

BY EMAIL

Friday, 12 December 2025

Michelle L. Philips, Secretary
New York State Public Services Commission
secretary@dps.ny.gov

Re: REQUEST FOR REHEARING - NYSPSC Case 23-E-0727

Dear Ms. Phillips,

Under Title 16, New York Codes, Rules and Regulations (NYCRR) § 3.7 and § 3.8, we submit this REQUEST FOR REHEARING of the Order Denying Petition, issued November 14, 2025. We are requesting this rehearing on the grounds that the commission has committed errors of law, errors of fact, and that there are new circumstances that warrant a different determination. We believe that the Commission's assertion that there is "no basis for requiring NG to take the action requested" is incorrect, and that the Commission's statement that it has "limited authority" to compel replacement of the LED lighting with the previous lighting is incorrect. Also we believe that the Commission's focus on tariffs to be an indication that the Commission has misinterpreted the essential issue upon which this petition was brought.

I. NEW CIRCUMSTANCES THAT WARRANT A DIFFERENT DETERMINATION:

By mid-2025, it is established science that electronic LED lighting has distinct and unprecedented biologically and neurologically harmful properties that affect living beings in manifold detrimental ways. This was not clear when this petition was sent four years ago. We have been updating the commission with this expanding body of knowledge with public comments sent to the public records. The commission cannot render a ruling as if this knowledge has not been passed on to it. The commission has to absorb, incorporate, and act upon relevant, updated research when making its decision. To not do so will lead to an incorrect, invalid understanding of the facts and, therefore, an incorrect decision. This more recently established knowledge constitutes new circumstances.

There are also, literally, new circumstances that are making life intolerable for people. The assumption that LED light is essentially similar to naturally occurring or natural analog light, (e.g. incandescent or HPS) is wrong. Huge, and growing, amounts of research show this to be the case. It is also a new circumstance that the government demands that the population be exposed to, pay for, and live with, lighting that is a threat to the health and safety of a large section of the population. We have sent you substantiating information from the lighting industry, confirming medical research, and corroborating individual experiences, that show that, since 2021, when our petition was submitted, and now, there is a vast amount of new research clearly showing that everything we have sent you in relation to LED lighting proves it to be hazardous. This research supports what we are reporting to you.

LED light meets the definition of "hazardous substance" under NYS law.

NYS Civil Law 240; Offences against Public Order:

Definitions:

Hazardous Substance:

“Hazardous Substance” shall mean any physical, chemical, microbiological or **radiological** substance or matter which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may **cause** or **substantially contribute** to an **increase in mortality**, or an increase in **serious, irreversible or incapacitating reversible illness**, or **pose a substantial present or potential health hazard to human health.**”

The commission cannot avoid addressing this issue by referring to “tariffs” and only tariffs, as if people being involuntarily exposed to a hazardous substance - LED light - that causes migraines, headaches, eye pain, temporary blindness, seizures, lupus flares, as reported to you, as supported by the latest research and the testimony of the lighting industry, is a secondary matter, and by minimising the pain and suffering of the petitioners. Tariffs which permit this kind of disruption to people’s lives **must** be changed. Any ruling from NYSPSC that leaves people in harm’s way is unjust and an abrogation of the commission’s primary responsibility, which is to ensure the delivery of **safe** services to residents.

2. ERRORS OF LAW:

We believe that NYSPSC committed errors of law by accepting a petition from customers under PSL71, and then improperly and arbitrarily assigning favoured status to the village and utility.

- NYSPSC took up our complaint under PSL71, “upon the complaint in writing of not less than twenty five customers,” a criterion we met. Also, in their Notice of Investigation and Inviting Comments issued March 2022, NYSPSC calls us “Customers.” However, in the judgement they handed down, NYSPSC seems to now use the word “customer” in a random and biased way that favored the claims of NG. By that logic, all that is necessary for NYSPSC to deny any complaint is for the commission to find a party who is not complaining. By deciding that petitioners are not customers, the commission has stripped them of a right and a tool for redress. It was not made clear that the petitioners’ status could be downgraded in this way. If the petitioners are customers who have standing to make a complaint, it is unjust and unreasonable for NYSPSC to then treat them as if they have no standing. By the framing of the law, the customers have equal standing with the utilities and municipalities.

