

LOCAL LAW NO. – 2015

A LOCAL LAW TO ESTABLISH A COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM IN THE TOWN OF POUND RIDGE

Be it enacted by the Town of Pound Ridge of the County of Westchester as follows:

Section 1. The Code of the Town of Pound Ridge is hereby amended by adding a new Chapter _____, entitled “COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM,” to read as follows:

ARTICLE I

§1. Legislative Findings; Intent and Purpose; Authority.

- A. It is sound public and municipal policy to reduce costs and provide cost certainty for the purpose of economic development, to promote deeper penetration of energy efficiency and renewable energy resources such as wind and solar, and wider deployment of distributed energy resources as well as to examine the retail energy markets and increase participation of and benefits for residential and Small Commercial customers in those markets. Among the policies and models that may offer benefits in New York is community choice aggregation, which allows local governments to determine the default supplier of electricity and natural gas on behalf of its residential and Small Commercial customers.
- B. The purpose of this CCA Program is to allow participating local governments including the Town of Pound Ridge (the “Town”) to procure energy supply service for their residential and Small Commercial customers, who will have the opportunity to opt out of the procurement, while maintaining transmission and distribution service from the existing Distribution Utility. This Chapter establishes a program that will allow the Town to put out for bid the total amount of natural gas and/or electricity being purchased by local residential and Small Commercial customers. Bundled Customers will have the opportunity to have more control to lower their overall energy costs, to spur clean energy innovation and investment, to improve customer choice and value, and to protect the environment; thereby, fulfilling the purposes of this Chapter and fulfilling an important public purpose.
- C. The Town of Pound Ridge is authorized to implement this COMMUNITY CHOICE AGGREGATION (ENERGY) 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-0564, Petition of Sustainable Westchester for Expedited Approval for the Implementation of a Pilot Community Choice Aggregation Program within the County of Westchester, Order Granting Petition in Part (issued February 26, 2015) as may be amended, including subsequent orders of the Public Service Commission issued in connection with or related to Case No. 14-M-0564 (collectively, the “Order”). Order shall also mean orders of the Public Service Commission related to State of New York Public Service Commission Case No. 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs (issued December 15, 2104) to the extent that orders related to Case No. 14-M-0224 enable actions by the Town

of Pound Ridge not otherwise permitted pursuant to orders related to Case 14-M-0564; provided, however, that in the event of any conflict between orders from Case No. 14-M-0564 and orders from Case No 14-M-0224, orders from Case No 14-M-0564 shall govern the CCA Program.

- D. This Chapter shall be known and may be cited as the “COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM Law of the Town of Pound Ridge”.

§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 below:

Bundled Customers – Residential and Small Commercial customers of electricity or natural gas (“fuels”) who are purchasing the fuels from the Distribution Utility.

Small Commercial - Non-residential customers as permitted by the Order.

Community Choice Aggregation Program or CCA Program– A municipal energy procurement program, which replaces the incumbent utility as the default Supplier for all Bundled Customers within the Town of Pound Ridge.

Distribution Utility – Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission.

Public Service Commission – New York State Public Service Commission.

Suppliers – Energy service companies (ESCOs) that procure electric power and natural gas for Bundled Customers in connection with this Chapter or, alternatively, generators of electricity and natural gas or other entities who procure and resell electricity or natural gas.

Sustainable Westchester – A not-for-profit organization comprised of member municipalities in Westchester County, New York.

§3. Establishment of a COMMUNITY CHOICE AGGREGATION (ENERGY) Program.

- A. A COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM is hereby established by the Town of Pound Ridge, whereby the Town shall work together with Sustainable Westchester to implement the CCA Program to the full extent permitted by the Order, as set forth more fully herein. The Town’s role under the CCA Program involves the aggregating of the electric and/or natural gas supply of its residents and the entering into a contract with one or more Suppliers for supply and services. Under the CCA Program, the operation and ownership of the utility service shall remain with the Distribution Utility.
- B. The Town’s purchase of energy supply through a CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The Town will not take over any part of the electric or gas transmission or distribution system and will not furnish any type of utility service. Rather, Sustainable Westchester shall negotiate

with Suppliers on behalf of the Town and its participating residential and Small Commercial customers.

