

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1377

S.P. 475

In Senate, March 17, 2005

An Act Regarding Municipally Owned Street Lighting

Reference to the Committee on Utilities and Energy suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator WOODCOCK of Franklin.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 35-A MRSA §2523** is enacted to read:

6 **§2523. Municipal acquisition of utility street lighting**

8 **1. Municipal rights regarding lighting equipment.** Any
10 municipality receiving street lighting services from a
12 transmission and distribution utility pursuant to a tariff that
14 provides for the use by the municipality of lighting equipment
owned by the transmission and distribution utility, such as
luminaries, lamps, brackets and other equipment necessary for the
conversion of electric energy into street lighting service, has
the rights with respect to such lighting equipment as set forth
in this section.

16 These rights apply in the event that the municipality does not
18 establish a municipal lighting plant in accordance with Part 3.
20 These rights apply in the event that a municipal lighting plant
22 is established but ownership and control of the distribution
24 facilities needed to deliver electric energy to the lighting
equipment are held and retained by the transmission and
distribution utility serving the municipality prior to the
establishment of the lighting plant.

26 **2. Municipal options.** A municipality subject to the
28 provisions of this section, upon 60 days' notice to the
transmission and distribution utility and to the commission and
subject to the provisions of subsections 3 to 8, may:

30 A. Purchase electric energy for use in lighting equipment
32 owned or leased by the municipality from the transmission
34 and distribution utility or any other person allowed by law
to provide electric energy;

36 B. Use the space on any pole, lamp post or other mounting
38 surface previously used by the transmission and distribution
utility for the mounting of the lighting equipment of the
transmission and distribution utility; and

40 C. Acquire any, or all, of the lighting equipment of the
42 transmission and distribution utility in the municipality in
accordance with subsection 3.

44 **3. Municipality shall pay compensation.** Any municipality
46 exercising the option to convert its street lighting service
48 pursuant to this section shall compensate the transmission and
distribution utility for its unamortized investment, net of any
50 salvage value obtained by the transmission and distribution
utility under the circumstances, in the lighting equipment owned

2 by the transmission and distribution utility in the municipality
3 as of the date the transmission and distribution utility receives
4 notice of such exercise pursuant to subsection 2.

5 In meeting this requirement, the municipality may acquire all or
6 any part of the lighting equipment of the transmission and
7 distribution utility upon the payment of the unamortized
8 investment allocable to the acquired equipment.

9 Upon such payment, the municipality has the right to use, alter,
10 remove or replace the acquired equipment in any way the
11 municipality considers appropriate.

12 The transmission and distribution utility, or any other owner of
13 a pole, lamppost or other mounting surface previously used by the
14 transmission and distribution utility for the mounting of the
15 lighting equipment of the transmission and distribution utility
16 may not charge the municipality an attachment or deattachment fee
17 for the placement or removal of lighting equipment on any pole,
18 lamppost or other mounting surface.

19 **4. Municipality may request removal.** A municipality may
20 request that the transmission and distribution utility remove any
21 unacquired part of the lighting equipment described under
22 subsection 3. After the transmission and distribution utility
23 has removed any unacquired part, the municipality shall pay to
24 the transmission and distribution utility the cost of removal
25 along with the unamortized investment allocable to such
26 unacquired part, net of any salvage value attributable to the
27 removed equipment.

28 **5. Limitations on actions of transmission and distribution**
29 **utility.** The transmission and distribution utility may not
30 require that maintenance to the lighting equipment acquired
31 pursuant to this section meet any standard that exceeds that of
32 state law or rule.

33 The transmission and distribution utility may not require that
34 the lighting equipment meet any code or standard that exceeds
35 those of state law or rule.

36 The transmission and distribution utility may not require of the
37 municipality any greater liability protection for the community,
38 including, but not limited to, hazard insurance, than the
39 transmission and distribution utility itself provides to the
40 community.

41 **6. Municipality may assume rights and obligations of**
42 **transmission and distribution utility.** In connection with the

2 exercise by any municipality of the option to convert its street
4 lighting service pursuant to this section, any person other than
6 the transmission and distribution utility controlling the right
8 to use space on any pole, lamppost or other mounting surface
10 previously used by the transmission and distribution utility in
12 the municipality shall allow the municipality to assume the
14 rights and obligations of the transmission and distribution
16 utility with respect to the space for the unexpired term of any
18 lease or other agreement under which the transmission and
20 distribution utility used the space.

22 In the assumption of the rights and obligations of the
24 transmission and distribution utility by a municipality, the
26 municipality may in no way restrict, impede or prohibit universal
28 access to the provision of electric and other services.

30 **7. Dispute resolution.** In connection with the exercise by
32 any municipality of the option to convert its street lighting
34 services pursuant to this section, any dispute concerning the
36 compensation to be paid the transmission and distribution utility
38 or any other matter arising in connection with such exercise,
40 including, but not limited to, the terms on which space is to be
42 provided to the municipality in accordance with subsection 6,
44 must be resolved by the commission within 60 days of any request
46 for resolution by the municipality or any person involved in a
48 dispute.

50 **8. Affiliates may compete for business.** Notwithstanding
52 any other provision of law, any affiliate of any transmission and
54 distribution utility whose street lighting service is converted
56 by a municipality in accordance with the provisions of this
58 section may solicit and compete for the business of any
60 municipality for the provision of lighting equipment or any other
62 service, such as equipment maintenance, in connection with street
64 lighting service.

SUMMARY

66 This bill creates several rights for municipalities with
68 respect to public utilities and streetlights. The bill does the
70 following:

72 1. Secures the right of municipalities to purchase only
74 energy for street lighting from the transmission and distribution
76 utility;

78 2. Secures the right of municipalities to place municipally
80 owned streetlights on utility-owned poles;

2 3. Secures the right of municipalities to acquire existing
utility-owned streetlights after the payment of compensation to
4 the utility; and

6 4. Sets limits on actions a transmission and distribution
utility may take in connection with a municipal acquisition of
8 lighting equipment.