- The commission did not address the petition as coming from 52 residents, each with equal customer status. In short, the petitioners and customers are one and the same. The order of denial repeatedly singles out only one resident. NYSPSC inappropriately accepted responses from the Village and NG that did not address the complaints of all 52 petitioners but only focused on one. This is not a

proper response to the complaints of the other petitioners. The commission has ignored the comments and complaints of these petitioners, and its language is consistently downgrading the import of the petitioners' comments.

NYSPSC has also ignored the fact that petitions against the LED streetlights were twice brought to the Village, petitions which were dismissed out of hand. Furthermore, the Village and NG allowed 15 months to pass during which time the harm to the petitioners continued unabated, including to the one resident they referred to, before they made even one token gesture to the one resident they mention. After this token gesture, the petitioners brought the matter to NYSPSC because it was clear that the Village was content to allow the residents to continue to suffer without relief. It is unconscionable for NYSPSC to return this decision to the Village, based on its indifference to the wellbeing of its residents, and its pecuniary obsessions. If the Village had helped the residents in any effective way, they would not have had to seek recourse to NYSPSC.

We believe that NYSPSC committed additional errors of law under PSL65, PSL66, PSL53a, PSL43 and various NYS Civil Laws.

PSL 65 - Safe and Adequate Service: Paragraph 1

“Every Gas Corporation, every electric corporation and every municipality shall furnish and provide such service, instrumentalities and facilities as shall be **safe and adequate** and **in all respects just and reasonable**. All charges made or demanded by any such gas corporation, electric corporation or municipality for gas, electricity or any service rendered or to be rendered **shall be just and reasonable** and not more than allowed by law and order of the commission. Every just or unreasonable charge made or demanded for gas, electricity or any such service, or in connection therewith, or in excess of that allowed by law or by the order of the commission is prohibited.”

Definitions:

Safe: “Secure from liability to harm, injury, danger or risk. Free from hurt, injury, danger, or risk.”

Adequate: “Fully sufficient, suitable or fit.” (Random House Dictionary)

- Pursuant to PSL 65 “Safe and Adequate Service,” the commission states that they “must ensure” that the entities that they oversee provide utility services that are safe and adequate. They have not done that. The residents and customers petitioned NYSPSC because the service provided was not safe and adequate. NYSPSC referred to outdated information and industry generated factoids to justify their reasoning. It did not address safety or adequacy failures at all.

- More than once, the commission acknowledges hearing from residents who were suffering from LED streetlight induced forms of harm. “Other persons complain of their own experience of neurological sequelae from exposure to the LED streetlights in the village. Comments from residents of the village assert that the installed LEDs are intrusive, obnoxious, or glaring in their brightness. Other

residents comment that they also experience physical side effects from the installed LED luminaires, such as headaches, poor concentration, and seizures.” (Please note: the residents are not describing “side effects,” they are describing **direct effects** induced by LED lighting.) Any reasonable person understands that lighting that disables people on public streets, that the public must use, cannot be called “adequate” or “fit” for public purposes.

- Par1 prohibits “unjust or unreasonable charges.” Petitioners are reliant on NG to supply the lighting for the village. The commission cannot argue that it is just or reasonable for NG to extract money from petitioners for a service that is not fit to purpose.

PSL 65: Par 3.

“No gas corporation , electric corporation or municipality shall make or grant any undue or unreasonable preference advantage to any person, corporation or locality, or to any particular description of service in any respect whatsoever, or **subject any particular person**, corporation or locality or any particular description of service to **any undue or unreasonable prejudice or disadvantage** in any respect whatsoever.

