

SENATE BILL 37

L6, C5

(PRE-FILED)

4lr1161
CF 4lr1160

By: **Senator Waldstreicher**

Requested: October 25, 2023

Introduced and read first time: January 10, 2024

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Public Utilities – Street Lighting Equipment – Acquisitions and Reporting**
3 **(County and Municipal Street Lighting Investment Act)**

4 FOR the purpose of authorizing a certain county or municipality to acquire certain street
5 lighting equipment by purchase or condemnation, convert its street lighting service
6 to a customer-owned street lighting tariff, enter into an agreement to purchase
7 electricity, and contract with an electric company for the maintenance of the street
8 lighting equipment; authorizing certain disputes to be submitted to the Public
9 Service Commission for resolution; requiring a certain investor-owned electric
10 company to make a certain report to the Public Service Commission on or before a
11 certain date; and generally relating to street lighting equipment.

12 BY repealing and reenacting, with amendments,
13 Article – Local Government
14 Section 1–1309
15 Annotated Code of Maryland
16 (2013 Volume and 2023 Supplement)

17 BY adding to
18 Article – Public Utilities
19 Section 4–212
20 Annotated Code of Maryland
21 (2020 Replacement Volume and 2023 Supplement)

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

24 **Article – Local Government**

25 1–1309.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(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 FAIR MARKET 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.

(4) “MAKE-READY WORK” MEANS ANY STREET LIGHTING EQUIPMENT INFRASTRUCTURE MODIFICATIONS:

(I) REQUIRED TO FACILITATE A TRANSFER OF STREET LIGHTING EQUIPMENT FROM AN ELECTRIC COMPANY TO A COUNTY OR MUNICIPALITY; AND

(II) THAT COMPLY WITH ALL APPLICABLE SAFETY AND ELECTRIC CODES.

(5) “STREET LIGHT SERVICE POINT” MEANS THE POINT OF INTERCONNECTION ON A STREET LIGHTING CIRCUIT WHERE OWNERSHIP CHANGES FROM AN ELECTRIC COMPANY TO A COUNTY OR MUNICIPALITY.

(6) (I) “STREET LIGHTING EQUIPMENT” MEANS ALL EQUIPMENT OWNED BY AN ELECTRIC COMPANY USED SOLELY 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, LUMINAIRES, MAST ARMS, PHOTOCELLS, CIRCUITS AND EQUIPMENT FROM THE STREET LIGHT SERVICE POINT TERMINATING AT THE LUMINAIRE, AND ANY OTHER EQUIPMENT NECESSARY FOR THE CONVERSION OF ELECTRIC ENERGY INTO STREET LIGHTING;

3. DECORATIVE STREET AND AREA LIGHTING;

4. SOLID-STATE LED LAMPS;

1 **5. INDUCTION LAMPS; AND**

2 **6. OLDER LAMP TYPES SUCH AS HIGH PRESSURE**
3 **SODIUM, MERCURY VAPOR, METAL HALIDE, OR INCANDESCENT.**

4 **(III) “STREET LIGHTING EQUIPMENT” DOES NOT INCLUDE JOINT**
5 **USE UTILITY POLES ON WHICH THE EQUIPMENT IS FIXED.**

6 **(7) “UTILITY VALUATION EXPERT” MEANS A PERSON HIRED BY A**
7 **COUNTY, A MUNICIPALITY, OR AN ELECTRIC COMPANY FOR THE PURPOSE OF**
8 **CONDUCTING AN ECONOMIC VALUATION OF STREET LIGHTING EQUIPMENT TO**
9 **DETERMINE ITS FAIR MARKET VALUE.**

10 **(B) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:**

11 **(1) LOCAL GOVERNMENTS PAY ELECTRIC COMPANIES LARGE SUMS**
12 **EVERY YEAR TO LIGHT STREETS IN COUNTIES AND MUNICIPALITIES;**

13 **(2) COUNTIES AND MUNICIPALITIES ARE LIMITED IN HOW THIS**
14 **PUBLIC SAFETY RESOURCE CAN BE MANAGED BECAUSE THE COUNTIES AND**
15 **MUNICIPALITIES OFTEN DO NOT OWN OR CONTROL THE STREET LIGHTING**
16 **EQUIPMENT WITHIN THEIR JURISDICTIONS;**

17 **(3) EFFICIENCY UPGRADES TO STREET LIGHTING EQUIPMENT**
18 **PRESENT AN OPPORTUNITY FOR COMMUNITIES TO REDUCE THEIR CARBON**
19 **FOOTPRINT AND ADDRESS CLIMATE CHANGE THROUGH EFFICIENCY UPGRADES;**

20 **(4) THERE IS OFTEN INSUFFICIENT INCENTIVE IN THE APPLICABLE**
21 **ELECTRIC RATE TARIFF FOR INSTALLING ENERGY EFFICIENT LIGHTING**
22 **TECHNOLOGIES THAT MAY REDUCE BOTH POWER AND MAINTENANCE EXPENSES;**

