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H.P. 885

House of Representatives, March 27, 2013

**An Act To Lower Costs to Municipalities and Reduce Energy
Consumption through Increased Competition in the Municipal
Street Light Market**

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative NELSON of Falmouth.
Cosponsored by Senator MAZUREK of Knox and
Representatives: CHIPMAN of Portland, DICKERSON of Rockland, DION of Portland,
DUNPHY of Embden, HOBBS of Saco, MORRISON of South Portland, Senators:
CLEVELAND of Androscoggin, PLUMMER of Cumberland.

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

2 **Sec. 1. 35-A MRSA §2518, sub-§6** is enacted to read:

3 **6. Street lights; use of poles.** The following programs govern street lights that are
4 attached to utility poles in the public way.

5 A. On or after July 1, 2014, a transmission and distribution utility shall provide the
6 following options for contracts for street and area lighting provided by luminaires
7 attached to poles owned or under the contractual management of the transmission and
8 distribution utility located in the public way:

9 (1) Under the first option, the transmission and distribution utility provides all of
10 the components of the lighting system, including installation on the utility poles
11 and maintenance, and provides electricity delivery to the lighting system from a
12 power vendor selected by the municipality. The transmission and distribution
13 utility shall apply a bundled monthly charge for these services as approved by the
14 commission that reflects the total cost to provide street lighting equipment for
15 each light and a separate charge for power delivery consistent with paragraph D.
16 The location of lights must be determined in accordance with paragraph C;

17 (2) Under the 2nd option, the transmission and distribution utility installs all of
18 the components of the street lighting hardware as selected, purchased and owned
19 by the municipality on the utility poles owned or under contractual management
20 by the transmission and distribution utility, and connects the light to the power
21 source on the pole. The installed street lighting hardware includes the mounting
22 bracket, mounting arm, luminaire fixture, time of use control mechanism and
23 supply wire that meet appropriate wind and weight loading and service ratings for
24 the installed location and otherwise conform to the municipality's design, light
25 level, energy consumption and control choices. The transmission and distribution
26 utility may apply a one-time charge per luminaire for the installation as
27 established by the commission that reasonably reflects the costs of labor and
28 materials needed for the installation and connection.

29 Any subsequent repairs made by the transmission and distribution utility to the
30 mounting hardware or the power supply wire connection must be billed at a rate
31 reflecting the costs of labor and materials as established by the commission.
32 Maintenance of all components of the light fixture, including, but not limited to,
33 the photocell, controller, bulb, light emitting diode array, light emitting diode
34 driver, starter, lens or light housing, is the responsibility of the municipality or its
35 contractor. Work on the light fixture must be carried out by trained individuals
36 working under an agreement establishing lines of liability between the
37 transmission and distribution utility, any telecommunications provider, if
38 applicable, and the municipality owning the lighting equipment. The commission
39 shall designate a standardized color coding for the wattage decals on street lights
40 and for decals on the mounting arm, to differentiate street lighting infrastructure
41 owned by the municipality from street lighting infrastructure owned by the
42 transmission and distribution utility. Light locations, delivery charges and power
43 supply options are governed by paragraphs C and D; and

1 (3) Under the 3rd option, the transmission and distribution utility connects to the
2 power lines a fixture owned and installed by the municipality or its contractor on
3 a pole owned or under the contractual management of the transmission and
4 distribution utility. All of the provisions governing street lighting design
5 specified in subparagraph (2) apply. Light locations, delivery charges and power
6 supply options are governed by paragraphs C and D. Maintenance of the light
7 fixture and mounting hardware is the responsibility of the municipality or its
8 contractor. Installation of the street lighting hardware on the pole as well as any
9 subsequent maintenance and repairs must be carried out by trained individuals
10 working under an agreement establishing lines of liability between the
11 transmission and distribution utility, any telecommunications provider, if
12 applicable, and the municipality owning the lighting equipment. The commission
13 shall designate a standardized color coding for the wattage decals on street lights
14 and for decals on the mounting arm to differentiate lighting infrastructure owned
15 by the transmission and distribution utility from lighting owned by the
16 municipality. The transmission and distribution utility may apply a one-time
17 charge per luminaire for the installation as established by the commission that
18 reasonably reflects the costs of labor and materials needed for the installation and
19 connection.

20 B. Nothing in this subsection limits, precludes or interferes with the right of a
21 municipality to locate in the public way or on other property owned by the
22 municipality both poles and luminaires, including decorative street lights, that are
23 fully owned, installed and maintained by the municipality. In the case of lights, poles
24 and wiring fully owned by the municipality, the transmission and distribution utility
25 shall deliver metered or unmetered power from a supplier selected by the
26 municipality for a power-only delivery fee based on the provisions of paragraph D.

27 C. The location of street and area lighting installed on poles owned or under the
28 contractual management of a transmission and distribution utility in the public way
29 within a municipality is governed by the following provisions.

30 (1) Under the options provided in paragraph A, subparagraphs (2) and (3), the
31 transmission and distribution utility may charge the municipality a one-time,
32 make-ready fee as approved by the commission when a light is first installed on a
33 pole, a larger replacement luminaire is proposed, a longer mounting arm is
34 proposed or a different location on the pole is requested by the municipality. The
35 transmission and distribution utility may not charge a make-ready fee if the
36 current street light fixture and related hardware are being downsized or if the
37 current light is being replaced with a unit having the same or lower wind and
38 weight loadings on the pole. If a make-ready pole loading analysis indicates a
39 support wire is needed, the transmission and distribution utility may charge a
40 one-time fee covering the cost of labor and materials for the installation of the
41 support.

