

VILLAGE OF WARWICK
LOCAL LAW NO. 1 OF THE YEAR 2024

A local law to amend the Village Code by enacting a new Chapter 60 entitled "Community Choice Aggregation Program".

Section 1. Purpose:

The purpose of this Local Law is to promote the public health, safety and welfare by establishing a Community Choice Aggregate Program allowing Village residents to incur lower utility costs.

Section 2. Amendment of Code:

The Village Code of the Village of Warwick is hereby amended to enact a new Chapter 60 entitled "Community Choice Aggregation Program" which shall read as follows:

§ 60-1 Purpose and Authority.

Under Section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law and determinations of the New York State Public Service Commission municipalities, including the Village of Warwick, are empowered to establish Community Choice Aggregation Programs ("CCA"). The purpose of a CCA is to benefit residents of the municipality by reducing energy costs, providing energy cost certainty, and promoting deeper penetration of energy efficiency and renewable energy resources. This Chapter establishes a CCA program that will allow the Village, in partnership with other municipalities, to put out for bid the total amount of natural gas and/or electricity being purchased by Eligible Consumers within the Village. Eligible consumers will have the opportunity to lower their overall energy costs, to spur clean energy innovation and investment, to improve customer choice and value, and to help protect the environment.

§ 60-2 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:

AGGREGATED DATA

Aggregated Data shall mean aggregated and anonymized information including the number of consumers by service class, the aggregated peak demand (kW) (for electricity) by month for the past 12 months, by service class to the extent possible, and the aggregated energy

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

CCA ADMINISTRATOR

CCA Administrator shall mean the Village of Warwick or its duly authorized CCA Administrator authorized to request aggregated 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 consumers additional opportunities to participate or enroll in programs or projects related to distributed energy resources. The CCA Administrator is responsible for program organization, administration, procurement, communications, and for meeting all requirements for program implementation specified in the Public Service Commission Community Choice Aggregation Order (PSC CCA Order), unless otherwise specified.

COMMUNITY CHOICE AGGREGATION (CCA)

Community Choice Aggregation (CCA) shall mean a Village-sponsored program, either alone or in concert with other municipalities, under which the aggregate buying power of individual energy customers within a defined jurisdiction is used in order to secure alternative energy supply contracts on a community-wide basis, while allowing consumers not wishing to participate in the program to opt out.

CUSTOMER-SPECIFIC DATA

Customer-Specific Data shall mean customer specific information, personal data and utility data for all consumers in the Village eligible for opt-out treatment based on the terms of PSC CCA Order and the CCA program design including the 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.

DATA SECURITY AGREEMENT shall mean an agreement between the Distribution Utility and the Village that obligates each party to meet, 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 Eligible Consumer with respect to the CCA Administrator 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 individual Eligible Consumer with respect to the CCA Administrator or its representative's processing of confidential utility information; and (iii) the PSC CCA Order and PSC rules, regulations and guidelines relating to confidential data.

DEFAULT CONSUMERS

Default Consumers shall mean customers of electricity and/or natural gas within opt-out-eligible service classes (as delineated in the PSC CCA Order) who receive supply service from the distribution utility as of the date the supply contract goes into effect.

DEFAULT SERVICE

Default Service shall mean supply service provided by the Distribution Utility to consumers who are not currently receiving service from an energy service company (ESCO). Eligible Consumers within the Village that receive Default Service, and have not opted out, will be enrolled in the Program as of the Effective Date.

DISTRIBUTED ENERGY RESOURCES (DER)

Distributed Energy Resources (DER) shall mean 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 that further engage and/or reduce cost of service for participating consumers, optimize system benefits, and/or address infrastructure and demand challenges within the geography of the CCA Program.

DISTRIBUTION UTILITY

Distribution Utility shall mean the owner or controller of the means of distribution of the natural gas or electricity in the Village. The distribution utility also serves as the default supplier of electricity and natural gas preceding the establishment of a CCA Program.

ELIGIBLE CONSUMERS

Eligible Consumers shall mean eligible customers of electricity and/or natural gas who receive Default Service from the Distribution Utility as of the Effective Date, or New Consumers that subsequently become eligible to participate in the Program, at one or more locations within the geographic boundaries of the Village, except those consumers who receive Default Service and have requested not to have their account information shared by the Distribution Utility. For the avoidance of doubt, all Eligible Consumers must reside or be otherwise located at one or more locations within the geographic boundaries of the Village, as such boundaries exist on the effective date of the ESA.

ENERGY SERVICES COMPANY (ESCO)

Energy Services Company (ESCO) shall mean an entity duly authorized to conduct business in the State of New York as an ESCO.

NEW CONSUMERS

New Consumers shall mean consumers of electricity that become Eligible Consumers after the effective date of the ESA, including those that opt in or move into the Village.

PARTICIPATING CONSUMERS

Participating Consumers shall mean default consumers who have not opted out, and non-default consumers of any service class that have voluntarily enrolled in the program.

PSC CCA ORDER

PSC CCA Order shall mean 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."

PROGRAM ORGANIZER

Program Organizer shall mean the group responsible for initiating and organizing the CCA. This group will typically secure buy-in from local governments and engage in preliminary outreach and education around CCA. The Program Organizer may be a non-profit organization, local government, or other third party. The Program Organizer and the CCA Administrator may be the same.

