

6912--A

2015-2016 Regular Sessions

I N A S S E M B L Y

April 10, 2015

Introduced by M. of A. FAHY, BRENNAN, SEAWRIGHT, ABINANTI, OTIS -- read once and referred to the Committee on Corporations, Authorities and Commissions -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ELECTRICITY INTO STREET  
12 LIGHTING SERVICE, BUT EXCLUDING THE UTILITY POLES UPON WHICH THE LIGHT-  
13 ING EQUIPMENT IS FIXED. LIGHTING EQUIPMENT SHALL INCLUDE, BUT NOT BE  
14 LIMITED TO, DECORATIVE STREET AND AREA LIGHTING 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 THE MUNICIPALITY'S  
20 OPTION, UPON SIXTY DAYS NOTICE TO THE ELECTRIC CORPORATION AND TO THE  
21 DEPARTMENT, AND SUBJECT TO THE PROVISIONS OF PARAGRAPHS (B), (C) AND (D)  
22 OF THIS SUBDIVISION, MAY:

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

LBD08112-02-5

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

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

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

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

55 (C) WHEN A MUNICIPALITY EXERCISES ITS OPTION PURSUANT TO THIS SECTION,  
56 THE MUNICIPALITY SHALL NOTIFY THE ELECTRIC CORPORATION OF ANY ALTER-

1 ATIONS TO STREET AND AREA LIGHTING INVENTORY WITHIN SIXTY DAYS OF THE  
2 ALTERATION. THE ELECTRIC CORPORATION SHALL THEN ADJUST ITS MONTHLY BILL-  
3 ING DETERMINATIONS TO REFLECT THE ALTERATION WITHIN SIXTY DAYS.

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

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

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

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

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