Definitions:

Disadvantage: “Absence or deprivation of advantage or equality. The state or instance of being in an unfavorable circumstance or condition.”

- The commission cannot claim that the persons who complained have not been subject to disadvantage by their utility company and municipality, and, by extension, NYSPSC, when they are experiencing irritation, illness and pain from exposure to the lighting, and when the streets have been made unsafe for these persons, as per the commission’s own documentation of information they have received. We have already brought this to the commission’s attention.

- The commission’s denial appears to elevate the position of the village trustees and NG, at every turn, over the residents’ need for safe public street lighting. This smacks of “undue or unreasonable” preference. The residents are not arguing that there should be no public lighting. They are arguing for the return of public lighting that they know from experience to be usable and safe.

- We argue that the commission’s own references to the reports of harm, pain, injury, and hurt, indicate that the LEDs are, by definition, unsafe, and inadequate in that, being unsafe, they are not effective in creating safe, adequate, fit to purpose illumination of the streets, thus not allowing petitioners the safe use of the streets which they had under the previous non-LED streetlights.

PSL 53 “Prohibition of Utilities in engaging in detrimental conduct towards a residential customer.”

- PSL 53a 1: “A utility corporation or municipality, or energy services companies subject to the department’s uniform business practices and section three hundred and forty-nine and section three hundred forty-nine-d of the general business law, also known as ESCOs, **shall not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any residential**

customer in connection with the handling of a **residential customer complaint**, the offering and/or negotiation of a deferred payment agreement, or the collection of an unpaid balance or any other obligation owed by such customer.”

PSL 53a 3: “the commission shall promulgate rules and regulations necessary to implement and enforce the provisions of this section.”

Definitions:

Harass: “To disturb persistently, torment, as with troubles or cares, bother continually, pester, persecute or trouble by repeated attacks, incursions, etc.”

Oppress: “To burden with cruel, unjust burdens or restraints, subject to a burdensome or harsh exercise of authority.”

Abuse: “To use wrongly or improperly, misuse. To treat in a harmful, injurious or offensive way.”

- Nightly exposure to nuisance levels of lighting is harassing by any common understanding of the term.
- Numerous contributors to the public record complain that the LED street lighting interferes with their at-will freedom of movement and enjoyment of their property. Others complain of being driven off the streets by symptoms of LED-induced illness, when the lights come on. For the utility company, municipality, and the commission to insist that this circumstance will be a permanent state of affairs is easily understood to be oppressive.
- Regarding the 5 lights that are considered by the NYSPSC to be an accommodation to the petitioners, please note that the accommodation provided to one petitioner, 5 HPS lights, has repeatedly stated by NG to be **temporary**, and as the HPS lights fail, they will be replaced by LED lights. How is that an accommodation? Rather than being an accommodation, that sounds more like an exercise in cruelty. Cruelty is always a form of abuse. NG is openly threatening the resident(s) with future harm throughout the entire village and on private property.
- We are residents making a customer complaint. If we continue to make a complaint that is then ignored by the utility, the municipality, and NYSPSC, we are clearly suffering harassment, abuse and oppression.

PSL 66 “General Powers of commission in respect to gas and electricity.”

- PSL 66 1: Have **general supervision** of gas corporations and **electric corporations** having authority under any general or special law or under any charter or franchise to lay down, erect or maintain wires, pipes, conduits, ducts or other fixtures in, over or under the **streets, highways and public places of any municipality** for the purpose of furnishing or distributing gas or of furnishing of transmitting electricity for light.
- PSL 66 2: “Investigate and ascertain, from time to time, the quality of gas supplied by persons, corporations and municipalities; **examine or investigate the methods employed by such persons, corporations and municipalities** in manufacturing, distributing and supplying gas or electricity for light, heat or

power and in transmitting the same, and **have the power to order** such reasonable improvements as will best promote the public interest, **preserve the public health** and protect those using such gas or electricity..”

