

ARTICLE I
Community Choice Aggregation Energy Program
[Adopted 8-10-2015 by L.L. No. 9-2015]

§ 111-1. Legislative findings; intent and purpose; authority.

- A. It is the policy of both the Village of Irvington and the State of New York 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 Community Choice Aggregation (CCA) Energy Program is to allow participating governments, including the Village of Irvington, 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 article establishes a program that will allow the Village of Irvington to put out for bid the total amount of natural gas and/or electricity being purchased by local residential and small commercial customers. These customers will have to 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 article and fulfilling an important public purpose.
- C. The Village of Irvington is authorized to implement this Community Choice Aggregation (Energy) Program pursuant to § 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law, and State of New York Public Service Commission Orders in Cases 14-M-0564 and 14-M-0224 ("PSC Order").

§ 111-2. Definitions.

For purposes of this article, and unless otherwise expressly stated or unless the context otherwise requires, the terms in this article 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.

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 Village of Irvington.

DISTRIBUTION UTILITY — Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission.

PSC ORDER — Order of the State of New York Public Service Commission (PSC) in Case 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 PSC issued in connection with or related to Case 14-M-0564. "PSC order" shall also mean orders of the PSC related to Case 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 14-M-0224 enable actions by the Village of Irvington 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 14-M-0564 and orders from Case 14-M-0224, orders from Case 14-M-0564 shall govern the CCA Program.

PUBLIC SERVICE COMMISSION (PSC) — New York State Public Service Commission.

SMALL COMMERCIAL CUSTOMERS — Nonresidential customers as permitted by the PSC order.

SUPPLIERS — Energy service companies (ESCOs) that procure electric power and natural gas for bundled customers in connection with this article or, alternatively, generators of electricity and natural gas or other entities that procure and resell electricity or natural gas.

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

§ 111-3. Program established.

- A. A Community Choice Aggregation (Energy) (CCA) Program is hereby established by the Village of Irvington, whereby the Village of Irvington shall work together with Sustainable Westchester to implement the CCA Program to the full extent permitted by the PSC order. The Village of Irvington'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. Under the CCA Program, the operation and ownership of the utility service shall remain with the distribution utility.
- B. The Village of Irvington'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 Village of Irvington 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 suppliers on behalf of participating residential and small commercial customers.
- C. In order to implement the CCA Program, the Village of Irvington 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 suppliers, all consistent with this article and PSC order.

§ 111-4. Eligibility; customer data sharing.

- A. As permitted by the PSC order, the Village of Irvington 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 Village of Irvington, 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 Village of Irvington, if the Village so chooses, will then request individual customer data from the distribution utility in accordance with the CCA Program.
- D. Sustainable Westchester or the Village of Irvington, if the Village 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 PSC Order, the existing distribution utility 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 Village of Irvington not currently enrolled with an ESCO.
- F. Sustainable Westchester and the Village of Irvington will protect customer information as required by law, subject to the PSC order and the requirements of the New York State Freedom of Information Law.¹

§ 111-5. Choice of energy supplier; opt-out notice and procedure.

- A. The Village of Irvington, or in conjunction with the chosen supplier, will notify its bundled customers, by letter notice, of the Village of Irvington's decision to establish the CCA Program, of the contract terms with the chosen supplier, and of the opportunity to opt out of the CCA Program. The Village may also notify residents currently enrolled with an ESCO of the CCA Program, the contract terms, and their opportunity to participate in the CCA program.
- B. The letter notice will be sent to each customer at the address provided by the distribution utility and will explain the CCA Program and the material provisions of the contract with the chosen supplier, 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 20 days.
- 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. The welcome letter also will explain that residential customers are entitled to the added protection of the mandated three-day rescission period as detailed in Section 5(B)(3) of the Uniform Business Practices.

1. Editor's Note: See Public Officers Law § 85 et seq.