23 **(5) COUNTIES AND MUNICIPALITIES AROUND THE COUNTRY HAVE**
24 **SAVED CONSIDERABLE RESOURCES BY PURCHASING THEIR STREET LIGHTING**
25 **EQUIPMENT FROM ELECTRIC COMPANIES AND CONTRACTING FOR THE**
26 **MAINTENANCE INDEPENDENTLY; AND**

27 **(6) STREET LIGHTING COSTS SHOULD BE REDUCED AND SERVICE**
28 **SHOULD BE IMPROVED BY:**

29 **(I) IMPROVING PUBLIC SAFETY WITH STREET LIGHTS THAT**
30 **PROVIDE BETTER DURABILITY;**

31 **(II) REDUCING MAINTENANCE COSTS BY ALLOWING COUNTIES**
32 **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 MAINTENANCE AND BY ADOPTING TARIFFS THAT INCLUDE DISTRIBUTION SERVICE COSTS, THE COSTS OF ANY MAKE-READY WORK PERFORMED BY AN ELECTRIC COMPANY, AND OPTIONAL ELECTRIC COMPANY-PROVIDED MAINTENANCE AND REPAIR COSTS;

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

(V) PROVIDING MORE RESPONSIVE SERVICE FOR LIGHTING REPAIRS.

[(b)] (C) (1) [This] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS section applies to all counties and municipalities.

(2) THIS SECTION DOES NOT APPLY TO STREET LIGHTING EQUIPMENT OWNED BY A MUNICIPAL ELECTRIC UTILITY.

[(c) 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.]

(D) (1) AFTER GIVING 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 THE ELECTRIC COMPANY MAY:

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

(II) AFTER ACQUISITION, CONVERT ITS STREET LIGHTING SERVICE TO A CUSTOMER-OWNED STREET LIGHTING TARIFF SET IN ACCORDANCE WITH § 4-212 OF THE PUBLIC UTILITIES ARTICLE; AND

(III) ENTER INTO AN AGREEMENT TO PURCHASE ELECTRICITY FROM A RETAIL SUPPLIER LICENSED UNDER § 7-507 OF THE PUBLIC UTILITIES ARTICLE OR THE ELECTRIC COMPANY.

(2) (I) IF THE COUNTY OR MUNICIPALITY AND THE ELECTRIC

1 COMPANY FAIL TO AGREE ON THE FAIR MARKET VALUE OF THE STREET LIGHTING
2 EQUIPMENT, THE COUNTY OR MUNICIPALITY AND THE ELECTRIC COMPANY SHALL
3 EACH BE RESPONSIBLE FOR HIRING A UTILITY VALUATION EXPERT TO CONDUCT AN
4 APPRAISAL OF THE STREET LIGHTING EQUIPMENT TO DETERMINE THE FAIR
5 MARKET VALUE OF THE STREET LIGHTING EQUIPMENT.

6 (II) EACH UTILITY VALUATION APPRAISAL SHALL BE
7 COMPLETED IN ACCORDANCE WITH THE UNIFORM STANDARDS OF PROFESSIONAL
8 APPRAISAL PRACTICE.

9 (III) 1. THE COUNTY OR MUNICIPALITY AND THE ELECTRIC
10 COMPANY SHALL ENGAGE THE SERVICES OF THE SAME LICENSED ENGINEER TO
11 CONDUCT AN ASSESSMENT OF THE TANGIBLE ASSETS OF THE STREET LIGHTING
12 EQUIPMENT.

13 2. THE ASSESSMENT SHALL BE INCORPORATED INTO
14 THE APPRAISALS UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.

15 (IV) A UTILITY VALUATION EXPERT MAY NOT:

16 1. DERIVE ANY MATERIAL FINANCIAL BENEFIT FROM
17 THE SALE OF THE STREET LIGHTING EQUIPMENT OTHER THAN FEES FOR SERVICES
18 RENDERED; OR

19 2. BE AN IMMEDIATE FAMILY MEMBER OF A DIRECTOR,
20 AN OFFICER, OR AN EMPLOYEE OF EITHER THE ACQUIRING COUNTY OR
21 MUNICIPALITY OR THE SELLING ELECTRIC COMPANY WITHIN 12 MONTHS BEFORE
22 THE DATE OF HIRING TO PERFORM AN APPRAISAL UNDER THIS SECTION.

23 (3) IF THE COUNTY OR MUNICIPALITY AND THE ELECTRIC COMPANY
24 FAIL TO AGREE ON THE PURCHASE PRICE OR CONDITIONS OF PURCHASE OF THE
25 STREET LIGHTING EQUIPMENT, THE COUNTY OR MUNICIPALITY MAY ACQUIRE THE
26 EQUIPMENT BY CONDEMNATION IN ACCORDANCE WITH TITLE 12 OF THE REAL
27 PROPERTY ARTICLE.

