



## **A How-To Guide and Timeline for Municipal Purchase of Street Lights in NYSEG Territory**

By Jen Metzger, PhD

### **Benefits and costs of municipal ownership**

This guide will be of value to municipalities that are considering, or would like more information about, purchasing their street light system and converting to municipally-owned LEDs.

Note: Municipalities interested in utility-owned LEDs will have more information after the New York State Public Service Commission (PSC) completes its review of NYSEG's proposed LED options later this year. You can view NYSEG's proposal here:

[https://www2.dps.ny.gov/ETS/search/searchSubmissionID.cfm?sub\\_id=2789763](https://www2.dps.ny.gov/ETS/search/searchSubmissionID.cfm?sub_id=2789763)

MHSC has filed comments and recommendations with the PSC, which you can find here:

<http://www.documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId...8427-4B43>.

Preliminary findings of a Mid-Hudson Street Light Consortium (MHSC) analysis of municipal ownership pathways to LED conversion found that local governments in NYSEG territory could reduce their street lighting costs by 50% to 60% if they purchased the street light system from the utility and converted to LEDs.<sup>1</sup> However, because fixture rental costs are lower in NYSEG territory than in other service territories, it takes longer for the investment to be paid back by the savings—about 5 to 7 years. If financed through bonding, you will start to see savings in Year 1 if the bond has at least an eight-year term.<sup>2</sup>

Preliminary findings also show that municipal ownership allows for greater potential energy savings—77% reductions in energy use compared to a 66% reduction that you would get with NYSEG's proposed LED options. This is because you have control over fixture wattages and can better size your LED replacements rather than being limited to utility LED wattage choices.

Other benefits of ownership:

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<sup>1</sup> Please note that this MHSC assessment is currently undergoing peer review, and therefore findings can only be considered preliminary at this stage. Following review, the final report is expected to be released in April.

<sup>2</sup> The analysis calculates cost savings using a representative portfolio of 100 lights; while this offers guidance, cost savings may differ for your municipality if your street light inventory differs significantly from the average in the service territory.



- Your municipality can choose the LED lights that are most appropriate to your community. You have control over fixture choice and specifications—the manufacturer, model, wattages, styles, lighting color temperature—that you do not have with utility lights. You’re in a much better position to implement an LED conversion that your residents and businesses will be happy with.
- If your municipality owns the lights, you are also in a better position to take advantage of advanced functionality, using street lights as a communication platform for other town services, such as water meter reading, or to dim the lights at certain times in the evening in order to realize greater energy savings.

With ownership comes new responsibilities, such as maintaining the lights and responding to calls from the public if a light is out. These services can be outsourced or can be done in house—these are decisions your municipality will have to make. The Consortium has guidance on procurement of LED street lights and ongoing maintenance, which can be found at <http://www.nystreetlights.org>. The focus herein is on taking over the system from the utility.

### **Regulatory context**

Your municipality may reasonably ask, “why do we have to purchase those old lights—how could they possibly have any value?” This is a completely reasonable question, but the answer is, most of those lights still have some undepreciated value on the utility’s books, and Public Service Law requires that you purchase the asset from the utility. The often substantial savings from ownership makes this purchase worthwhile.

In 2015, the State Legislature passed a law intended to make it easier for municipalities to purchase their street light systems, and in October 2016, the PSC issued an Order to implement this new law, approving modifications to the utilities’ tariffs laying out the purchase process, with steps and timeframes. (A utility “tariff” contains the utility’s rules, policies, and schedule of rates, and must be approved by the PSC to ensure that they are fair, reasonable, and non-discriminatory. The tariff is available on the NYS DPS website.)

### **Overview of Process**

The steps:

- Inform the utility in writing that your municipality is interested in purchasing the system, and request an estimated purchase price.
- The utility has 90 days to respond with an estimate.
- After considering the estimate, you must let the utility know that you want to move forward.



- The utility will send the municipality a draft agreement for the purchase and operation of the street lights, and the negotiation process begins.
- Once a mutually acceptable agreement is reached and signed by the parties, the utility has up to 60 days to file the signed agreement with the PSC for review and approval. The Commission approval process can take anywhere from three to six months.
- After Commission approval, the municipality moves to electricity delivery-only service and ceases to pay monthly fixture charges.

## **Timeframe**

From start to finish, the purchase process could take six to 13 months, assuming that within two months the municipality and the utility can successfully negotiate the terms of the purchase agreement and the municipality's Board approves it.<sup>3</sup> The process could be shortened to five months if the utility responds promptly to a request for an estimated purchase price, if the municipality negotiates and approves the agreement more quickly, and if the PSC signs off on the purchase agreement in three months.

## **NYSEG purchase agreement**

The formal title of the agreement is the "Street Lighting Pole Attachment Agreement between NYSEG and [municipality name]."

The agreement spells out what you are buying, the price, and the conditions for the purchase; and the rights and obligations of the municipality and the utility with regard to the transfer of the system and ongoing operation and maintenance.

