



At a regular meeting of the City Council held on November 7, 2018, Councilwoman Goddard made a motion, seconded by Councilwoman Tagger-Epstein, to adopt the following local law:

RESOLVED, the City Council hereby adopts Local Law 6 of 2016, Chapter 74 of the Rye City Code, “Community Choice Aggregation (Energy) Program,” as follows:

LOCAL LAW NO. 6 2018

**A LOCAL LAW TO ESTABLISH A COMMUNITY CHOICE AGGREGATION
(ENERGY) PROGRAM IN THE CITY OF RYE.**

Be it enacted by the City of Rye of County of Westchester as follows:

Section 1. The Code of the City of Rye is hereby amended by adding a new Chapter 74 titled “Community Choice Aggregation (Energy) Program, to read as follows:

§74-1. Legislative Findings; Intent and Purpose; Authority.

- A. It is the policy of both the City of Rye 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 (“CCA”), 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 CCA Program is to allow participating local governments including City of Rye 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 Chapter establishes a program that will allow the City of Rye to put out for bid the total amount of natural gas and/or electricity being purchased by local residential and Small Commercial customers. Bundled Customers will have the 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 Chapter and fulfilling an important public purpose.

- C. The City of Rye is authorized to implement this 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-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 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 December 15, 2014) to the extent that orders related to Case No. 14-M-0224 enable actions by the City of Rye 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 City of Rye”.

§ 74-2. 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:

BUNDLED CUSTOMERS – Residential and Small Commercial customers of electricity or natural gas (“fuels”) who are purchasing the fuels from the Distribution Utility.

SMALL COMMERCIAL – Non-residential customers as permitted by 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 City of Rye.

DISTRIBUTION UTILITY – Owner or 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 procure 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.

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

§ 74-3. Establishment of a COMMUNITY CHOICE AGGREGATION (ENERGY) Program.

- A. A Community Choice Aggregation (Energy) Program is hereby established by the City of Rye, whereby the City of Rye 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 City of Rye role under the CCA Program involves the aggregating of the electric and/or gas supply of its residents and the entering into a contract with one or more Suppliers for supply and services. Under the CCA Program, the operation and ownership of the utility service shall remain with the Distribution Utility.
- B. The City of Rye participation in a CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The City of Rye 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 City of Rye 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 as consistent with the Local Law 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.

§ 74-4. Procedures for Eligibility; Customer Data Sharing.

- A. As permitted by the Order, the City of Rye 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 City of Rye, 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 City of Rye, if the City of Rye so chooses, will then request individual customer data from the Distribution Utility in accordance with the CCA Program.
- D. Sustainable Westchester or the City of Rye, if the City of Rye 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 Order, Con Ed 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 City of Rye not currently enrolled with an individually chosen ESCO.
- F. Sustainable Westchester and the City of Rye will protect customer information as required by law, subject to the Order and the limitations of the New York State Freedom of Information Law.

§ 74-5. Choice of Energy Supplier; Opt-Out Notice and Procedure.

- A. The City of Rye or, in conjunction with the ESCO, will notify its residential and Small Commercial customers, by letter notice, of the City of Rye to establish the CCA Program, of the contract terms with an ESCO, and of the opportunity to Opt-Out of the CCA Program.
- B. The letter notice will be sent to each customer at the address provided by the Distribution Utility and explain the CCA program and the material provisions of the ESCO contract, 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 at least twenty (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 (3) day rescission period as detailed in Section 5(B)(3) of the Uniform Business Practices.

§ 74-6. Verification and Reporting.

- A. 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.

Section 2: Severability.

If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

Section 3. This local law shall take effect upon filing with the Secretary of State.

ROLL CALL

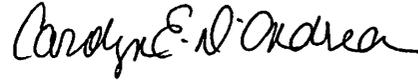
AYES: Mayor Cohn, Councilmembers Goddard, Hurd, Souza, Stacks, Tagger-Epstein
 NAYS: None
 ABSENT: Councilman Mecca

The Resolution was adopted by a 7-0 vote.

