

SECTION 3 OF THE VILLAGE OF CHEVY CHASE

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My name is Andy Leon Harney. I am providing this testimony to the Senate Education, Energy and Environment Committee on behalf of my community, Section 3 of the Village of Chevy Chase. We are a small municipality in Montgomery County, only 1/10th of a square mile. As Village Manager I have been asked to present our views in support of H.B. 459.

Section 3 has been trying since 2009 to purchase our own street lights without success. Pepco has put numerous barriers in our path, particularly unreasonable costs and the major sticking point, their interpretation of fair market value. The law allowing municipalities passed in 2007. Pepco, our service provider has been extremely slow in putting together a clear path for local governments—county and municipal, to acquire their own street lights. It's 2023 and we still do not have a clear path to achieving our goal of selecting and installing our own energy-efficient street lights.

Thanks to interest by the Public Service Commission, they are now working with municipalities, but we need the state legislature to weigh in as they are not going to back down on their interpretation of fair market value. Their interpretation, we can only conclude, is a back door means of obtaining lost revenue from lights they put in our communities which are now outdated. To give you an example, using their "mass plant" net book value definition, High Pressure Sodium (HPS) lights in our community would cost us \$189. each to purchase from Pepco. That is the price tag they have cited. I should point out that we were never asked if we wanted these lights, the brackets on which they sit are decades older than the 14 year old HPS lights in our community. These lights are universally recognized as outdated. No major manufacturer even makes them anymore. How could they be valued at \$189? There may be some salvage value for the light and brackets, but that is all.

The original version of this bill, without the Wivell amendment, uses the industry standard to establish the value of utility-owned lights. This bill is not the same as the last bill introduced regarding street lighting last year. I am told the states of Connecticut, Massachusetts, Maine, New Hampshire, New York and Rhode Island and the District of Columbia all use net book value (original cost minus depreciation). The idea of using mass plant numbers to come up with a net book value is absurd. No one wants these lights. Black's law Dictionary and common understanding of fair market value is the price a willing seller and willing buyer agree to for an item. Since the passage of the law in 2007, we have an unwilling seller and there are no willing buyers. We are only going through this charade because the law dictates that we have to buy them but the majority of us interested in buying our own lights are going to turn around and scrap them in favor of better quality, lower demand on the electricity grid LED lighting.

At the time this legislation was passed, the lighting in most communities was not as obsolete as it is today. In fact I don't doubt many who voted for the initial legislation thought localities would be buying and retaining the lights they had in their community. Today that is not the case. Very few jurisdictions have LED lighting, the most energy efficient street lighting on the market.

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In repeat, there are no “willing buyers” for our outdated lights. Ultimately, despite the fact that county and municipal lighting represents a tiny fraction of their overall revenue, the electric companies are worried about the loss of revenue if we all purchased our own lights and want the definition most favorable to them possible. But that definition is not fair...and fair market value, should after all, be fair.

We would like to come to an agreement with Pepco without drama and without unfair pricing and unnecessarily complex bureaucratic hoops. Without this bill, (minus the Wivell amendment) we are handicapped. The filing municipalities and Pepco will be making to the Public Service Commission on April 7th, will not resolve these issues. It is in your hands.

We need your help to make it possible for both the counties and municipalities to negotiate in good faith equitable arrangements to replace outdated lighting with lighting of our choice for our residents.

Pepco is acting as if municipal or County ownership is a “slippery slope” for them. It is not, few jurisdictions are going to be able to afford to purchase their own lighting, but we should be able to and at the moment, we are not.

We ask that you pass this thoughtful enabling legislation to make it easier for us to achieve our goal of providing better more energy efficient street lighting for our residents. Please approve this bill without the Wivell amendment adopted by the ECM. No other state has such provisions.