28 [(d)] (E) If the county or municipality [purchases] ACQUIRES street lighting
29 equipment from an electric company AND CONVERTS THE STREET LIGHTING SERVICE
30 TO A CUSTOMER-OWNED STREET LIGHTING TARIFF IN ACCORDANCE WITH
31 SUBSECTION (D) OF THIS SECTION, the county or municipality shall pay to the electric
32 company the fair market value of the street lighting equipment AND THE COST OF ALL
33 MAKE-READY WORK PERFORMED BY THE ELECTRIC COMPANY.

34 [(e)] (F) A county or municipality that [purchases] ACQUIRES street lighting
35 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 **THE ELECTRIC COMPANY OR** an outside entity for the maintenance of the street lighting equipment; **AND**

(3) SHALL NOTIFY THE ELECTRIC COMPANY OF ANY CHANGE 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 CUSTOMER-OWNED STREET LIGHTING 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 UNLESS REQUIRED BY STATE LAW OR REGULATION.

(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.

[(3)] (K) (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 IN ACCORDANCE WITH SUBSECTION (D)(1) OF THIS SECTION MAY be submitted to the Public Service Commission for resolution.

(2) A DISPUTE SUBMITTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONSIDERED BY THE PUBLIC SERVICE COMMISSION IN ACCORDANCE WITH THE COMPLAINT PROCEDURES ESTABLISHED UNDER § 3-102 OF THE PUBLIC UTILITIES ARTICLE.

(L) IF STREET LIGHTING EQUIPMENT IS THE SUBJECT OF A CONDEMNATION PROCEEDING BROUGHT UNDER THIS SECTION, 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) THIS SECTION DOES NOT APPLY TO MUNICIPAL ELECTRIC UTILITIES.

(C) (1) ON OR BEFORE OCTOBER 1, 2024, EACH ELECTRIC COMPANY SHALL FILE WITH THE COMMISSION A CUSTOMER-OWNED STREET LIGHTING TARIFF FOR STREET LIGHTING THAT INCLUDES ELECTRIC DISTRIBUTION SERVICE COSTS AND THE COSTS OF ANY APPLICABLE MAKE-READY WORK PERFORMED BY THE ELECTRIC COMPANY.

(2) (I) THE CUSTOMER-OWNED STREET LIGHTING TARIFF SHALL PROVIDE FOR MONTHLY BILLS FOR STREET LIGHTING THAT SHALL INCLUDE A SCHEDULE OF ELECTRICITY CHARGES BASED ON A DETERMINATION OF KILOWATT-HOUR USAGE PER LUMEN RATING OR NOMINAL WATTAGE OF ALL TYPES OF STREET LIGHTING EQUIPMENT BUT MAY NOT INCLUDE MANDATORY STREET LIGHTING 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

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

4 **(3) THE CUSTOMER-OWNED STREET LIGHTING TARIFF SHALL**
5 **PROVIDE FOR OPTIONS FOR VARIOUS STREET LIGHTING CONTROLS, INCLUDING:**

6 **(I) CONVENTIONAL DUSK/DAWN OPERATION USING**
7 **PHOTOCELL TECHNOLOGY OR SCHEDULING CONTROLS;**

8 **(II) SCHEDULE-BASED DIMMING OR ON/OFF CONTROLS THAT**
9 **DIM OR TURN OFF STREET LIGHTS DURING PERIODS OF LOW ACTIVITY; AND**

10 **(III) ACTUAL USAGE AS PROVIDED BY CONTROLS THAT PROVIDE**
11 **THAT INFORMATION AND COMPLY WITH ANSI C12.20.5 STANDARDS FOR**
12 **ACCURACY.**

13 **(D) AFTER RECEIVING A CUSTOMER-OWNED STREET LIGHTING TARIFF**
14 **FROM AN ELECTRIC COMPANY, THE COMMISSION SHALL ISSUE A DECISION**
15 **REGARDING THE ADOPTION OF THE CUSTOMER-OWNED STREET LIGHTING TARIFF.**

16 **(E) THE COMMISSION SHALL ISSUE A FINAL DETERMINATION ON A DISPUTE**
17 **REGARDING THE TERMS OF A CUSTOMER-OWNED STREET LIGHTING TARIFF**
18 **ADOPTED IN ACCORDANCE WITH THIS SECTION THAT IS SUBMITTED IN**
19 **ACCORDANCE WITH THE COMPLAINT PROCEDURES ESTABLISHED IN § 3-102 OF**
20 **THIS ARTICLE.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That:

22 (a) In this section, “investor-owned electric company” means an electric company
23 that is not a municipal electric utility or an electric cooperative.

24 (b) On or before July 1, 2025, an investor-owned electric company shall submit a
25 report to the Public Service Commission that includes:

26 (1) the total number of streetlights owned or maintained by the
27 investor-owned electric company; and

28 (2) the total number of streetlights owned or maintained by the
29 investor-owned electric company that use light-emitting diode technology.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
31 1, 2024. Section 2 of this Act shall remain effective for a period of 1 year and 3 months and,
32 at the end of September 30, 2025, Section 2 of this Act, with no further action required by
33 the General Assembly, shall be abrogated and of no further force and effect.