- PSL 66 5: “Examine all persons, corporations and municipalities under its supervision and **keep informed** as to the methods, practices, regulations and property employed by them in the transaction of their business. Whenever the commission shall be of the opinion, after a hearing and upon its own motion or **upon complaint** that threats, charges or classifications or the acts or regulations of any such person, corporation or municipality are unjust, unreasonable, **unjustly discriminatory** or unduly preferential or in any wise in violation of the provision of the law, the commission shall determine and prescribe the matter provided by and subject to the provisions of law 72 (notice and hearing) the just and reasonable rates, charges and classifications thereafter to be in force for the service to be furnished notwithstanding that a higher or lower rate or charge as heretofore prescribed by general or special statute, contract, grant, franchise condition, consent or other agreement, and the just and reasonable acts and regulations to be done and observed; and whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the property, equipment or appliances of any such person, corporation or municipality are unsafe, inefficient or inadequate, the commission **shall determine and prescribe** the safe, efficient and adequate property, equipment and appliances thereafter to be used, maintained and operated for the **security and accommodation of the public** and in compliance with the provisions of law and their franchises and charters.

- Note that in this and other laws NYSPSC always refers to safety first.
- The law indicates that NYSPSC must update and keep informed about emerging risks. We argue that, on the face of it, this law compels the commission to act upon new information, which we have given to the commission, with its first priority being public safety. And furthermore, any time NYSPSC uses the word “public,” it means **everybody**. NYSPSC cannot preserve the public health by allowing members of the public to be made unhealthy, and at the same time cite, without engaging with, the fact that members of the public are being made unhealthy.
- PSL 66 prohibits acts which are “unjustly discriminatory.” The 5 temporarily returned HPS streetlights in the village are, in fact and in intention, meant to create a small, separate area of the public streets where the resident(s) will need to remain, if they want to be safe from adverse reactions caused by the village’s other 200+ LED streetlights. This is involuntary confinement. The commission seems to have overlooked this obviously discriminatory segregation of individuals with LED-light-reactive disabilities.

Note: **NYS Executive Law Article 15 296:** “Unlawful discriminatory practices.”
19. “The term “discrimination” shall include segregation and separation.”

- In denying both case # 21-02623 and case # 23-E-0727, the commission cites the lighting industry standards which NG is following and applying. In these past few years the lighting industry has openly admitted that their standards are inadequate and unsafe for large sections of the population, and, in being unsafe, create discriminatory conditions. **The following quotes from LED industry standard-setting bodies speak for themselves.** These documents have been sent as public comment to NYSPSC. Please note the dates of these quotes. They constitute some of the new information that the commission failed to take into account in its denial of the residents' cases.

“Application guidance, both recommendations and standards, is written based on averages, not individuals. Guidance based on averages will discriminate against some occupants [of the LED-lit space] some or all of the time.” [International Commission on Illumination \(CIE\) 2024](#)

“We now recognize, however, that this [lighting guidance and standards-setting] approach excludes much of the population. Any small sample cannot reflect the full range of characteristics of an entire population... As a result, lighting recommendations based on such a limited sample may be unsuitable for the under-represented, meaning that they create an unintended but structural inequity. This inequity can lead to poorer health, safety risks, and poorer quality of life for the under-represented individuals and groups.” [CIE 2023](#)

“[s]ensitive individuals might react [to LED light exposure] sooner and/or more intensely, or experience more serious consequences such as migraine and photosensitive epileptic seizures. These individuals have no way to identify whether a given location might expose them to conditions that trigger their adverse effects.” [IEA 2024](#)

“The response to LED light modulation can range from none, to mild annoyance, to catastrophic.” [Illuminating Engineering Society webinar with Naomi Miller 2022](#)

PSL Section 43 Complaint Handling Procedures:

2c “Burden of proof shall be on utility, corporation or municipality...”