PUBLIC SERVICE COMMISSION (PSC)

Public Service Commission (PSC) shall mean the New York State Public Service Commission.

SUPPLIERS

Suppliers shall mean ESCOs that procure electric power and natural gas for participating consumers in connection with this article or, alternatively, generators of electricity and natural gas or other entities who procure and resell electricity or natural gas.

§ 60-3 Program authorized.

- A. A CCA Program is hereby authorized by the Village, whereby the Village may implement a CCA Program to the full extent permitted by the PSC CCA Order, as set forth more fully herein.
- B. The Village may enter into contracts with one or more suppliers for electric and/or natural gas supply and other services on behalf of default consumers.

- C. The Village may enter into agreements and contracts with other municipalities, nonprofits, 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 distributed energy resources (DER) products and services to Participating Consumers, including opportunities to participate in local renewable energy projects, shared solar, energy efficiency, microgrids, storage, demand response, energy management, and other innovative Reforming the Energy Vision (REV) initiatives and objectives designed to optimize system benefits, target and address load pockets/profile within the CCA zone, and reduce costs for CCA customers.
- D. The operation and ownership of the utility service shall remain with the distribution utility. The Village's participation in a CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The Village shall not take over any part of the electric or gas transmission or distribution system and will not furnish any type of utility service, but will instead negotiate with suppliers on behalf of participating consumers.

§ 60-4 Eligibility.

- A. All consumers within the Village, including residential and non-residential, regardless of size, shall be eligible to participate in the CCA Program.
- B. All default consumers shall be enrolled on an opt-out basis. Default consumers will have the right to opt out before the supply contract goes into effect, or unenroll any time thereafter with no penalty. Those that do not opt out before the supply contract goes into effect will be enrolled automatically.
- C. All non-default consumers within the Village, regardless of service class, shall be eligible to participate in the CCA Program on an opt-in basis.
- D. New Consumers shall be enrolled on an opt-out basis.

§ 60-5 Opt-out process.

- A. A program notification letter, printed on Village letterhead, shall be mailed to default consumers at least thirty (30) days prior to customer

enrollment. The letter shall include information on the CCA Program and the contract signed with the selected supplier(s), including specific details on rates, services, contract term, cancellation fee, and methods for opting out of the CCA Program. The letter shall explain that consumers that do not opt out will be enrolled in the program under the contract terms and that information on those consumers, including energy usage data, will be provided to the ESCO.

- B. After the thirty-day opt-out period, all consumers shall have the option to unenroll from the CCA Program at any time without penalty.

§ 60-6 Data protection requirements.

- A. The Village, or CCA Administrator on its behalf, may request aggregated data and customer-specific data from the distribution utility.
- B. Customer-specific data shall be protected in a manner compliant with, collectively:
 - (1) 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 that apply with respect to the Village or its representative's processing of confidential utility information;
 - (2) The utility's internal requirements and procedures relating to the protection of information that identifies or can be used to identify an individual that apply with respect to the Village or its representative's processing of confidential utility information; and
 - (3) The PSC CCA Order and PSC rules, regulations and guidelines relating to confidential data.
- C. For the purpose of protecting customer data, the Village shall enter into an agreement with the distribution utility that obligates each party to meet, collectively:
 - (1) 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 consumer or participating consumer with respect to the CCA Administrator or its representative's processing of confidential utility information;
 - (2) The distribution utility's internal requirements and procedures relating to the protection of information that identifies or can be used to

identify individual default consumer or participating consumer with respect to the CCA Administrator or its representative's processing of confidential utility information; and

(3) The PSC CCA Order and PSC rules, regulations and guidelines relating to confidential data.

§ 60-7 CCA Advisory Committee.

- A. A CCA Advisory Committee is hereby established.
- B. The CCA Advisory Committee shall develop and review CCA related proposals, report to the Village Board on the same, monitor and report to the Village Board on the Village's progress in establishing a CCA program, and assist in preparation of all agreements related to establishment of the CCA;
- C. The CCA Advisory Committee shall consist of members appointed by resolution of the Village Board; the members shall serve at the pleasure of the Village Board, without compensation; and the Committee and the terms of office of its members shall continue until such time as the Committee is dissolved by resolution of the Village Board;
- D. The CCA Advisory Committee shall meet at such times and on such dates as it determines is appropriate, it shall establish its own rules of procedure, and it shall determine its own Chairman from its membership by majority vote.

§ 60-8 Administration fee.

The Village or CCA Administrator may collect, or cause to be collected, funds from customer payments to pay for administrative costs associated with running the CCA Program.

§ 60-9 Reporting.

- A. Annual reports shall be filed with the Warwick Village Board by March 31 of each year and cover the previous calendar year.
- B. Annual reports shall include, at a minimum: number of consumers served; number of consumers cancelling during the year; number of complaints received; commodity prices paid; value-added services provided during the year (e.g., installation of DER or other clean energy services); and administrative costs collected. The first report shall also include the number of consumers who opted out in response to the initial opt-out letter or letters.

- C. If a CCA supply contract will expire less than one year following the filing of the annual report, the report must identify current plans for soliciting a new contract, negotiating an extension, or ending the CCA Program.

Section 3. Severability:

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances, and the Village Board of the Village of Warwick hereby declares that it would have passed this local law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 4. Effective Date:

This Local Law shall become effective upon filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Village Board.