SENATE BILL 835

By: Senator Lee
Introduced and read first time: February 3, 2020
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

County and Municipal Street Lighting Investment Act

FOR the purpose of authorizing a certain county or municipality, after giving certain notice to certain persons, to convert its street lighting service to a certain alternative–energy–only tariff, submit a request to acquire certain street lighting equipment from the electric company, and enter into an agreement to purchase electricity for a certain use from any available electricity supplier under certain circumstances; authorizing a county or municipality to acquire certain street lighting equipment by condemnation under a certain circumstance; authorizing a county or municipality to request that an electric company remove certain street lighting equipment under certain circumstances; requiring a county or municipality to pay the fair market value of certain street lighting equipment that is being removed and the costs of its removal under certain circumstances; providing that the fair market value of certain street lighting equipment shall be calculated in a certain manner; requiring a certain county or municipality to notify a certain electric company of any alteration to the county’s or municipality’s street lighting equipment inventory within a certain period of time under certain circumstances; prohibiting a certain agreement or contract for sale or license agreement from including certain fees or other costs under certain circumstances; prohibiting an electric company from making certain requirements of a certain county or municipality; requiring that certain workers be fully qualified and meet certain requirements; authorizing certain disputes, subject to a certain exception, to be submitted to the Public Service Commission for resolution; requiring the Commission to issue a determination on certain disputes within a certain time period; requiring a jury to determine the fair market value of certain street lighting equipment subject to a condemnation proceeding in a certain manner; requiring each electric company to develop a certain alternative–energy–only tariff for street lighting on or before a certain date; limiting the fees that may be included in a certain alternative–energy–only tariff; requiring that a certain alternative–energy–only tariff provide for monthly bills for street lighting that include a schedule of electricity charges based on a certain determination; prohibiting the alternative–energy–only tariff from including certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
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charges; requiring that, for street lighting equipment in use on a certain date, the alternative–energy–only tariff shall use certain calculation methods and rates that existed on a certain date; requiring the alternative–energy–only tariff to provide for reasonable rates for street lighting equipment that is adopted after a certain date; requiring the alternative–energy–only tariff to provide for options for certain street lighting controls; requiring the Commission to issue a decision regarding the adoption of a certain alternative–energy–only tariff within a certain period of time after receiving the alternative–energy–only tariff from an electric company; requiring the Commission to issue a determination on a dispute regarding the terms of an alternative–energy–only tariff within a certain period of time after receiving a request for resolution; stating the findings and declarations of the General Assembly; making certain clarifying changes; defining certain terms; and generally relating to the purchase of certain street lighting equipment by a county or municipality from an electric company and tariffs for street lighting.

BY repealing and reenacting, with amendments,

Article – Local Government
Section 1–1309
Annotated Code of Maryland
(2013 Replacement Volume and 2019 Supplement)

BY adding to
Article – Public Utilities
Section 4–212
Annotated Code of Maryland
(2010 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Local Government

1–1309.

(a) (1) In this section[. “electric] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “ELECTRIC company” has the meaning stated in § 1–101 of the Public Utilities Article.

(3) “FAIR MARKET VALUE” MEANS THE NET BOOK VALUE OF THE PROPERTY, CALCULATED USING FEDERAL ENERGY REGULATORY COMMISSION (FERC) ACCOUNTING METHODS, AND NOT USING METHODS OTHER THAN THOSE USED FOR STANDARD RATE SETTING, AS THE ORIGINAL COST OF THE PROPERTY, LESS DEPRECIATION, OF ANY ACTIVE OR INACTIVE EXISTING STREET LIGHTING EQUIPMENT INSTALLED IN THE COUNTY OR MUNICIPALITY AS OF THE DATE THE
COUNTY OR MUNICIPALITY ENTERS INTO AN AGREEMENT TO PURCHASE THE
PROPERTY, EXERCISES ITS RIGHT OF CONDEMNATION, OR REQUESTS THE REMOVAL
OF THE EQUIPMENT.

(4) (I) "Street lighting equipment" means all equipment
owned by an electric company used to light streets in the county or
municipality.

