

Town of Ballston

Local Law No. 2 of 2020

A LOCAL LAW TO ESTABLISH A ***COMMUNITY CHOICE AGGREGATION PROGRAM*** FOR THE TOWN OF BALLSTON

**Be it enacted by the Town Board of the Town of Ballston, Saratoga County, New York, as follows:**

**Section 1.** The Town Code of the Town of Ballston is hereby amended by adding a new Chapter 139, entitled “***COMMUNITY CHOICE AGGREGATION PROGRAM,***” to read as follows:

**Chapter 139. Community Choice Aggregation Program**

**§ 139-1. Legislative Findings; Intent and Purpose; Authority.**

- A. It is the policy of both the Town of Ballston and the State of New York to seek to reduce the cost of natural gas and electricity to its residents and provide cost certainty for the purpose of economic development, to promote deeper penetration of energy efficiency and renewable energy resources such as solar, and wider development of distributed energy resources as well as to examine the retail energy markets and increase participation of and benefits for Eligible Consumers in those markets. Among the policies and models that may offer benefits in the State of New York is Community Choice Aggregation (CCA), which allows local governments to determine the default supplier of electricity and natural gas on behalf of Eligible Consumers.
- B. The purpose of this CCA Program, is to allow participating local governments including the Town of Ballston to procure electricity and/or natural gas supply service on behalf of their residential and qualifying commercial customers while maintaining transmission and distribution service from the existing Distribution Utility. Residential and qualifying commercial customers will have the opportunity to opt out of any approved CCA Program.

- C. This Chapter establishes the authority for the Town, in connection with the implementation of a CCA Program to acquire utility data; to select, through competitive solicitation, one or more energy Supplier(s) on behalf of Participating Customers within the Town; and to maximize value for Participating Customers through enhanced services related to Distributed Energy Resources. The Town may choose to collaborate with other local governments to form an intermunicipal CCA Program. By establishing a CCA Program, Participating Customers will have the opportunity to lower and stabilize their energy costs, to spur local clean energy innovation and investment, and to reduce their environmental impact; thereby, fulfilling the purposes of this Chapter and fulfilling an important public purpose.
- D. The Town of Ballston is hereby authorized to participate in a COMMUNITY CHOICE AGGREGATION PROGRAM pursuant to Section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law; and State of New York Public Service Commission Case No. 14-M-0224, Proceeding on Motion of the New York Public Service Commission to Enable Community Choice Aggregation Programs (issued April 21, 2016) as may be amended, including subsequent orders of the Public Service Commission (PSC) issued in connection with or related to Case No. 14-M-0224, to the extent that orders related to Case No. 14-M-0224 enable actions by the Town of Ballston.
- E. This Chapter shall be known and may be cited as the “COMMUNITY CHOICE AGGREGATION PROGRAM Law” of the Town of Ballston.

## **§2. Definitions.**

### **§ 139-2. Definitions.**

For purposes of this Chapter, and unless otherwise expressly stated or unless the context otherwise requires, the terms in this Chapter shall have the meanings employed in the State of New York Public Service Commission’s Uniform Business Practices or, if not so defined there, as indicated herein:

- A. AGGREGATED DATA means aggregated and anonymized information relating to electricity and/or gas consumption including, but not limited to, the number of consumers by service and rate class, the aggregated peak demand (kW) (for electricity) by month for the past 12 months by service and rate class, and the

aggregated energy (kWh) for electricity or volumetric consumption for gas by month for the past 12 months by service and rate class.

B. COMMUNITY CHOICE AGGREGATION PROGRAM or CCA Program means the Community Choice Aggregation Program enabled by this Local Law.

C. CCA ADMINISTRATOR means the Town of Ballston or third party CCA administrator duly authorized by the Town Board of the Town of Ballston to administer the CCA Program including without limitation: to request Aggregated Data and Customer Specific Data; to competitively solicit Suppliers for the aggregated demand for electricity and/or natural gas on behalf of Default Consumers; and to offer Participating Customers additional opportunities to participate or enroll in programs or projects related to DER. The CCA Administrator shall be responsible for program organization, administration, procurement, communications, and for meeting all requirements for program implementation specified in the PSC CCA Order, unless otherwise specified.

