TOWN OF WINDHAM
LOCAL LAW # 4 OF 2023

"COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM"

Section 1:   A new chapter to the Town of Windham Code entitled "Community Choice Aggregation (Energy) Program" as follows:

ARTICLE I

§1.   Legislative Findings; Intent and Purpose; Authority

A.   It is the purpose of this Local Law to seek to reduce the cost of natural gas and electricity to its residents.

B.   The purpose of this CCA Program, as described to the Town of Windham by the Administrator, is to allow participating local governments including the Town of Windham to procure energy supply service for their residential and 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 of Windham or its designated agent for that purpose, to put out for bid the total amount of natural gas and/or electricity being purchased by their residential and Commercial customers. Bundled Customers will have the opportunity to have more negotiating strength and consequential potential to lower their overall energy costs, and to improve customer choice and value, by providing an additional alternative source for electricity and natural gas; thereby, fulfilling the purposes of this Chapter and fulfilling an important public purpose.

C.   The Town of Windham is hereby authorized to participate in a 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-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs, Order Authorizing Framework for Community Choice Aggregation Opt-Out Program (issued April 20, 2016), including subsequent orders of the Public Service Commission issued in connection with or related to Case No. 24-M-0224 (collectively, the "Order").

D.   This Chapter shall be known and may be cited as the "COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM Law" of the Town of Windham.

§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:

Administrator – <u>Town of Windham</u>, a not-for-profit corporation.

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

Commercial – Non-residential customers as permitted in 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 Windham.

Distribution Utility – Owner of 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 produce 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.

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

A.   A Community Choice Aggregation (Energy) Program is hereby established by the Town of Windham, whereby the Town of Windham shall cooperate with the Administrator by participating in the CCA Program to the full extent permitted by the Order, as set forth more fully herein. The Town of Windham's role under the CCA Program involves the aggregating of the electric and/or natural gas supply for its residents, and the entering into a contract with one or more Suppliers, through the Administrator, for the procurement of electricity and/or natural gas supply for its residential and Commercial customers. Under the CCA Program, the operation and ownership of the utility service shall remain with the Distribution Utility.

B.   The Town of Windham's procurement of energy supply through a CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The Town of Windham 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 through the Administrator on behalf of participating residential and Commercial customers.

C.   In order to implement the CCA Program, the Town of Windham shall adopt one or more resolutions that outline the process of and conditions for participation in the CCA

Program, as consistent with the Local Law and the Order. The Town shall adopt the following policies and agreements consistent with the Order: (i) an Implementation Plan; (ii) a Data Protection Plan; (iii) a Data Security Agreement; and (iv) a Certification of Local Authority (collectively, the "Policies"). The Policies shall be adopted, submitted, amended, supplemented and filed in accordance with the Order.

D.   The Public Service Commission supervises retail markets and participates 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.   **Customer Eligibility.**

A.   Residential and Commercial customers, regardless of size, shall be eligible to participate in the CCA Program.

B.   The Administrator shall apply opt-in and opt-out status to customers in accordance with the Order.

§5.   **Supplier Selection; Supplier Contracts.**

A.   The Administrator, on behalf of the Town of Windham, 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.

B.   The terms of the Supplier contracts ("CCA Contract") shall comply with the Order.

§5.   **Opt-Out Notice and Procedures.**

A.   The Administrator shall provide information and education to potential CCA customers over no less than a two (2) month period.

B.   The Town of Windham shall mail opt-out letters to eligible opt-out customers provided: (i) the Policies have been filed; and (ii) the opt-out letters have been deemed compliant.

C.   The opt-out letter shall comport with the requirements set forth in the Order.

D.   The initial opt-out period shall be thirty (30) days after notification is sent to the customer.

§6.   **Customer Data Sharing.**

A.   The Administrator may request the Distribution Utility's aggregated customer information on all Bundled Customers in the Town of Windham provided the Public Service Commission has approved the Policies.

B.   Provided the Administrator has complied with the requirements of (A), the Distribution Utility shall transfer the aggregated customer and usage data within twenty (20) days of a request from the Administrator in accordance with the Order.

C.   Customer-specific information may be requested for all eligible customers once the Administrator demonstrates that the requisite contracts with ESCOs have been entered into and executed. Detailed customer information may be requested for eligible customers who did not opt-out once the initial opt-out period has closed.

D.   After the Administrator has entered into a CCA Contract with an ESCO, the Distribution Utility shall transfer customer-specific data to the Administrator within five (5) days of a request in accordance with the Order.

E.   The Administrator, the contracted Supplier, and the Town of Windham will protect customer information as required by law, subject to the Order and the limitations of the New York State Freedom of Information Law.

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