

6005

2015-2016 Regular Sessions

I N S E N A T E

June 19, 2015

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to authorize an easement on a portion of real property within the Boutwell Hill state forest in the county of Chautauqua for the location of electric collection or distribution facilities in connection with a wind powered electric generation project located in the towns of Charlotte and/or Cherry Creek; and providing for the repeal of such provisions upon expiration thereof

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

- 1 Section 1. Notwithstanding the contrary provisions of section 9-0501
2 of the environmental conservation law and the contrary provisions of the
3 public lands law, the department of environmental conservation is
4 authorized to grant an easement for an electric collection or distrib-
5 ution line on real property within the Boutwell Hill state forest, which
6 meets the following conditions:
7 (a) The easement is for an electric collection or distribution line
8 which is part of a wind powered electric generation project located in
9 the towns of Charlotte and/or Cherry Creek.
10 (b) The easement is for a portion of property within the Boutwell Hill
11 state forest owned by the state and managed by the department of envi-
12 ronmental conservation. The collection or distribution line shall be
13 located within 50 feet of the center line of Housington Road, Mill Creek
14 Road, Boutwell Hill Road and East Road corridors within the state forest
15 for a total distance of no more than 1.4 miles. In no event shall the
16 location of the electric collection or distribution line require the
17 cutting of trees greater than 50 feet from such collection or distrib-
18 ution line placed in or adjacent to such roads.
19 (c) The easement will be conveyed by the department of environmental
20 conservation and take effect only in the event a collection or distrib-
21 ution line proposed to be located on such easement lands is certified

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

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1 and approved as part of a wind powered electric generation facility
2 pursuant to articles 7 and 10 of the public service law.

3 (d) The easement shall terminate when the associated wind powered
4 electric generation project ceases to operate for 18 months as set forth
5 in the easement and the easement shall then revert to the state to be
6 managed by the department of environmental conservation state forest
7 land.

8 S 2. (a) In entering into the easement described in section one of
9 this act, the department of environmental conservation is authorized to
10 grant such easement for fair market value, upon application by Everpow-
11 er. An amount, not less than fair market value plus twenty percent of
12 the value of the easement shall be used to obtain an interest in real
13 property for open space purposes in region 9 of the department of envi-
14 ronmental conservation from the regional priority conservation projects
15 list in region 9 as part of this state's open space conservation plan.
16 The total payment shall not be less than the value of the easement to be
17 conveyed by the state plus twenty percent of the value of such easement.

18 (b) The description of the easement to be conveyed contained by this
19 act is not intended to be a legal description, but is intended to iden-
20 tify the easement to be conveyed.

21 (c) The grant of the easement is conditioned on, first, the acquisi-
22 tion of the exchange parcel by the state, and second, issuance of
23 certificates of environmental compatibility and public need pursuant to
24 the provisions of articles 7 and 10 of the public service law.

25 (d) Compensation for the stumpage value for trees to be felled by the
26 entity shall be used for the same purpose as in subdivision (a) of this
27 section with the felled trees to become the property of Everpower. Stum-
28 page value is to be determined by a department of environmental conser-
29 vation forester based on the most recent department of environmental
30 conservation stumpage price report at the time the trees are felled.

31 S 3. The commissioner of environmental conservation may prescribe
32 additional terms for such exchange of real property. Such contract shall
33 not become binding upon the state until approved by the state comp-
34 troller. Title to the land to the people of the state of New York pursu-
35 ant to the provisions of such contract shall be approved by the attorney
36 general, and the deed to the state shall be approved by him or her as to
37 form and manner of execution and recordability before such deed shall be
38 accepted on behalf of the state. Notwithstanding the contrary provisions
39 of the public lands law, the conveyance of the state-owned easement
40 pursuant to such contract shall be without reservation or exception,
41 except as provided for in such contract. Upon certification by the
42 commissioner of environmental conservation to the commissioner of gener-
43 al services of a copy of the contract, and certification that Everpower
44 has complied with all terms and conditions of the contract upon their
45 part to be kept and performed, together with a description of any of the
46 easements to be exchanged, conveyed and/or payments to be made the
47 commissioner of general services shall convey the easement described in
48 section one of this act in accordance with the provisions of the
49 contract.

50 S 4. This act shall take effect immediately, and shall expire and be
51 deemed repealed five years after such date; provided, however, should
52 the easement be granted within the 5 years, the terms of the easement
53 will establish the end date of the easement. At such time the land will
54 revert back to the state of New York for state forest purposes.