D. CUSTOMER SPECIFIC DATA means customer-specific information, personal data and utility data for Default Customers including customer of record's name, mailing address, telephone number, account number, and primary language, if available, and any customer-specific alternate billing name, address, and phone number.

E. DEFAULT CUSTOMER means a consumer of electricity and/or natural gas services within opt-out eligible service classes (as delineated in the PSC CCA Order), who receives supply service from the Distribution Utility as of the date that the Supply Contract goes into effect, or a consumer within these service classes who subsequently becomes eligible to become a Participating Customer in the CCA Program including a consumer who has terminated a supply contract with an ESCO; a consumer who has removed a freeze or block on consumer's account; a consumer who has voluntarily suspended service pursuant to a special rate; or a consumer who becomes a new resident of the Town after the Supply Contract goes into effect. None of the following are considered a Default Customer and will not be enrolled on an opt-out basis: a consumer within opt-out eligible service classes who receives supply service from an ESCO as of the date that the Supply Contract goes into effect; a consumer who has placed a freeze or block on consumer's account; and a consumer for whom enrollment in the CCA Program would interfere with a choice consumer had already made to take service pursuant to a special rate. For the avoidance of doubt, a Default Customer must reside or be

otherwise located at one or more locations within the geographic boundaries of the Town, as such boundaries exist as of the date the Supply Contract goes into effect.

F. DISTRIBUTED ENERGY RESOURCES (“DER”) means local renewable energy projects, community distributed generation (e.g. shared solar), peak demand management, energy efficiency, demand response, energy storage, community resilience microgrid projects, and other innovative Reforming the Energy Vision (“REV”) initiatives of the State of New York that further engage and/or reduce cost of service for Participating Customers, optimize system benefits, and/or address infrastructure and demand challenges within geography of the CCA Program.

G. DISTRIBUTION UTILITY means the owner or controller of the means of distribution of the natural gas and/or electricity in the Town. The Distribution Utility also serves as the default supplier of electricity and natural gas preceding the establishment of a CCA Program.

H. ENERGY SERVICES COMPANY (“ESCO”) means an entity eligible to sell energy services to end-use customers using the transmission or distribution system of a utility corporation and duly authorized to conduct business in the State of New York

I. INTERMUNICIPAL AGREEMENT means an agreement between the Town of Ballston and one or more municipalities to undertake CCA Program pursuant to the terms of a local law adopted by each such municipality and the provisions of the PSC CCA Order.

J. PARTICIPATING CUSTOMERS means Default Customers of the CCA Program who have not opted out, and non-Default Customers of any service class who have voluntarily enrolled in the CCA Program.

K. PSC CCA ORDER means the PSC’s Order Authorizing Framework for Community Choice Aggregation Opt-Out Program, issued on April 21, 2016 in Case 14-M-0224, “Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs,” as it may be amended, including subsequent orders of the Public Service Commission issued in connection with or related to Case No. 14-M-0224.

L. PUBLIC SERVICE COMMISSION (“PSC”) means the New York State Public Service Commission.

M. SUPPLIER means an ESCO that procures electric power and/or natural gas for Participating Customers in connection with this Chapter or, alternatively, a generator of electricity and/or natural gas or other another entity that procures and resells electricity or natural gas.

N. SUPPLY CONTRACT means a contract for the supply of electric power and/or natural gas entered into between a Supplier and the Town.

O. SUPPLY CONTRACT DATE means the date when electric power and/or natural gas is first delivered to Participating Customers in connection with the CCA Program.

P. TOWN means the Town of Ballston and the area within the geographical boundaries thereof, excluding the lands comprising any Village.

### **§ 139-3. Authorization of a Community Choice Aggregation Program.**

A. Community Choice Aggregation Program is hereby authorized by the Town, which the Town may implement to the full extent permitted by the PSC CCA Order, as set forth more fully herein.

B. The Town may enter into agreements and contracts with other municipalities, non-profits, consultants, and/or other third parties to i) develop and implement the CCA Program, ii) act as CCA Administrator, and/or iii) develop offers of opt-in DER products and services to Participating Customers.

C. The Town may enter into contracts with one or more Suppliers and other providers of services on behalf of Participating Customers, including, without limitation, Participating Customers of another municipality to the extent permitted by an Intermunicipal Agreement.