(II) "Street lighting equipment" includes:

1. All capital equipment as defined under FERC
account 373;

2. Lighting ballasts, fixtures, mast arms,
photocells, loops, and any other equipment necessary for the
conversion of electric energy into street lighting equipment;

3. Decorative street and area lighting;

4. Solid–state LED lighting technologies; and

5. Induction lighting technologies.

(III) "Street lighting equipment" does not include joint
use utility poles on which the equipment is fixed.

(B) The General Assembly finds and declares that:

(1) Taxpayers are mandated to pay electric companies large
sums every year to light streets in counties and municipalities;

(2) Counties and municipalities are limited in how this
public safety resource can be managed because the counties and
municipalities often do not own or control the street lighting
equipment within their jurisdictions;

(3) Street lighting is a significant energy expense for
counties and municipalities and presents an opportunity for
communities to reduce their carbon footprint and address climate
change through efficiency upgrades;

(4) There is often insufficient incentive in the applicable
electric rate tariff for installing energy efficient lighting
TECHNOLOGIES THAT MAY REDUCE BOTH POWER AND MAINTENANCE EXPENSES;

(5) THERE IS NO ADEQUATE PROVISION IN THE APPLICABLE ELECTRIC RATE TARIFF FOR COUNTIES AND MUNICIPALITIES TO WORK COLLECTIVELY TO MANAGE THE MAINTENANCE OF STREET LIGHTING EQUIPMENT;

(6) COUNTIES AND MUNICIPALITIES AROUND THE COUNTRY HAVE SAVED CONSIDERABLE RESOURCES BY PURCHASING THEIR STREET LIGHTING EQUIPMENT FROM ELECTRIC COMPANIES AND CONTRACTING FOR THE MAINTENANCE INDEPENDENTLY; AND

(7) STREET LIGHTING COSTS SHOULD BE REDUCED AND SERVICE SHOULD BE IMPROVED BY:

(I) IMPROVING PUBLIC SAFETY WITH STREET LIGHTS THAT PROVIDE BETTER ILLUMINATION;

(II) REDUCING MAINTENANCE COSTS BY ALLOWING COUNTIES AND MUNICIPALITIES TO OWN THE STREET AND AREA LIGHTING WITHIN THEIR JURISDICTIONS AND TO ENTER INTO REGIONAL MAINTENANCE SERVICE CONTRACTS;

(III) REDUCING WHOLE SYSTEM COST THROUGH COUNTY OR MUNICIPAL OWNERSHIP AND BY ADOPTING TARIFFS THAT INCLUDE ONLY THE DISTRIBUTION ENERGY CONSUMED;

(IV) PROVIDING FOR THE USE OF INNOVATIVE TECHNOLOGIES FOR MORE EFFICIENT LIGHTING; AND

(V) PROVIDING MORE RESPONSIVE SERVICE FOR LIGHTING REPAIRS.

This section applies to all counties and municipalities.

On written request by a county or municipality, an electric company shall sell to the county or municipality some or all of the electric company’s existing street lighting equipment that is located in the county or municipality.

AFTER GIVING 60 DAYS’ WRITTEN NOTICE TO THE ELECTRIC COMPANY AND THE PUBLIC SERVICE COMMISSION, A COUNTY OR MUNICIPALITY THAT RECEIVES STREET LIGHTING SERVICE FROM AN ELECTRIC COMPANY IN ACCORDANCE WITH A TARIFF PROVIDING FOR THE USE BY THE COUNTY OR MUNICIPALITY OF STREET LIGHTING EQUIPMENT OWNED BY AN ELECTRIC
COMPANY MAY:

(I) CONVERT ITS STREET LIGHTING SERVICE TO AN ALTERNATIVE–ENERGY–ONLY TARIFF SET IN ACCORDANCE WITH § 4–212 OF THE PUBLIC UTILITIES ARTICLE;

(II) SUBMIT A REQUEST TO ACQUIRE THE STREET LIGHTING EQUIPMENT FROM THE ELECTRIC COMPANY AT SOME OR ALL LOCATIONS WITHIN THE COUNTY OR MUNICIPALITY; AND

(III) ENTER INTO AN AGREEMENT TO PURCHASE ELECTRICITY FOR THE USE OF THE STREET LIGHTING EQUIPMENT FROM ANY AVAILABLE ELECTRICITY SUPPLIER.

