by adding a new section 66-o to  
4 read as follows:

5 S 66-O. STREETLIGHT REPLACEMENT AND SAVINGS. 1. DEFINITIONS. WHEN  
6 USED IN THIS SECTION, THE FOLLOWING TERM SHALL HAVE THE FOLLOWING MEAN-  
7 ING:

8 "LIGHTING EQUIPMENT" MEANS ALL EQUIPMENT USED TO LIGHT STREETS IN THE  
9 MUNICIPALITY, THE OPERATION AND MAINTENANCE OF WHICH IS CURRENTLY  
10 CHARGED TO THE MUNICIPALITY, INCLUDING LIGHTING BALLASTS, FIXTURES, AND  
11 OTHER EQUIPMENT NECESSARY FOR THE CONVERSION OF ELECTRIC ENERGY INTO  
12 STREET LIGHTING SERVICE, BUT EXCLUDING THE UTILITY POLES UPON WHICH THE  
13 LIGHTING EQUIPMENT IS FIXED. LIGHTING EQUIPMENT SHALL INCLUDE, BUT NOT  
14 BE LIMITED TO, DECORATIVE STREET AND AREA LIGHTNING EQUIPMENT AND  
15 SOLID-STATE (LED) LIGHTING TECHNOLOGIES.

16 2. STREETLIGHT INVESTMENT. (A) ANY MUNICIPALITY RECEIVING STREET  
17 LIGHTING SERVICE FROM AN ELECTRIC CORPORATION PURSUANT TO AN ELECTRIC  
18 RATE TARIFF PROVIDING FOR THE USE BY SUCH MUNICIPALITY OF LIGHTING  
19 EQUIPMENT OWNED BY THE ELECTRIC CORPORATION, AT ITS OPTION, UPON SIXTY  
20 DAYS NOTICE TO THE ELECTRIC CORPORATION AND TO THE DEPARTMENT, AND  
21 SUBJECT TO THE PROVISIONS OF PARAGRAPHS (B), (C) AND (D) OF THIS SUBDI-  
22 VISION, MAY:

23 (1) CONVERT ITS STREET LIGHTING SERVICE FROM THE SUBJECT TARIFF RATE  
24 TO AN ALTERNATIVE TARIFF RATE PROVIDING FOR DELIVERY SERVICE BY THE  
25 ELECTRIC CORPORATION OF ELECTRIC ENERGY, WHETHER OR NOT SUPPLIED BY THE

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

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

24 (2) PURCHASE ELECTRIC ENERGY FOR USE IN SUCH MUNICIPAL LIGHTING EQUIP-  
25 MENT FROM THE ELECTRIC CORPORATION OR ANY OTHER PERSON ALLOWED BY LAW TO  
26 PROVIDE ELECTRICITY; AND

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

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

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

1 (D) WHEN A MUNICIPALITY EXERCISES ITS OPTION PURSUANT TO PARAGRAPH (A)  
2 OF THIS SUBDIVISION, ANYONE OTHER THAN THE ELECTRIC CORPORATION CONTROL-  
3 LING THE RIGHT TO USE SPACE ON ANY POLE, LAMP POST, OR OTHER MOUNTING  
4 SURFACE PREVIOUSLY USED BY THE ELECTRIC CORPORATION IN SUCH MUNICIPALITY  
5 SHALL ALLOW THE MUNICIPALITY TO ASSUME THE RIGHTS AND OBLIGATIONS OF THE  
6 ELECTRIC CORPORATION WITH RESPECT TO SUCH SPACE FOR THE UNEXPIRED TERM  
7 OF ANY LEASE, EASEMENT, OR OTHER AGREEMENT UNDER WHICH THE ELECTRIC  
8 CORPORATION USED SUCH SPACE; PROVIDED, HOWEVER, THAT:

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

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

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

23 S 3. This act shall take effect on the thirtieth day after it shall  
24 have become a law.