42 (2) The transmission and distribution utility or telecommunications provider
43 owning the pole may reasonably refuse to install or approve the installation of a
44 street light fixture pursuant to this subsection if a make-ready pole loading
45 analysis shows that the existing combinations of wire, transformer and wind and
46 weight loadings does not allow for the additional loading of the street light

1 fixture or if the proposed light would unreasonably interfere with existing uses of
2 the pole. Upon such a refusal, the transmission and distribution utility must make
3 available space on the closest existing pole that allows the municipality to
4 provide street lighting levels that meet the relevant street lighting standards.

5 (3) The transmission and distribution utility has 60 days from the time a request
6 is filed by the municipality to approve a specific pole for the installation of a
7 street light including, as applicable, designating the location on the pole for the
8 installation, approving the use of a pole with the condition that an additional
9 support be added, or approving an alternative pole in the immediate vicinity
10 pursuant to subparagraph (2).

11 D. The delivery charge for the transmission and distribution utility to convey
12 electricity to the municipal street lighting systems as provided in paragraph A and the
13 power supply options for those systems are governed by the following provisions.

14 (1) The power-only per kilowatt-hour delivery rate must reflect the flat load and
15 negligible start-up demand of street lighting and include varying hourly rates that
16 reflect the off-peak usage times of street lighting.

17 (2) For unmetered street lighting, the total monthly kilowatt-hour usage must
18 either:

19 (a) Be calculated based on the luminaire wattage combined with standard
20 dusk-to-dawn hourly calculations for the month billed and the location of the
21 lighting system; or

22 (b) Be calculated based on the per-hour usage and wattage data from street
23 lighting system dimmers and controllers that have meter-level accuracy.

24 (3) For municipal street lighting systems as detailed in paragraph A,
25 subparagraphs (2) and (3), the only reoccurring charge or fee the transmission
26 and distribution utility may charge is a kilowatt-hour power-only delivery charge
27 derived pursuant to subparagraphs (1) and (2) as approved by the commission.

28 (4) A municipality may choose the power supplier for its street lighting system,
29 including designating the bill covering all of the municipality's unmetered street
30 lights as one meter for the purposes of net metering.

31 E. A transmission and distribution utility shall allow a municipality to transition
32 existing utility-owned street and area lighting for which the municipality is billed and
33 that is located on poles owned or under the contractual management of that
34 transmission and distribution utility from a utility-provided system to either form of
35 municipal ownership of the street lighting hardware in paragraph A, subparagraphs
36 (2) and (3) within 9 months of the municipality's petitioning the transmission and
37 distribution utility to exercise one or both of the following options.

38 (1) Twice a year the municipality may petition the transmission and distribution
39 utility to transition any lighting fixtures and mounting hardware that fully
40 depreciated in the past 6 months, or fully depreciated at some point in the past, to
41 street lighting owned by that municipality and installed pursuant to paragraph A,
42 subparagraph (2) or (3). If the mounting hardware is in serviceable condition, the
43 municipality may acquire the mounting hardware for its current depreciated value

1 and have the transmission and distribution utility install, at a replacement fee
2 established by the commission, a new compatible municipally owned luminaire
3 on the existing mounting hardware with the municipality assuming full
4 ownership and ongoing maintenance of all components of the light fixture
5 pursuant to paragraph A, subparagraph (2).

6 If the municipality elects to replace all of the fully depreciated lighting
7 equipment, the requirements and fees provided in paragraph A, subparagraph (2)
8 or (3), as chosen by the municipality, apply.

9 If completely new lighting or no lighting is installed, the transmission and
10 distribution utility may not charge for the removal of fully depreciated equipment
11 but may only charge the installation or connection fee for any installed
12 replacement unit as specified in paragraph A, subparagraphs (2) and (3). The
13 transmission and distribution utility shall negotiate a transition schedule with the
14 municipality for continuous service.

15 (2) Twice a year the municipality may petition the transmission and distribution
16 utility to transition all the street lighting along a road segment, all the lighting in a
17 neighborhood or all the lighting in the municipality to new street lighting owned
18 by the municipality pursuant to paragraph A, subparagraph (2) or (3). To the
19 extent that installed hardware for individual street lighting units in the area
20 designated for transition has not fully depreciated as described in subparagraph
21 (1), the municipality shall pay the transmission and distribution utility an amount
22 equal to the remaining not-yet-depreciated value of the hardware for any
23 equipment the municipality chooses to retain or an amount equal to the remaining
24 not-yet-depreciated value minus the current market value for each unit that is
25 decommissioned. Once the remaining value, if any, is determined as specified,
26 all other provisions of this paragraph for transitioning fully depreciated street
27 lighting equipment apply to the fixtures and lighting equipment in the area
28 designated for transition.

29 SUMMARY

30 This bill requires electricity transmission and distribution utilities to provide 3
31 options for municipal street lighting programs: the utility-provided services option, the
32 municipally owned, utility-installed option and the municipally owned, installed and
33 maintained option. Under these various options, the bill provides for how a municipality
34 may be charged for the utility infrastructure services provided, how the location of street
35 and area lighting will be provided on the utility poles, at what rates or by what methods
36 the electricity delivery charges may be assessed and how a municipality may transition
37 from one option to another during the course of any year.