

STATE OF NEW YORK

5305--B

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Section 70 of the public service law, as amended by chapter
2 226 of the laws of 2009, is amended to read as follows:
3 § 70. Transfer of franchises or stocks. 1. No gas corporation [~~or~~],
4 electric corporation or closed electric generator shall transfer or
5 lease its franchise, works or system or any part of such franchise,
6 works or system to any other person or corporation or contract for the
7 operation of its works and system, without the written consent of the
8 commission. Notwithstanding the foregoing, any transfer or lease with an
9 original cost of (a) less than one hundred thousand dollars proposed by
10 a gas [~~or~~] corporation, electric corporation or closed electric genera-
11 tor having annual gross revenues in excess of two hundred million
12 dollars or (b) less than twenty-five thousand dollars proposed by a gas
13 [~~or~~] corporation, electric corporation or closed electric generator
14 having annual gross revenues of less than two hundred million dollars
15 shall be effective without the commission's written consent within nine-
16 ty days after such corporation notifies the commission that it plans to
17 complete the transfer or lease and submits a description of the transfer
18 or lease; provided, however, that the commission may determine within

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

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1 such ninety days after such notification and submission that the public
2 interest requires its review and written consent.

3 2. The permission and approval of the commission, to the exercise of a
4 franchise under section sixty-eight of this article, or to the assign-
5 ment, transfer or lease of a franchise under this section shall not be
6 construed to revive or validate any lapsed or invalid franchise or to
7 enlarge or add to the powers and privileges contained in the grant of
8 any franchise or to waive any forfeiture.

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

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

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

54 6. Every contract, assignment, transfer or agreement for transfer of
55 any stock by or through any person or corporation to any corporation,
56 company, association, partnership or person in violation of any

1 provision of this chapter shall be void and of no effect, and no such
2 transfer or assignment shall be made upon the books of any such gas
3 corporation, [~~or~~] electric corporation or closed electric generator, or
4 shall be recognized as effective for any purpose.

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

9 8. Any transfer or lease, as well as any decommissioning activities,
10 by a closed electric generator of its franchise, works or system or any
11 part of such franchise, works or system to any corporation, firm, compa-
12 ny, partnership, limited liability company, association or person shall,
13 to the maximum extent practicable, provide that employees of such closed
14 electric generator with skill sets necessary for the operation of a
15 successor corporation, firm, company, partnership, limited liability
16 company, association or person be retained for employment with such
17 successor and shall be paid a wage of not less than the prevailing wage
18 in the locality where such closed electric generator is located.

19 9. Any construction work to be performed during the closure and decom-
20 missioning period shall be performed pursuant to a project labor agree-
21 ment, as defined in section two hundred twenty-two of the labor law,
22 entered into between a purchaser and a bona fide building and
23 construction trades labor organization having jurisdiction over the
24 scope of work to be performed; any other work which shall be performed
25 concerning the closure and decommissioning period shall be performed
26 pursuant to a labor peace agreement entered into between a purchaser and
27 the local labor organization having jurisdiction over the scope of work
28 to be performed. For purposes of this subdivision, the term "purchaser"
29 shall mean any corporation, firm, company, limited liability company, or
30 association.

31 § 2. Notwithstanding any other provision of law to the contrary, the
32 commissioner of labor shall ensure that any employees of the Indian
33 Point Nuclear Power Plant, located at 450 Broadway, Buchanan, New York,
34 10511, and any successor or successors in interest to the Indian Point
35 Nuclear Power Plant, shall be granted notice to any affected employees
36 pursuant to section 860-b of the labor law and such employees shall be
37 granted prevailing wages pursuant to section 220 of the labor law. Such
38 affected employees shall be paid a premium wage commensurate with the
39 premium wages prevailing in the area in which the work is performed
40 until such time as the Indian Point Nuclear Power Plant is closed.

41 § 3. Notwithstanding any other provision of law to the contrary, any
42 corporation, firm, company, partnership, limited liability company or
43 association, hereinafter known as "purchaser" with a contract to
44 purchase the Indian Point Nuclear Power Plant, to the extent practica-
45 ble, shall maintain the current workforce through the conclusion of the
46 purchase of such power plant. In hiring any new employees, such
47 purchaser shall hire from a pool of current employees at the Indian
48 Point Nuclear Power Plant unless such purchaser proves to the department
49 of labor that such employees' skills do not meet the requirements needed
50 for the open positions. The department of labor shall oversee the
51 purchase, sale and employment practices of the Indian Point Nuclear
52 Power Plant.

53 § 4. This act shall take effect immediately.