D. The operation and ownership of the utility service shall remain with the Distribution Utility. The Town’s participation in the CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The Town shall not take over any part of the electric or gas transmission

or distribution system and shall not furnish any type of utility service but will instead negotiate with Suppliers on behalf of Participating Customers.

E. The Public Service Commission supervises retail markets and participants in these markets through legislative and regulatory authority and the Uniform Business Practices, which includes rules relating to the eligibility of participating ESCOs, the operation by which ESCOs provide energy services, and the terms on which customers may be enrolled with ESCOs.

#### **§ 139-4. Eligibility.**

A. All Default Customers shall be enrolled on *an opt-out basis*. Default Customers will have the right to opt out before the Supply Contract goes into effect, or disenroll any time thereafter with no penalty. Default Customers who do not opt out before the Supply Contract goes into effect will be enrolled automatically.

B. All non-Default Customers within the Town, regardless of service class, shall be eligible to participate in the CCA Program on an opt-in basis.

C. The CCA Administrator, on behalf of the Town of Ballston, shall issue one or more requests for proposals to Suppliers to provide energy to participants and may then award a contract in accordance with the CCA Program, this Local Law, and the PSC CCA Order.

#### **§ 139-5. Opt-Out Process.**

A. The CCA Administrator shall cause the mailing of a program notification letter, printed on Town of Ballston letterhead, to Default Customers at least 30 days prior to customer enrollment. The letter shall include information on the CCA Program, and the Supply Contract signed with the selected Supplier(s) including specific details on rates, services, contract term, and methods for opting out of the CCA Program. The letter shall explain that Default Customers who do not opt out will be enrolled in the CCA Program under the Supply Contract terms and that information on those customers, including energy usage data, will be provided to the ESCO.

B. After the 30 day opt-out period, all Participating Customers shall have the option to disenroll from the CCA Program at any time without penalty.

### **§ 139-6. Data Protection Requirements.**

A. CCA Administrator may request Aggregated Data and Customer Specific Data from the Distribution Utility as permitted by the PSC CCA Order.

B. Customer Specific Data shall be protected in a manner compliant with, collectively, (i) all national, state and local laws, regulations or other government standards relating to the protection of information that identifies or can be used to identify an individual Default Customer or Participating Customer that apply with respect to the Town or its representative's processing of confidential utility information; (ii) the Distribution Utility's internal requirements and procedures relating to the protection of information that identifies or can be used to identify an individual Default Customer or Participating Customer that apply with respect to the Town or its representative's processing of confidential utility information as provided in a data security agreement to be executed in the form authorized by PSC; (iii) the PSC CCA Order and PSC rules, regulations and guidelines relating to confidential data.

C. The Town, and/or its CCA Administrator, shall enter into an agreement with the Distribution Utility that obligates each party to meet the above provisions of this paragraph.

### **§ 139-7. Administration Fee.**

The CCA Administrator may collect, or cause to be collected, funds from Participating Customer payments to pay for administrative costs associated with operating the CCA Program. If the CCA Administrator is other than the Town, such fees shall be in accordance with an agreement executed with the Town and consistent with the Implementation Plan and Data Protection Plan approved by the Public Service Commission for the CCA.

### **§ 139-8. Reporting.**

A. The CCA Administrator shall prepare and file with the Town Board of the Town of Ballston an annual report by March 31 of each year concerning the operations of the CCA Program for the previous calendar year.

B. Each annual report shall include, at a minimum, the following: number of Participating Customers served; number of Participating Customers cancelling; number of complaints received; commodity prices paid; value-added services

provided (e.g., installation of DER or other clean energy services); and administrative costs collected. The first annual report shall also include the number of customers who opted-out in response to the initial opt-out letter or letters.

C. If a Supply Contract will expire less than one year following the filing of an annual report, the report shall describe current plans for soliciting a new Supply Contract, negotiating an extension, or terminating the CCA Program.

## **Section 2. Effective Date.**

Pursuant to New York State Municipal Home Rule Law § 27(3), this Local Law shall be effective upon its filing with the Secretary of State.

## **Section 3. Severability.**

If any provision of this law is held invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this law.