

**Chapter 5****PROGRAM, COMMUNITY CHOICE AGGREGATION****§ 5-1. Legislative Findings; Intent and Purpose; Authority****§ 5-2. Definitions.****§ 5-3. Authorization.****§ 5-4. Eligibility.****§ 5-5. Opt-out Process.****§ 5-6. Data Protection Requirements.****§ 5-7. Administration Fee****§ 5-8. Reporting.****§ 5-9. Effective Date.****§ 5-10. Severability.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Cold Spring 3-7-2017 as L.L. No. 3-2017. Amendments noted where applicable.]**

**§5-1. Legislative Findings; Intent and Purpose; Authority.**

- A. It is the policy of both the Village of Cold Spring and the State of New York to reduce costs and provide price certainty for the purpose of consumer protection and economic development, to expand access and opportunities for consumers in retail energy markets, as well as to promote the sustainability and resilience of energy systems through the proliferation of renewable energy, energy efficiency, and Distributed Energy Resources (DER, as defined below). Among the initiatives that may advance these objectives in New York is Community Choice Aggregation (“CCA”), a policy that empowers local governments to determine the source of electricity and/or natural gas supply on behalf of its residents and small businesses, reflecting local resources, priorities, and challenges. Energy delivery remains the responsibility of the Distribution Utility.

- B. This Chapter establishes the authority for the Village of Cold Spring Board of Trustees, in connection with the implementation a CCA program, to acquire utility data, to select, through competitive solicitation, energy Supplier(s) on behalf of Default Consumers within the jurisdictional boundaries of the Village of Cold Spring, and to maximize value for Participating Consumers through enhanced services related to DER. The Village of Cold Spring may choose to collaborate with other local governments to form an inter-municipal program. As a result, consumers 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.
- C. The Village of Cold Spring Board of Trustees is authorized to implement this COMMUNITY CHOICE AGGREGATION PROGRAM pursuant to Section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law; and consistent with 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 April 21, 2016) as may be amended, including subsequent orders of the Public Service Commission 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 Village of Cold Spring.
- D. This Chapter shall be known and may be cited as the “COMMUNITY CHOICE AGGREGATION PROGRAM Law of the Village of Cold Spring”.

## **§5-2. 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:

- A. AGGREGATED DATA shall mean aggregated and anonymized information 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. CCA ADMINISTRATOR shall mean [to be named] duly authorized to request Aggregated and Customer Specific Data, 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. CCA Administrator is responsible for program organization, administration, procurement, communications, and for meeting all requirements for program implementation specified in the PSC CCA Order, unless otherwise specified.

- C. CUSTOMER SPECIFIC DATA shall mean customer specific information, personal data and utility data for all Default Consumers 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.
- D. 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, or consumers within these service classes that subsequently become eligible to participate in the Program including those that have terminated a supply contract with an ESCO, removed a freeze or block on their account, have voluntarily suspended service pursuant to a special rate, or are new residents of the Village of Cold Spring. Consumers within opt-out eligible service classes, as of the date the supply contract goes into effect, taking service from an ESCO, those that have placed a freeze or block on their account, and those for whom enrollment in the CCA program would interfere with a choice they have already made to take service pursuant to a special rate are not considered Default Consumers and will not be enrolled on an opt-out basis. For the avoidance of doubt, all Default Consumers must reside or be otherwise located at one or more locations within the geographic boundaries of the Village of Cold Spring, as such boundaries exist as of the date the supply contract with the goes into effect.
- E. 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 geography of the CCA.
- F. DISTRIBUTION UTILITY shall mean owner or controller of the means of distribution of the natural gas or electricity in the Village of Cold Spring. The Distribution Utility also serves as the default supplier of electricity and natural gas preceding the establishment of a CCA program.
- G. ESCO or ENERGY SERVICES COMPANY mean an entity duly authorized to conduct business in the State of New York as an ESCO.
- H. 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.
- I. 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."

- J. PUBLIC SERVICE COMMISSION or PSC shall mean New York State Public Service Commission.
- K. SUPPLIER shall mean an ESCO that procures electric power and natural gas for Participating Consumers in connection with this Chapter or, alternatively, generators of electricity and natural gas or other entities who procure and resell electricity or natural gas.

**§5-3. Authorization of a Community Choice Aggregation Program.**

- A. A Community Choice Aggregation Program is hereby authorized by the Village of Cold Spring, whereby the Village of Cold Spring may implement a CCA program to the full extent permitted by the PSC CCA Order, as set forth more fully herein.
- B. The Village of Cold Spring 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 of Cold Spring 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 Consumers.
- D. The operation and ownership of the utility service shall remain with the Distribution Utility. The Village of Cold Spring's participation in a CCA program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The Village of Cold Spring 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.
- 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.

**§5-4. Eligibility.**

- A. 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 disenroll any time thereafter with no penalty. Those that do not opt out before the supply contract goes into effect will be enrolled automatically.
- B. All non-Default Consumers within the Village of Cold Spring, regardless of service class, shall be eligible to participate in the CCA program on an opt-in basis.

- C. CCA Administrator, on behalf of the Village of Cold Spring, 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.

**§5-5. Opt-Out Process.**

- A. A program notification letter, printed on municipal letterhead, shall be mailed to Default Consumers at least 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 and APP status, will be provided to the ESCO.
- B. After the 30 day opt-out period, all consumers shall have the option to disenroll from the CCA program at any time without penalty.

**§5-6. Data Protection Requirements.**

- A. The Village of Cold Spring, 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, (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 that apply with respect to the Village of Cold Spring or its representative's processing of confidential utility information; (ii) 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 of Cold Spring 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.
- C. For the purpose of protecting customer data, the Village of Cold Spring must enter into an agreement with the Distribution Utility 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 Default Consumer or Participating 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 Default Consumer or Participating 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.

**§5-7. Administration Fee.**

The Village of Cold Spring 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.

**§5-8. Reporting.**

- A. Annual reports shall be filed with the Village of Cold Spring Board of Trustees 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.

**§5-9. Effective Date.**

This Local Law shall be effective immediately upon passage.

**§5-10. Severability.**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.