STATE OF NEW YORK)
 COUNTY OF WESTCHESTER)
 CITY OF RYE)

THIS IS TO CERTIFY that I have compared the foregoing resolution with the original thereof, duly passed and adopted at a regular meeting of the Council of the City of Rye held on the 7th day of November, 2018 by the affirmative vote of at least a majority of all members of said Council then in office, present and voting thereon, the vote upon passage thereof having been taken by recording the ayes and nays and duly entered in the minutes of said meeting of said Council and on file in this office, and **I DO HEREBY CERTIFY** said resolution to be a correct transcript thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the official seal of the City of Rye this 9th day of November, 2018.



CAROLYN E. D'ANDREA
CITY CLERK

S E A L.





CITY OF RYE
CITY HALL • RYE, NEW YORK 10580
TELEPHONE (914) 967-5400
(914) 967-7371

November 8, 2018

Division of Corporations
State Records & Commercial Code
One Commerce Plaza
99 Washington Ave.
Albany, New York 12231-0001

Dear Ms. Lasch:

Enclosed find the original of:

Local Law No. 6-2018

The attached laws were adopted by the Council of the City of Rye at a regular meeting on November 7, 2018 with the applicable provisions of the law as indicated in paragraph 1.

Please send a receipt acknowledgement for our files. Thank you.

Very truly yours,

Carolyn D'Andrea
City Clerk

Enclosure



CITY OF RYE
CITY HALL • RYE, NEW YORK 10580
TELEPHONE (914) 967-5400
(914) 967-7371

November 8, 2018

General Code
781 Elmgrove Road
Rochester, New York 14624

To General Code:

The enclosed laws were adopted by the Council of the City of Rye at a regular meeting on November 7, 2018.

Local Law No. 6-2018

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Very truly yours,

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City Clerk

Enclosure

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City

Town of Rye

Village

Local Law No. 6 of the year 2018

A local law to adopt a new local law titled Chapter 74, "Community Choice Aggregation (Energy) Program" to allow the City to determine the default supplier of electricity and natural gas for its residential and small commercial suppliers.

Be it enacted by the City Council of the
(Name of Legislative Body)

County

City

Town of Rye as follows:

Village

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 6 of 2018 of the (County)(City)(Town)(Village) of Rye was duly passed by the City Council on November 7 2018, in accordance with the applicable provisions of law.

(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 __ , and was (approved) (not approved) (repassed after

(Name of Legislative Body)

disapproval) by the _____ and was deemed duly adopted on _____ 20 _____

(Elective Chief Executive Officer)*

in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 __ , and was (approved) (not approved) (repassed after

(Name of Legislative Body)

disapproval) by the _____ on _____ 20 ____ . Such local law was submitted

(Elective Chief Executive Officer)*

to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20 __ , in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 __ , and was (approved)(not approved)(repassed after

(Name of Legislative Body)

disapproval) by the _____ on _____ 20 ____ . Such local law was subject to

(Elective Chief Executive Officer)*

permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 ____ , in accordance with the applicable provisions of law.

* **Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a countywide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 __ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 __ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner in dictated in paragraph 1, above.



Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

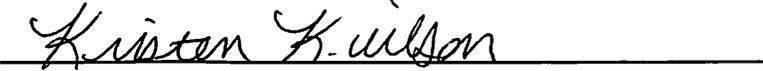
(Seal)

Date: November 8, 2018

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Westchester

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature

Corporation Counsel

Title

County
City
Town of Rye
Village

Date: November 8, 2018

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- B. The City of Rye participation in a CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The City of Rye 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.
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- A. 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.

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If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

Section 3. This local law shall take effect upon filing with the Secretary of State.

**PUBLIC NOTICE
CITY OF RYE**

Notice of Public Hearing to consider a local law to establish a Community Choice Aggregation Program in the City of Rye.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 7th day of November, 2018 at 7:30 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposal to consider a local law to establish a Community Choice Aggregation Program in the City of Rye.

Copies of said local law may be obtained from the office of the City Clerk.

Carolyn D'Andrea, City Clerk

Dated: October 18, 2018

3216239

*Carolyn D'Andrea
10/22/18*