- When discussing the ADA, NYSPSC states that the petitioners did not specify which section NG was violating. The ADA is meant to be broadly construed and includes the Integration Mandate. It is NG's responsibility to know and respect the intention and features of this law. Under the commission's complaint handling procedures, the burden of proof is on NG. There are several instances where NYSPSC is requiring petitioners to prove that the lights are unsafe beyond what the petitioners are reporting to them, thus placing the burden of proof on the petitioners. The burden of proof must be on NG and the village. Everything the petitioners sent would be considered evidence by physicians, medical researchers, and so on.

ERRORS OF FACT:

The commission has based its entire investigation on outdated, unrelated, immaterial information.

- Our complaint is based on a **medical issue**. The commission is referencing information from non-medical entities with a vested interest in installing LED lighting regardless of the health and medical consequences for residents. The commission is mistaken that no medical evidence was submitted. At the 2023 hearing, NYSPSC heard from a speaker with clinical evidence - multi-day EEG results - which proved the speaker's seizures are triggered exclusively by LED lights. Further, firsthand accounts of symptoms **are** medical evidence. The commission does not seem to have grasped this point. In getting their information from entities in non-medical fields, the commission has taken a biased and outdated position.

Nothing in the tariffs, the standards, and whatever else NYSPSC refers to, takes into account public lighting infrastructure converted to a novel technology that is causing devastating, unprecedented harm to people who cannot physiologically, medically or neurologically tolerate it. Residents and customers were not consulted, warned, or given any say in this matter. NYSPSC cannot allow NG's business decisions or preferred lighting options to impose medical outcomes on the unconsenting population.

- There are a number of errors of fact in the NYSPSC order, which carry over directly from the DHR response in an unrelated case: The village knew long before January 2020 that the new streetlights would cause migraines and seizures; the costs cited by the village to DHR in relation to replacing the LED streetlights with the previous HPS lights are inflated - \$30,000 vs actual \$10,000, over \$400,000 vs actual \$20,000; false statements; misinformation given to NG; etc) Corrections to these errors of fact were sent to the commission with written proof. These corrections do not seem to be reflected in the Order of Denial.

- There is no indication that flicker in LED lighting is what is solely causative of harm. The idea that, because flicker in LED lights at certain wavelengths and frequencies is less than that of HPS lights, there is no harm to the petitioners, is erroneous. The NYSPSC, the village and NG unduly and inappropriately elevated the RPI flicker test, measured with a device that cannot replicate or predict the range of responses to light in any individual's brain. The entire exercise with RPI's flicker test was illogical: RPI engineers were only called in because the LEDs were, in fact, triggering seizures, where the previous HPS luminaires did not. The engineers' conclusion that HPS lights should pose a bigger problem is nonsensical, and demonstrates how ridiculous it is to ask "experts" in an unrelated area of

science for their opinion. RPI engineers are not physicians, epilepsy specialists or chronobiologists, nor, apparently, do they experience LED photosensitivities themselves. The commission cannot rely on them to supply useful opinions or relevant input on the causes of the petitioners' complaints. The salient point is that harm is being reported.

CONCLUSION AND REQUESTED RELIEF:

- For the foregoing reasons, we respectfully assert that the commission has committed errors of law and errors of fact. There are also new circumstances, which the commission failed to adequately consider. All this warrants a rehearing and a different determination. We make this Request for Rehearing and ask that the Commission:
 - Reverse the order denying petition, issued November 14th, 2025.
 - Re-open Case 23-E-0727
 - Thoroughly and transparently investigate all reports of harm from LED streetlights, including from the 52 petitioners and the public commentators.
 - Issue an order requiring NG to replace the unsafe street lighting with street lighting which is truly "safe and adequate," as mandated by Public Service Law.

Thank you for your time and consideration of this important matter.

Respectfully,

Richard and MarieAnn Cherry