How does NYSEG calculate the purchase price estimate? First, the utility looks at the municipality's street light inventory—the size, type, and age of the existing lights—to determine the net book value of the asset. Once the inventory has been confirmed, NYSEG employs a methodology called, "the Present Value of Return on Assets (PVROA)," which incorporates net book value as well as the expected future return on street lights if the utility continued to own the asset. NYSEG then adds another seven percent of the PVROA for administrative and general expenses. For the Village of Horseheads, the total price averaged to about \$100 per fixture, and for West Seneca, the total price averaged to about \$250 per fixture. (In the case of West Seneca, this price also included some other equipment, including a number of poles and underground cables, and not just the fixtures and armature.)

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<sup>3</sup> The minimum of six months assumes that the utility provides a purchase estimate in two weeks rather than three months; and submits the final agreement to the PSC in two weeks rather than two months.



It is expected that the municipality will try to negotiate the price, and you'll be in a better position to do so if you've undertaken an assessment of your street lights and gotten a sense of what condition they're in. As a result of the PSC's October 2016 Order, the utility is now required to share with your municipality all of the information upon which the purchase price estimate is based.

Under NYS law, it is up to NYSEG whether to sell the system, but this does not mean you shouldn't try to get a lower price if you feel their estimate is high.

Keep in mind that while you'll end up replacing the existing lights with LEDs, you'll continue to use the arms for the new fixtures. Also keep in mind that you are buying the equipment **as-is**—if you discover a problem later with the equipment, your municipality can't go back to the utility and make them fix it. Of course, they continue to be responsible for their own equipment to which your street lights are attached. The municipality will only own the lights and arms (and in some cases, the poles).

Once you've purchased the system, you'll have to pay a monthly pole rental fee unless you own the poles. This fee is set in the utility tariff, and cost about one dollar per month per pole for the rate year of 2017. This fee, like all utility rates, goes up by a few percent each year.

Pursuant to comments submitted by the Mid-Hudson Street Light Consortium to the PSC, the Commission stated in a recent Order that utilities could no longer charge certain costs they had been imposing on municipalities seeking to purchase their street light system, including charges for audits and inspections.

In the case of the Horsehead's agreement, NYSEG was entitled to periodically survey and inspect the lights at the municipality's expense. The utility could also charge for a pre-construction survey. Neither of these provisions are now permitted. If these provisions appear in your draft purchase agreement, refer the utility to pages 22 and 27 of the Commission's Order Approving Tariff Amendments with Modifications, dated October 14, 2016.

The purchase agreement typically includes:

**WORKERS' CERTIFICATION:** Workers that are installing and/or maintaining the lights must meet certain qualifications.

**INSURANCE REQUIREMENTS:** The utility will require that the municipality carry certain types of insurance, and the municipality typically must name the utility as Additional Insured in the policies.

**TAGGING:** When you take over ownership, you will have to place a tag on each street light identifying the light as municipally-owned. Tagging has to be done within 24 months of



approval of the signing of the purchase agreement. These tags cost about \$1 a piece, and can be installed at the time the LEDs are installed.

**IN-LINE DISCONNECT FUSE:** You will also have to install an in-line disconnect fuse, which provides a physical demarcation between the municipality’s new property—the street lights—and the rest of the utility’s infrastructure. This fuse allows you to disconnect from the system, or “de-energize” your lights, when you install the LEDs or any time you work on the lights. Most utilities require installation of this fuse. As with the tagging, you have 24 months after signing the agreement to install this fuse. It makes the most sense to install the fuse at the same time that you convert to LEDs.

**ATTACHMENT PERMISSION FROM VERIZON:** You will have to get permission from Verizon to continue to attach street lights to any poles Verizon owns or jointly owns with the utility.

**UTILITY NOTIFICATION:** Whenever your municipality works on the lights—for instance, when you install LEDs--NYSEG must be notified. The agreement lays out the notification process.

**MAINTENANCE:** In terms of on-going maintenance, it will be up to the municipality to undertake any tree-trimming if branches obscure the lights.

**REVIEW:** The municipality’s attorney should carefully review the agreement before it is signed.

## **Next Steps**

A **billing audit** is a valuable first step that frequently results in refunds from the utility to the municipal customer. It is not uncommon for municipalities to be over-billed by the utility due to errors in record-keeping over the years. They at times fail to record changes in light wattages and types; they bill for lights that are no longer there, or that are now on private property, for example. You can do a billing audit yourself or you can contract it out to a professional. MHSC maintains a list of such contractors that can be shared.

*The author of this guide, Jen Metzger, PhD, is director of Citizens for Local Power. Dr. Metzger produced the guide under the auspices of the Mid-Hudson Street Light Consortium, which is supported by the New York State Energy Research and Development Authority. MHSC is a grantee of NYSERDA’s Cleaner, Greener Communities Program. Overseen by NYSERDA’s Communities and Local Government Program, the Consortium comprises lead contractor Courtney Strong Inc. and subcontractors Citizens for Local Power, Abundant Efficiency LLC and LightSmart Consulting LLC. More than four dozen Mid-Hudson municipalities have participated in MHSC activities to date. For more information, see [www.NYstreetlights.org](http://www.NYstreetlights.org)*