- C. In order to implement the CCA Program, the Town shall consider passage of resolutions that outline the process of and conditions for participation in the CCA Program, including but not limited to considering signing a contract for a compliant bid with one or more Suppliers, all as consistent with the Local Law and the Order.
- D. 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.

§4. Procedures for Eligibility; Customer Data Sharing.

- A. As permitted by the Order, the Town, or Sustainable Westchester as authorized by the Town, may request from the Distribution Utilities aggregated customer information by fuel type and service classification on a rolling basis.
- B. Sustainable Westchester, on behalf of the Town, 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.
- C. Sustainable Westchester or the Town if the Town so chooses, will then request individual customer data from the Distribution Utility in accordance with the CCA Program.
- D. Sustainable Westchester or the Town if the Town so chooses, and the selected Supplier will then notify Bundled Customers of the contract terms and their opportunity to opt out of the CCA Program.
- E. In accordance with and for purposes of the Order, the existing Distribution Utility, New York State Electric & Gas Corporation will provide to Sustainable Westchester aggregate and customer-specific data (including usage data, capacity tag obligations, account numbers, and service addresses) of all Bundled Customers in the Town not currently enrolled with an ESCO.
- F. Sustainable Westchester will protect customer information subject to the Order and the limitations of the New York State Freedom of Information Law.

§5. Choice of Energy Supplier; Opt-Out Notice and Procedure.

- A. Sustainable Westchester in conjunction with the ESCO will notify residential and Small Commercial customers, by letter notice, of the Town's decision to establish the CCA Program, of the contract terms with an ESCO, and of the opportunity to opt out of the CCA Program. The letters shall be transmitted on Town letterhead and Town envelopes. Electronic copies of said letters shall be transmitted to the Town in a format designated by the Town.
- B. The letter notice will be sent to each customer at the address provided by the Distribution Utility and explain the CCA Program and the material provisions of the ESCO contract, identify the methods by which the customer can opt out of the CCA Program, and provide

information on how the customer can access additional information about the CCA Program.

- C. The opt-out period shall be twenty (20) days from the receipt of the mailing of the Notice, which shall be deemed to have occurred five (5) days after the date of mailing.
- D. CCA Program Bundled Customers, upon enrollment, will receive a welcome letter that will explain the customers' options for canceling the enrollment if they believe they were enrolled incorrectly or otherwise decide to withdraw from the CCA Program in favor of another Supplier. CCA Program Bundled Customers shall be permitted to cancel their enrollment at any time and for any reason at no cost to the Customers. The welcome letter also will explain that residential customers are entitled to the added protection of the mandated Three (3) Day rescission period as detailed in Section 5(B)(3) of the Uniform Business Practices.

§6. Verification and Reporting.

- A. Sustainable Westchester shall be responsible for filing an annual report with the Public Service Commission, which identifies the number of customers enrolled in the CCA Program by municipality and customer class, the number of customers who returned to utility service or service with another Supplier during the reporting period, and the average cost of commodity supply by month for the reporting period.

§7. Indemnification.

- A. Sustainable Westchester shall indemnify and defend the Town for any legal claims, lawsuits or damages arising from or related to the implementation and operation of the CCA Program including, without limitation Sustainable Westchester's obligation to protect all customer information as provided in § 4(F). For the duration of the CCA Program, Sustainable Westchester shall maintain liability insurance naming the Town as an additional insured to cover all of the aforesaid legal claims in an amount to be approved by the Town Board which shall not be less than \$1 million.

Section 2. This local law shall take effect upon filing with the Secretary of State.