

5205

2015-2016 Regular Sessions

I N S E N A T E

May 7, 2015

Introduced by Sen. GRIFFO -- 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

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:

23 (1) CONVERT ITS STREET LIGHTING SERVICE FROM THE MUNICIPALITY'S
24 CURRENT TARIFF RATE TO AN ALTERNATIVE TARIFF RATE PROVIDING FOR DELIVERY

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

LBD08112-03-5

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

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

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

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

53 (C) WHEN A MUNICIPALITY EXERCISES ITS OPTION PURSUANT TO THIS SECTION,
54 THE MUNICIPALITY SHALL NOTIFY THE ELECTRIC CORPORATION OF ANY ALTER-
55 ATIONS TO STREET AND AREA LIGHTING INVENTORY WITHIN SIXTY DAYS OF THE

1 ALTERATION. THE ELECTRIC CORPORATION SHALL THEN ADJUST ITS MONTHLY BILL-
2 ING DETERMINATIONS TO REFLECT THE ALTERATION WITHIN SIXTY DAYS.

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

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

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

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

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