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I N  S E N A T E

(PREFILED)

January 6, 2016

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:

Section 1. Section 70-a of the public service law is REPEALED and a new section 70-a is added to read as follows:

S 70-A. STREETLIGHT REPLACEMENT AND SAVINGS. 1. DEFINITIONS. WHEN USED IN THIS SECTION, THE FOLLOWING TERM SHALL HAVE THE FOLLOWING MEANING "LIGHTING EQUIPMENT" MEANS ALL EQUIPMENT USED TO LIGHT STREETS IN THE MUNICIPALITY, THE OPERATION AND MAINTENANCE OF WHICH IS CURRENTLY CHARGED TO THE MUNICIPALITY, INCLUDING LIGHTING BALLASTS, FIXTURES, AND OTHER EQUIPMENT NECESSARY FOR THE CONVERSION OF ELECTRICITY INTO STREET LIGHTING SERVICE, BUT EXCLUDING THE UTILITY POLES UPON WHICH THE LIGHTING EQUIPMENT IS FIXED. LIGHTING EQUIPMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, DECORATIVE STREET AND AREA LIGHTING EQUIPMENT AND SOLID-STATE (LED) LIGHTING TECHNOLOGIES.

2. STREETLIGHT INVESTMENT. (A) ANY MUNICIPALITY RECEIVING STREET LIGHTING SERVICE FROM AN ELECTRIC CORPORATION PURSUANT TO AN ELECTRIC RATE TARIFF PROVIDING FOR THE USE BY SUCH MUNICIPALITY OF LIGHTING EQUIPMENT OWNED BY THE ELECTRIC CORPORATION, AT THE MUNICIPALITY'S OPTION, UPON SIXTY DAYS NOTICE TO THE ELECTRIC CORPORATION AND TO THE DEPARTMENT, AND SUBJECT TO THE PROVISIONS OF PARAGRAPHS (B), (C) AND (D) OF THIS SUBDIVISION, MAY:

(1) CONVERT ITS STREET LIGHTING SERVICE FROM THE MUNICIPALITY'S CURRENT TARIFF RATE TO AN ALTERNATIVE TARIFF RATE PROVIDING FOR DELIVERY SERVICE BY THE ELECTRIC CORPORATION OF ELECTRICITY, WHETHER OR NOT SUPPLIED BY THE ELECTRIC CORPORATION, OVER DISTRIBUTION FACILITIES AND WIRES OWNED BY THE ELECTRIC CORPORATION TO LIGHTING EQUIPMENT OWNED OR 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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MUNICIPALITY OF THE SPACE ON ANY POLE, LAMP POST, OR OTHER MOUNTING SURFACE PREVIOUSLY USED BY THE ELECTRIC CORPORATION FOR THE MOUNTING OF THE LIGHTING EQUIPMENT. THE ALTERNATIVE TARIFF RATE SHALL PROVIDE FOR MONTHLY BILLS FOR STREET AND AREA LIGHTING THAT SHALL INCLUDE A SCHEDULE OF ENERGY CHARGES BASED ON A DETERMINATION OF ANNUAL KILOWATT-HOUR USAGE PER LUMEN RATING OR NOMINAL WATTAGE OF ALL TYPES OF LIGHTING EQUIPMENT, BUT SHALL NOT INCLUDE FACILITY, SUPPORT, MAINTENANCE, OR ACCESSORY CHARGES. THE NEW TARIFF SHALL USE EXISTING USAGE CALCULATION METHODS AND EXISTING RATES FOR ANY CURRENTLY EXISTING LIGHTING EQUIPMENT, ONLY SETTING REASONABLE NEW RATES FOR NEWLY ADOPTED LIGHTING EQUIPMENT. THE ALTERNATIVE TARIFF SHALL BE STRUCTURED SO AS TO ALLOW OPTIONS FOR VARIOUS STREET LIGHTING CONTROLS, INCLUDING BUT NOT LIMITED TO BOTH CONVENTIONAL DUSK/DAWN OPERATION USING PHOTOCELL OR SCHEDULING CONTROLS, AS WELL AS SCHEDULE-BASED DIMMING OR ON/OFF CONTROLS THAT DIM OR TURN OFF STREET LIGHTS DURING PERIODS OF LOW ACTIVITY. THE ELECTRIC CORPORATION, IN CONSULTATION WITH THE DEPARTMENT, SHALL FILE THE ALTERNATIVE TARIFF WITH THE COMMISSION WITHIN SIXTY DAYS OF THE NOTICE BY A MUNICIPALITY TO EXERCISE THE MUNICIPALITY'S OPTION TO CONVERT ITS LIGHTING EQUIPMENT AND THE COMMISSION SHALL THEN ISSUE A DECISION WITHIN SIXTY DAYS AFTER THE FILING TO EFFECTUATE THE PURPOSES AND PROVISIONS OF THIS SECTION;

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

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

(B) ANY MUNICIPALITY EXERCISING THE OPTION TO CONVERT ITS LIGHTING EQUIPMENT PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION MUST COMPENSATE THE ELECTRIC CORPORATION FOR THE ORIGINAL COST, LESS DEPRECIATION AND LESS AMORTIZATION, OF ANY ACTIVE OR INACTIVE EXISTING PUBLIC LIGHTING EQUIPMENT OWNED BY THE ELECTRIC CORPORATION AND INSTALLED IN THE MUNICIPALITY AS OF THE DATE THE MUNICIPALITY EXERCISES ITS RIGHT OF ACQUISITION PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, NET OF ANY SALVAGE VALUE. UPON SUCH PAYMENT, THE MUNICIPALITY SHALL HAVE THE RIGHT TO USE, ALTER, REMOVE, OR REPLACE SUCH ACQUIRED LIGHTING EQUIPMENT IN ANY WAY THE MUNICIPALITY DEEMS APPROPRIATE. ANY CONTRACT A MUNICIPALITY ENTERS FOR SUCH SERVICES MUST REQUIRE APPROPRIATE LEVELS OF TRAINING CERTIFICATION OF PERSONNEL PROVIDING POLE SERVICE FOR PUBLIC AND WORKER SAFETY, EVIDENCE OF TWENTY-FOUR HOUR CALL CAPACITY AND A COMMITTED TIMELY RESPONSE SCHEDULE FOR BOTH EMERGENCY AND ROUTINE OUTAGES. THE MUNICIPALITY MAY ALSO REQUEST THAT THE ELECTRIC CORPORATION REMOVE ANY PART OF SUCH LIGHTING EQUIPMENT THAT IT DOES NOT ACQUIRE FROM THE ELECTRIC CORPORATION IN WHICH CASE THE MUNICIPALITY SHALL REIMBURSE THE ELECTRIC CORPORATION THE COST OF REMOVAL BY THE ELECTRIC CORPORATION, ALONG WITH THE ORIGINAL COST, LESS DEPRECIATION AND LESS AMORTIZATION, OF THE REMOVED PART, NET OF ANY SALVAGE VALUE.

(C) WHEN A MUNICIPALITY EXERCISES ITS OPTION PURSUANT TO THIS SECTION, THE MUNICIPALITY SHALL NOTIFY THE ELECTRIC CORPORATION OF ANY ALTERATIONS TO STREET AND AREA LIGHTING INVENTORY WITHIN SIXTY DAYS OF THE ALTERATION. THE ELECTRIC CORPORATION SHALL THEN ADJUST ITS MONTHLY BILLING DETERMINATIONS TO REFLECT THE ALTERATION WITHIN SIXTY DAYS.

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

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

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

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

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

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