

STATE OF NEW YORK

5305

2019-2020 Regular Sessions

IN SENATE

April 24, 2019

Introduced by Sen. HARCKHAM -- 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 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 ~~[ex]~~, 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 ~~[ex]~~ 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 ~~[ex]~~ 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 assign-

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

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1 ment, transfer or lease of a franchise under this section shall not be
2 construed to revive or validate any lapsed or invalid franchise or to
3 enlarge or add to the powers and privileges contained in the grant of
4 any franchise or to waive any forfeiture.

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

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

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

50 6. Every contract, assignment, transfer or agreement for transfer of
51 any stock by or through any person or corporation to any corporation,
52 company, association, partnership or person in violation of any
53 provision of this chapter shall be void and of no effect, and no such
54 transfer or assignment shall be made upon the books of any such gas
55 corporation, ~~[or]~~ electric corporation or closed electric generator, or
56 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, as well as any decommissioning activities,
6 by a closed electric generator of its franchise, works or system or any
7 part of such franchise, works or system to any corporation, firm, compa-
8 ny, partnership, limited liability company, association or person shall,
9 to the maximum extent practicable, provide that employees of such closed
10 electric generator with skill sets necessary for the operation of a
11 successor corporation, firm, company, partnership, limited liability
12 company, association or person be retained for employment with such
13 successor and shall be paid a wage of not less than the prevailing wage
14 in the locality where such closed electric 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.