

Chapter 2B

COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM

§ 2B-1. Legislative findings; intent and purpose; authority; title.

- A. It is the policy of both the Village of Pelham and the State of New York to provide cost certainty which is lower than certain historical averages, for the purpose of economic development, and to promote deeper penetration of energy efficiency and renewable energy resources, such as wind and solar. Among the policies and models that might 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 the Sustainable Westchester Community Choice Aggregation Program is to allow participating local governments, including the Village of Pelham, 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 local distribution company. This chapter establishes a program that will allow the Village of Pelham to put out for bid the total amount of energy being purchased by default customers. Default customers will have cost certainty because the energy price per kWh or Ccf, as appropriate, will be fixed for three years and will be less than the average price per kWh or Ccf, as appropriate, charged by the local distribution company during the preceding 12 months. Further, Sustainable Westchester will offer an opportunity to purchase electricity from renewable energy sources as part of an aggregation program (on an option basis), thereby fulfilling the purposes of this chapter and fulfilling an important public purpose.
- C. The Village of Pelham is authorized to implement this Community Choice Aggregation (Energy) Program pursuant to § 10, Subdivision 1(ii)a(12), of the New York Municipal Home Rule Law; and 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 Public Service Commission Case No. 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs (issued December 15, 2014) to the extent that orders related to Case No. 14-M-0224 enable actions by the Village of Pelham 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 Village of Pelham."

§ 2B-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 as indicated below; other terms in this chapter shall have the meanings employed in the Public Service Commission's Uniform Business Practices:

COMMUNITY CHOICE AGGREGATION PROGRAM or CCA PROGRAM — A municipal energy procurement program which replaces the default supplier of Energy from the local distribution company to the default supplier for default customers.

DEFAULT CUSTOMERS — Residential and small commercial customers in the Village of Pelham who purchase energy from the default supplier.

DEFAULT SUPPLIER — A supplier which is chosen by Sustainable Westchester pursuant to the order and in accordance with this chapter to be the supplier to default customers under the CCA Program.

ENERGY — Natural gas and/or electricity.

LOCAL DISTRIBUTION COMPANY — The owner or controller of the means of distribution of the energy that is regulated by the Public Service Commission, currently Consolidated Edison Company of New York.

PUBLIC SERVICE COMMISSION — The New York State Public Service Commission.

SMALL COMMERCIAL — Nonresidential customers, as permitted by the order.

SUPPLIERS — Independent power producers, other generators of electricity, producers of natural gas, the default supplier, the local distribution company, or any other energy service companies (ESCOs) that procure and resell electricity or natural gas to residential and small commercial customers.

SUSTAINABLE WESTCHESTER — A not-for-profit organization composed of member municipalities in Westchester County, New York.

§ 2B-3. Establishment of a Community Choice Aggregation (Energy) Program.

- A. A Community Choice Aggregation (Energy) Program is hereby established by the Village of Pelham, whereby the Village of Pelham 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 Village of Pelham's role under the CCA Program involves the aggregation of the electric and/or natural gas supply of its residents and entering into a contract with the default supplier. Under the CCA Program, the operation and ownership of the utility service shall remain with the local distribution company. Further, the local distribution company retains its obligation to provide service of last resort in the event the default supplier does not perform.

- B. The Village of Pelham's purchase of energy supply through the CCA Program constitutes neither the purchase of a public utility system nor the furnishing of utility service. The Village of Pelham will 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 the default supplier on behalf of the default customers.
- C. In order to implement the CCA Program, the Village of Pelham will adopt one or more resolutions that outline the process of and conditions for participation in the CCA Program, including, but not limited to, signing a contract for a compliant bid with one or more default suppliers, all as consistent with this chapter 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, including the default supplier.

§ 2B-4. Procedures for eligibility; customer data sharing.

- A. As permitted by the order, the Village of Pelham may request from the local distribution company aggregated customer information by fuel type and service classification on a rolling basis.
- B. Sustainable Westchester, on behalf of the Village of Pelham, or the Village of Pelham, if the Village of Pelham so chooses, 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 to the default supplier.
- C. Sustainable Westchester or the Village of Pelham, if the Village of Pelham so chooses, will then request individual customer data from the local distribution company in accordance with the CCA Program.
- D. Sustainable Westchester or the Village of Pelham, if the Village of Pelham so chooses, and the default supplier will then notify default 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 local distribution company will provide Sustainable Westchester and/or the Village of Pelham with aggregate and customer-specific data (including usage

data, capacity tag obligations, account numbers, and service addresses) of all default customers (customers not currently enrolled with an ESCO).

- F. Sustainable Westchester and the Village of Pelham will protect customer information, as required by law, subject to the order and the limitations of the New York State Freedom of Information Law.

§ 2B-5. Choice of energy supplier; opt-out notice and procedure.

- A. The Village of Pelham, in conjunction with the default supplier, will notify its residential and small commercial customers, by letter notice, of the Village of Pelham's decision to establish the CCA Program, of the contract terms with the default supplier, and of the opportunity to opt out of the CCA Program.
- B. The letter notice, which will explain the CCA Program and the material provisions of the default supplier contract, will identify the methods by which customers can opt out of the CCA Program and will provide information on how customers can access additional information about the CCA Program, will be sent to each customer at the address provided by the local distribution company.
- C. The initial opt-out period shall be 20 days. Residential and small commercial customers can switch to another supplier at a later date, without penalty for making the switch.
- D. Default customers under the CCA Program will receive a welcome letter explaining their 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. The welcome letter will also explain that residential customers are entitled to the added protection of the mandated three-business-day rescission period set forth in Section 5(B)(3) of the Public Service Commission Uniform Business Practices.

§ 2B-6. Verification and reporting.

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.