



## **A How-To Guide and Timeline for Municipal Purchase of Street Lights in Orange & Rockland Utilities 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.

Preliminary findings of a Mid-Hudson Street Light Consortium (MHSC) analysis of municipal pathways to LED conversion – by upgrading to utility LED options and or purchasing the streetlight system from the utility and upgrading to LEDs of your municipality’s choosing--found that local governments would substantially reduce their street lighting costs if they purchased the street light system.<sup>1</sup>

The results of the analysis were particularly compelling for O&R territory:

- Municipal O&R customers could see a 90% reduction in street lighting bills *compared to their current bills for the old lights*. Much of these savings are the result of avoided fixture rental costs, though there are also significant additional financial savings from converting to LEDs because they use much less energy and require much less maintenance. Purchasing the system and converting to LEDs goes hand-in-hand. A municipality could see additional energy savings of 40% by installing more efficient LEDs than the company is proposing to offer—this is the benefit of being able to choose municipally-owned fixtures.
- The payback on the investment is about 2-3 years. Your municipality could see a reduction in costs beginning in Year 1 if the municipality bonded and Year 2 if self-financed.<sup>2</sup>

Other benefits of ownership:

- Your municipality can choose the LED lights that are most appropriate to your community. You have control over fixture choice—the manufacturer, models, wattage, styles, lighting color temperature--that your municipality would not have with utility

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<sup>1</sup> Please note that this MHSC assessment is currently undergoing peer review, and therefore findings can 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.



lights. With ownership, your municipality would be in a better position to implement an LED conversion that residents and businesses will be happy with.

- If your municipality owns the lights, it can take advantage of advanced functionality, using streetlights as a communication platform for other town services, such as water meter reading, or to dim the lights at certain times in the evening, to realize greater energy savings.

With ownership comes new responsibilities, such as maintaining the lights, taking the necessary precautions to address unanticipated events—for instance, if a storm takes out some street lights. Your municipality needs to have the capacity to respond to calls about street light outages. These services can be outsourced or handled in house.

Note: The Consortium has guidance on procurement of LED street lights and ongoing maintenance, which can be found at <http://www.nystreetlights.org>. This guide focuses on taking over the system from the utility.

### **Regulatory context**

Your municipality may reasonably ask, why do I have to purchase those old lights—how could they possibly have any value? Most of the lights have some undepreciated value on the utility’s books, and Public Service Law requires that your municipality purchase the asset from the utility. They cannot give it to your municipality. The savings from ownership offset the purchase and the return on investment is fairly quick.

The State Legislature recognized the benefits of municipal ownership of street lights and in 2015, passed a law intended to make such transactions easier. There is now a process outlining steps and time frames that are spelled out in the utility’s tariff rather than being left to the discretion of the utility. A tariff contains the utilities’ rates, which have been reviewed and approved by the Public Service Commission, and can be found on the PSC’s 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 documents 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.

## O&R purchase agreements

There are three agreements, which will be considered together—one is the "Agreement for Purchase and Sale of Street Lighting Facilities" another is the "Operating Agreement," and the third is a "Mutual Release and Settlement Agreement."

--**The purchase agreement** spells out what your municipality is buying, the price and the conditions for the purchase. O&R calculates the purchase price estimate by looking at the size, type, and age of your existing lights to determine the net book value of the asset. Your municipality is entitled to have a representative present when the field survey is undertaken. Once the inventory has been confirmed, O&R employs a "replacement cost new less depreciation" methodology that includes the net book value plus the labor cost of the original installation and any overhead (e.g., buildings, warehouses, personnel), which is then depreciated based on the age of the asset. The accumulated depreciation is then subtracted from the estimate of the cost to replace the system new.

In the case of Orangetown, the purchase price averaged to about \$159, and in the case of Clarkstown, the purchase price averaged to about \$168 per fixture. The savings from owning the lights are considerable, making it advantageous even if your municipality cannot obtain any price concessions. In New York State, the utility can decide whether or not it wishes to sell, which affects the negotiation. As a result of an October 2016 PSC ruling, utilities are now required to share with municipalities all of the information upon which its cost estimate is based.

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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.



**-The settlement agreement** outlines that the system is being sold as is, and neither the seller nor the buyer can make any claims against one another regarding the system once sold. A town, for instance, cannot collect refunds on past billing errors, making it important that the municipality undertake a billing audit before the sale.

Keep in mind that while your municipality will end up replacing the existing lights with LEDs, you will continue to use the arms for the LEDs (assuming they are in good shape). Your municipality is buying the equipment **as-is**—if a problem is discovered later with the equipment, you cannot ask the utility to make repairs. Of course, the utility continues to be responsible for the equipment to which your municipal street lights are attached, and the energy delivery infrastructure generally. Your municipality owns the lights and arms.

**The operating agreement** sets out the rights and responsibilities with regard to the operation, maintenance, repair and replacement of lights once the municipality owns the system. It lays out the procedures for any work done on the lights, including installation of new lighting, and how your municipality is to communicate with the utility about that work, the certification requirements of your municipal workers or contractors, and your insurance requirements.

NOTE: When your municipality takes over ownership, you will have to put a tag on the light identifying it as municipally owned, and this has to be done within 24 months of approval of the signing of the purchase agreement. These tags cost about \$1 a piece, which you would likely install when you install the LEDs.

Your municipality will also have to install an in-line disconnect fuse, which provides a physical demarcation between your municipality new property—the street lights—and the rest of the utility’s infrastructure. This fuse allows you to disconnect from the system (i.e., “de-energize” the lights) when your municipality installs the LEDs or any time you work on the lights. Again, this would be done during the LED installation project, and is standard—most utilities require installation of this fuse. As with the tagging, your municipality has 24 months after signing the agreement to install this fuse.

Your municipality will have to get permission from Verizon to continue to attach street lights to poles that are owned by the telecommunications company or jointly owned with the utility, if your municipality has lights on poles that are not solely owned by O&R.

When municipal employees or contractors work on the lights—for instance, when installing LEDs--your municipality will inform O&R by recording each work item on O&R’s online Municipal Streetlight Portal for O&R approval prior to performance of work. It’s a handy way of doing this—no other utility has a web portal set up.

Tree-trimming: The agreement provides that the municipality will be responsible for undertaking any necessary tree-trimming if branches obscure the lights.



Stray voltage provision: If determined that the street light system is causing or contributing to stray voltage, it will be the municipality's responsibility to fix it.

The municipality's attorney should review these agreements.

### **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. For example, they can 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. Your municipality can do its own billing audit or it can be contract out to a professional. We will be glad to provide a PowerPoint presentation that we developed with Town of Marbletown volunteers to outlines the steps they took to audit their street lights, which netted them a refund check and the decommissioning of some lights that were found to be unnecessary.

*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)*