

STATE OF NEW YORK

7569

2019-2020 Regular Sessions

IN ASSEMBLY

May 9, 2019

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

AN ACT to amend the public service law, in relation to the transfer or lease of closed electric generators; and in relation to payment of prevailing wages of affected employees of the Indian Point Nuclear Power Plant

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 70 of the public service law, as amended by chapter 226 of the laws of 2009, is amended to read as follows:

§ 70. Transfer of franchises or stocks. 1. No gas corporation ~~[or]~~, electric corporation or closed electric generator shall transfer or lease its franchise, works or system or any part of such franchise, works or system to any other person or corporation or contract for the operation of its works and system, without the written consent of the commission. Notwithstanding the foregoing, any transfer or lease with an original cost of (a) less than one hundred thousand dollars proposed by a gas ~~[or]~~ corporation, electric corporation or closed electric generator having annual gross revenues in excess of two hundred million dollars or (b) less than twenty-five thousand dollars proposed by a gas ~~[or]~~ corporation, electric corporation or closed electric generator having annual gross revenues of less than two hundred million dollars shall be effective without the commission's written consent within ninety days after such corporation notifies the commission that it plans to complete the transfer or lease and submits a description of the transfer or lease; provided, however, that the commission may determine within such ninety days after such notification and submission that the public interest requires its review and written consent.

2. The permission and approval of the commission, to the exercise of a franchise under section sixty-eight of this article, or to the assignment, transfer or lease of a franchise under this section shall not be

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

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1 construed to revive or validate any lapsed or invalid franchise or to
2 enlarge or add to the powers and privileges contained in the grant of
3 any franchise or to waive any forfeiture.

4 3. No gas corporation ~~[ex]~~, electric corporation or closed electric
5 generator shall directly or indirectly acquire the stock or bonds of any
6 other corporation incorporated for, or engaged in, the same or a similar
7 business, in this state or any other state, or proposing to operate or
8 operating under a franchise from the same or any other municipality,
9 neither shall any street railroad corporation acquire the stock or bonds
10 of any electric corporation, unless authorized so to do by the commis-
11 sion.

12 4. Save where stock shall be transferred or held for the purpose of
13 collateral security only with the consent of the commission empowered by
14 this chapter to give such consent, no stock corporation of any
15 description, domestic or foreign, company, including, but not limited
16 to, a limited liability company, association, including a joint stock
17 association, partnership, including a limited liability partnership, or
18 person, other than a gas corporation ~~[ex]~~, electric corporation, closed
19 electric generator or street railroad corporation, shall purchase or
20 acquire, take or hold, more than ten per centum of the voting capital
21 stock issued by any gas corporation ~~[ex]~~, electric corporation or closed
22 electric generator organized or existing under or by virtue of the laws
23 of this state, except that a corporation now lawfully holding a majority
24 of the voting capital stock of any gas corporation ~~[ex]~~, electric corpo-
25 ration or closed electric generator may with the consent of the commis-
26 sion acquire and hold the remainder of the voting capital stock of such
27 gas corporation ~~[ex]~~, electric corporation or closed electric generator
28 or any portion thereof. Provided, that with the consent of such commis-
29 sion and upon and subject to such terms and conditions as such commis-
30 sion may fix and impose, any such stock corporation, company, associ-
31 ation, partnership or person may acquire, take and hold more than ten
32 per centum of the voting capital stock of any gas corporation ~~[ex]~~,
33 electric corporation or closed electric generator, organized or existing
34 under or by virtue of the laws of this state.

35 5. No consent shall be given by the commission to the acquisition of
36 any stock in accordance with this section unless it shall have been
37 shown that such acquisition is in the public interest. Nothing herein
38 contained shall be construed to prevent the holding of any stock hereto-
39 fore lawfully acquired, nor to prevent, upon the surrender or exchange
40 of such stock pursuant to a reorganization plan, the purchase, acquisi-
41 tion, taking or holding of a proportionate amount of stock of any new
42 corporation organized to take over, at foreclosure or other sale, the
43 property of any corporation whose stock has been thus surrendered or
44 exchanged; but the proportion of the voting capital stock of the new
45 corporation held by a stock corporation, company, association, partner-
46 ship or person and acquired by it by any such surrender or exchange of
47 stock shall not without the consent of the commission exceed the propor-
48 tion of the voting capital stock held by it in the former corporation.

49 6. Every contract, assignment, transfer or agreement for transfer of
50 any stock by or through any person or corporation to any corporation,
51 company, association, partnership or person in violation of any
52 provision of this chapter shall be void and of no effect, and no such
53 transfer or assignment shall be made upon the books of any such gas
54 corporation, ~~[ex]~~ electric corporation or closed electric generator, or
55 shall be recognized as effective for any purpose.

1 7. No consent, permission or approval otherwise required under this
2 section shall be necessary for the sale of the franchise, works, system,
3 stocks or bonds by a gas ~~[or]~~ corporation, electric corporation or
4 closed electric generator to a duly constituted authority of the state.

5 8. Any transfer or lease by a closed electric generator of its fran-
6 chise, works or system or any part of such franchise, works or system to
7 any corporation, firm, company, partnership, limited liability company,
8 association or person shall, to the maximum extent practicable, provide
9 that employees of such closed electric generator with skill sets neces-
10 sary for the operation of a successor corporation, firm, company, part-
11 nership, limited liability company, association or person be retained
12 for employment with such successor and shall be paid a wage of not less
13 than the prevailing wage in the locality where such closed electric
14 generator is located.

15 § 2. Notwithstanding any other provision of law to the contrary, the
16 commissioner of labor shall ensure that any employees of the Indian
17 Point Nuclear Power Plant shall be granted notice to any affected
18 employees pursuant to section 860-b of the labor law and such employees
19 shall be granted prevailing wages pursuant to section 220 of the labor
20 law. Such affected employees shall be paid a premium wage commensurate
21 with the premium wages prevailing in the area in which the work is
22 performed until such time as the Indian Point Nuclear Power Plant is
23 closed.

24 § 3. Notwithstanding any other provision of law to the contrary, any
25 corporation, firm, company, partnership, limited liability company or
26 association, hereinafter known as "purchaser" with a contract to
27 purchase the Indian Point Nuclear Power Plant, to the extent practica-
28 ble, shall maintain the current workforce through the conclusion of the
29 purchase of such power plant. In hiring any new employees, such
30 purchaser shall hire from a pool of current employees at the Indian
31 Point Nuclear Power Plant unless such purchaser proves to the department
32 of labor that such employees' skills do not meet the requirements needed
33 for the open positions. The department of labor shall oversee the
34 purchase, sale and employment practices of the Indian Point Nuclear
35 Power Plant.

36 § 4. This act shall take effect immediately.