

HOUSE BILL 1177

L6, C5

3lr2621

By: **Delegate Carr**

Introduced and read first time: February 8, 2013

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Street Lighting – Purchase of Equipment by Local Government and Tariffs**

3 FOR the purpose of requiring a local government to pay a certain electric company the
4 fair market value of certain street lighting equipment as determined by an
5 agreement between the local government and the electric company or as
6 determined in a condemnation proceeding under certain circumstances;
7 authorizing a local government to include all street lighting equipment that the
8 local government seeks to acquire in its jurisdiction that is owned by one
9 electric company in a single petition of condemnation under certain
10 circumstances; requiring a jury in a certain condemnation proceeding to
11 consider certain factors in determining fair market value of street lighting
12 equipment under certain circumstances; requiring the Public Service
13 Commission to require each electric company to develop one or more tariffs for
14 certain street lighting; requiring certain tariffs to include certain unbundled
15 services; authorizing certain unbundled services to be performed at the request
16 of a certain local government; requiring that a certain tariff include only electric
17 distribution and certain pole attachment fees; providing that the Commission
18 does not have jurisdiction over the operation and maintenance of certain street
19 lighting equipment under certain circumstances; making a certain clarifying
20 change; and generally relating to the acquisition of street lighting equipment by
21 a local government from an electric company and tariffs for street lighting.

22 BY repealing and reenacting, with amendments,
23 Article 24 – Political Subdivisions – Miscellaneous Provisions
24 Section 5–101
25 Annotated Code of Maryland
26 (2011 Replacement Volume and 2012 Supplement)

27 BY adding to
28 Article – Public Utilities
29 Section 4–210

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2010 Replacement Volume and 2012 Supplement)

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

5 **Article 24 – Political Subdivisions – Miscellaneous Provisions**

6 5–101.

7 (a) In this section, “electric company” has the meaning stated in § 1–101 of
8 the Public Utilities Article.

9 (b) On written request by a local government, an electric company shall sell
10 to the local government [some or all of] the electric company’s existing street lighting
11 equipment [that is located] **AT SOME OR ALL LOCATIONS** within the local
12 jurisdiction.

13 (c) **(1)** If the local government purchases street lighting equipment from
14 an electric company, the local government shall pay to the electric company the fair
15 market value of the street lighting equipment **AS DETERMINED BY AN AGREEMENT**
16 **BETWEEN THE LOCAL GOVERNMENT AND THE ELECTRIC COMPANY OR AS**
17 **DETERMINED IN A CONDEMNATION PROCEEDING.**

18 **(2)** **A LOCAL GOVERNMENT MAY INCLUDE IN A SINGLE PETITION**
19 **FOR CONDEMNATION ALL STREET LIGHTING EQUIPMENT THAT THE LOCAL**
20 **GOVERNMENT SEEKS TO ACQUIRE WITHIN ITS JURISDICTION THAT IS OWNED BY**
21 **ONE ELECTRIC COMPANY.**

22 **(3)** **IN A CONDEMNATION PROCEEDING BROUGHT IN**
23 **ACCORDANCE WITH THIS SUBSECTION, THE JURY DETERMINING FAIR MARKET**
24 **VALUE SHALL CONSIDER:**

25 **(I) THE AGE, CONDITION, TYPE, AND OPERABILITY OF THE**
26 **STREET LIGHTING EQUIPMENT;**

27 **(II) ANY PAST PAYMENT OR CONTRIBUTION BY THE LOCAL**
28 **GOVERNMENT TO THE ELECTRIC COMPANY FOR THE CONSTRUCTION OF THE**
29 **STREET LIGHTING EQUIPMENT;**

30 **(III) COMPARABLE SALES OR OTHER APPROPRIATE**
31 **INDICATION OF THE VALUE OF THE STREET LIGHTING EQUIPMENT; AND**

32 **(IV) ANY OBLIGATION BY THE LOCAL GOVERNMENT TO PAY**
33 **FOR THE MAINTENANCE OF THE STREET LIGHTING EQUIPMENT IF THE**

1 **OBLIGATION TO PAY FOR THE MAINTENANCE MAY NOT BE TERMINATED**
2 **WITHOUT GIVING AT LEAST 60 DAYS NOTICE.**

3 (d) A local government that purchases the street lighting equipment in
4 accordance with subsection (b) of this section shall be responsible for the maintenance
5 of the street lighting equipment and may contract with an outside entity for the
6 maintenance of the street lighting equipment.

7 (e) (1) Any person who controls the right to use space on any pole,
8 lamppost, or other mounting surface previously used in the local jurisdiction by the
9 electric company for street lighting equipment shall allow a local government that has
10 purchased the street lighting equipment to assume the rights and obligations of the
11 electric company with respect to the space for the unexpired term of any lease or other
12 agreement under which the electric company used the space.

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

17 (3) Any dispute between an electric company and a local government
18 arising under this subsection shall be submitted to the Public Service Commission for
19 resolution.

20 **Article – Public Utilities**

21 **4–210.**

22 **(A) (1) FOR UNDERGROUND–FED STREET LIGHTING EQUIPMENT**
23 **OWNED BY A LOCAL GOVERNMENT AND MOUNTED TO POLES ALSO OWNED BY**
24 **THE LOCAL GOVERNMENT, THE COMMISSION SHALL REQUIRE EACH ELECTRIC**
25 **COMPANY TO DEVELOP ONE OR MORE TARIFFS.**

26 **(2) (I) A TARIFF ESTABLISHED UNDER PARAGRAPH (1) SHALL**
27 **INCLUDE UNBUNDLED REACTIVE AND PREVENTATIVE MAINTENANCE SERVICES.**

28 **(II) THE UNBUNDLED SERVICES MAY BE PERFORMED AT**
29 **THE REQUEST OF THE LOCAL GOVERNMENT.**

30 **(B) (1) FOR OVERHEAD–FED STREET LIGHTING EQUIPMENT OWNED**
31 **BY A LOCAL GOVERNMENT AND MOUNTED TO POLES OWNED BY A PUBLIC**
32 **SERVICE COMPANY, THE COMMISSION SHALL REQUIRE EACH ELECTRIC**
33 **COMPANY TO DEVELOP A TARIFF THAT INCLUDES ONLY ELECTRIC**
34 **DISTRIBUTION FEES AND POLE ATTACHMENT FEES, IF ANY.**

1 **(2) THE COMMISSION DOES NOT HAVE JURISDICTION OVER THE**
2 **OPERATION AND MAINTENANCE OF STREET LIGHTING EQUIPMENT DESCRIBED**
3 **IN PARAGRAPH (1) OF THIS SUBSECTION.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2013.