(2) IF THE COUNTY OR MUNICIPALITY AND THE ELECTRIC COMPANY FAIL TO AGREE TO THE PURCHASE PRICE OR CONDITIONS OF PURCHASE OF THE STREET LIGHTING EQUIPMENT, THE COUNTY OR MUNICIPALITY MAY ACQUIRE THE EQUIPMENT BY CONDEMNATION.

[(d)] (E) (1) If the county or municipality [purchases] ACQUIRES street lighting equipment from an electric company AND CONVERTS THE STREET LIGHTING SERVICE TO AN ALTERNATIVE–ENERGY–ONLY TARIFF IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, the county or municipality shall pay to the electric company the fair market value of the street lighting equipment.

(2) (I) AFTER ACQUIRING STREET LIGHTING EQUIPMENT IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, THE COUNTY OR MUNICIPALITY MAY REQUEST THAT THE ELECTRIC COMPANY REMOVE THE STREET LIGHTING EQUIPMENT THAT IS LOCATED IN THE COUNTY’S OR MUNICIPALITY’S JURISDICTION THAT HAS NOT BEEN ACQUIRED FROM THE ELECTRIC COMPANY.

(II) THE COUNTY OR MUNICIPALITY SHALL PAY TO THE ELECTRIC COMPANY:

1. THE COST OF THE REMOVAL OF THE STREET LIGHTING EQUIPMENT BY THE ELECTRIC COMPANY; AND

2. THE FAIR MARKET VALUE OF THE STREET LIGHTING EQUIPMENT THAT IS REMOVED.

[(e)] (F) A county or municipality that [purchases] ACQUIRES street lighting equipment in accordance with SUBSECTION (D) OF this section:

(1) shall be responsible for the maintenance of the street lighting
equipment; [and]

(2) may contract with an outside entity for the maintenance of the street lighting equipment; AND

(3) SHALL NOTIFY THE ELECTRIC COMPANY OF ANY ALTERATION TO THE COUNTY’S OR MUNICIPALITY’S STREET LIGHTING EQUIPMENT INVENTORY WITHIN 30 DAYS AFTER THE ALTERATION.

[(f)] (G) (1) Any person who controls the right to use space on any pole, lamppost, or other mounting surface previously used in the county or municipality by the electric company for street lighting equipment shall allow a county or municipality that has purchased the street lighting equipment to assume the rights and obligations of the electric company with respect to the space for the unexpired term of any lease or other agreement under which the electric company used the space.

(2) Notwithstanding paragraph (1) of this subsection, the county or municipality may not restrict or prohibit universal access for electricity or any other service by assuming the rights and obligations of an electric company as to space on any pole, lamppost, or other mounting surface used for street lighting equipment.

(H) ANY AGREEMENT OR CONTRACT FOR SALE OR LICENSE AGREEMENT THAT APPLIES TO EQUIPMENT MOUNTED ON JOINT USE POLES MAY NOT INCLUDE ANY FEES OR OTHER COSTS NOT INCLUDED IN THE ALTERNATIVE–ENERGY–ONLY TARIFF UNDER § 4–212 OF THE PUBLIC UTILITIES ARTICLE.

(I) AN ELECTRIC COMPANY MAY NOT REQUIRE FROM A COUNTY OR MUNICIPALITY ACQUIRING STREET LIGHTING EQUIPMENT UNDER SUBSECTION (D) OF THIS SECTION:

(1) ANY PROTECTIONS OR INDEMNIFICATIONS; OR

(2) ANY STANDARDS THE ELECTRIC COMPANY DOES NOT CURRENTLY PROVIDE OR REQUIRE OF THE ELECTRIC COMPANY IN THE OPERATION AND MAINTENANCE OF STREET LIGHTING EQUIPMENT.

(J) ALL WORKERS EMPLOYED BY A COUNTY OR MUNICIPALITY TO OPERATE AND MAINTAIN STREET LIGHTING EQUIPMENT SHALL BE FULLY QUALIFIED AND MEET ANY FEDERAL AND STATE REQUIREMENTS.

(K) [(3)] (1) [Any] EXCEPT AFTER A COUNTY OR MUNICIPALITY INITIATES A CONDEMNATION PROCEEDING, ANY dispute between an electric company and a county or municipality [arising under this subsection shall] REGARDING THE FAIR MARKET VALUE OF THE STREET LIGHTING EQUIPMENT OR ANY OTHER MATTER ARISING IN CONNECTION WITH THE ACQUISITION OF STREET LIGHTING EQUIPMENT
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IN ACCORDANCE WITH PARAGRAPH (D)(1) OF THIS SECTION MAY be submitted to the Public Service Commission for resolution.

(2) WITHIN 60 DAYS AFTER RECEIPT OF A REQUEST FOR RESOLUTION, THE PUBLIC SERVICE COMMISSION SHALL ISSUE A DETERMINATION ON A DISPUTE SUBMITTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

(L) IF STREET LIGHTING EQUIPMENT IS THE SUBJECT OF A CONDEMNATION PROCEEDING, A JURY IN THE PROCEEDING SHALL DETERMINE THE FAIR MARKET VALUE AS PROVIDED FOR IN THIS SECTION.

Article – Public Utilities

4–212.

(A) IN THIS SECTION, “STREET LIGHTING EQUIPMENT” HAS THE MEANING STATED IN § 1–1309 OF THE LOCAL GOVERNMENT ARTICLE.

(B) (1) ON OR BEFORE DECEMBER 1, 2020, EACH ELECTRIC COMPANY, IN CONSULTATION WITH THE MARYLAND ENERGY ADMINISTRATION, SHALL FILE WITH THE COMMISSION AN ALTERNATIVE–ENERGY–ONLY TARIFF FOR STREET LIGHTING THAT INCLUDES ONLY ELECTRIC DISTRIBUTION FEES.

(2) (I) THE ALTERNATIVE–ENERGY–ONLY TARIFF SHALL PROVIDE FOR MONTHLY BILLS FOR STREET LIGHTING THAT SHALL INCLUDE A SCHEDULE OF ELECTRICITY CHARGES BASED ON A DETERMINATION OF ANNUAL KILOWATT–HOUR USAGE PER LUMEN RATING OR NOMINAL WATTAGE OF ALL TYPES OF STREET LIGHTING EQUIPMENT BUT MAY NOT INCLUDE FACILITY, SUPPORT, REACTIVE OR PREVENTIVE MAINTENANCE, FIXED MAINTENANCE, OR ACCESSORY CHARGES.

(II) THE DETERMINATION IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE MADE:

1. IN ACCORDANCE WITH APPROVED METHODS OF DETERMINATION FOR UNMETERED STREET LIGHTS; OR

2. BASED ON INFORMATION RECEIVED FROM LIGHTING CONTROLS THAT MEASURE USAGE AND COMPLY WITH ANSI C12.20.5 STANDARDS FOR ACCURACY.

(3) (I) FOR STREET LIGHTING EQUIPMENT IN USE IN A COUNTY OR MUNICIPALITY ON OCTOBER 1, 2020, THE ALTERNATIVE–ENERGY–ONLY TARIFF SHALL USE CALCULATION METHODS AND RATES THAT EXISTED ON OCTOBER 1,
(II) The alternative–energy–only tariff shall provide for reasonable rates for street lighting equipment that is adopted after October 1, 2020.

(4) The alternative–energy–only tariff shall provide for options for various street lighting controls, including:

(I) conventional dusk/dawn operation using photocell technology or scheduling controls;

(II) schedule–based dimming or on/off controls that dim or turn off street lights during periods of low activity; and

(III) actual usage as provided by controls that provide that information and comply with ANSI C12.20.5 for accuracy.

(C) Within 60 days after receiving an alternative–energy–only tariff from an electric company, the Commission shall issue a decision regarding the adoption of the alternative–energy–only tariff.

(D) Within 60 days after receipt of a request for resolution, the Commission shall issue a determination on a dispute regarding the terms of an alternative–energy–only tariff adopted in accordance with this section.

SECTION 2. And be it further enacted, That this Act shall take effect July 1, 2020.