

# **Community Choice Aggregation Guidance Document**

**August 2019**



**Department of  
Public Service**

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**Department of  
Public Service**

# Overview of CCA Rules

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**The following rules were established in the April 21, 2016 Order Authorizing Framework for Community Choice Aggregation Opt-out Program, Case 14-M-0224, unless noted otherwise in footnote.**

## **Eligible Municipal Governments**

1. The three types of municipalities under New York State law eligible to form a CCA are: villages, towns, and cities.
  - a. Counties will not be eligible to set up a CCA, but county governments may actively encourage and coordinate the municipalities within the county to form an inter- municipal CCA and even work to support that CCA as in an administrative role.
  - b. The Commission will require that a village board be the entity setting up a CCA in any village; that a town board be the entity setting up a CCA in the area of any town outside of any villages; and a city council be the entity setting up a CCA in any city.
  
2. Municipalities may work together, such as through intermunicipal agreements, to operate joint CCA programs. There are no geographic or service territory limits on joint programs, but municipalities should be aware that combining municipalities in multiple utility service territories could result in additional costs or complications.
  
3. A municipality or group of municipalities may work with a non-profit, retain a consultant, or otherwise designate a third party to act as a CCA Administrator and complete some or all the tasks described below.
  - a. As used below, the term “CCA Administrator” refers to either the municipality acting on its own behalf or to a third party acting on behalf of the municipality.
  - b. The municipality remains ultimately responsible for compliance with the law and Commission Orders and must ensure, as further described below, that any third parties appropriately protect customer data.

## Scope of CCA Programs

4. CCA programs will be permitted to aggregate electric supply, gas supply, or both. Customers in CCA programs where both gas and electric supply are offered shall have the option to opt- out of either aggregation. For those customers that currently receive their supply of gas and/or electric from an energy service company (ESCO), those customers will have an ability to opt-in to a municipal CCA program, subject to their existing ESCO contract terms and the terms of the CCA program.
5. CCA programs may aggregate or otherwise integrate into their programs energy efficiency and distributed energy resources (DER). In considering how to include a variety of products and energy planning and management activities within the CCA program, CCA Administrators should be open to contracting with different ESCO and DER providers for services.

## Customer Eligibility

6. All customers, including residential and non-residential, regardless of size, shall be eligible to participate in CCA programs.
7. A customer shall be enrolled on an opt-out basis only if that customer is a member of a service classes listed, by utility, in Appendix C of the CCA Framework Order.
  - a. Those service classes include all residential customers as well as service to multiple dwellings and, depending on the granularity available in utility tariffs, include at least all small commercial and industrial customers.
  - b. The CCA Administrator shall consult with the utility or utilities providing service on whether customers taking service subject to riders or other special rate treatments should be included on an opt-out basis. No customer should be included on an opt- out basis if that inclusion will interfere with a choice the customer has already made to take service pursuant to a special rate.
8. Customers that are already taking service from an ESCO or have placed a freeze or block on their account shall not be enrolled on an opt-out basis but may be included on an opt-in basis, subject to the conditions of their existing contracts.
  - a. The CCA Administrator for a CCA that intends to accept opt-in customers is responsible for developing a process consistent with the Uniform

Business Practices (UBP) requirements for customer enrollment to accomplish this and may work with the selected ESCO to do so.

9. The CCA Administrator may choose to apply opt-out treatment to a more limited class of customers, to only allow certain classes of customers to opt in, or both.
10. The CCA Administrator may determine whether eligible customers who move into a municipality which is participating in a CCA should be enrolled on an opt-in or opt-out basis.
  - a. The CCA Administrator may request a monthly list from the relevant utilities of new eligible customers in the municipality. There may be a cost associated with this list.
  - b. If the CCA Administrator chooses to enroll these customers on an opt-out basis, it must mail them an opt-out letter consistent with the discussion below providing an opt-out period of at least 30 days before the customer is enrolled.
  - c. Such customer shall be permitted to cancel and return to utility service or service by another ESCO with no cancellation fees or other charges any time before the end of the third billing cycle after their enrollment.

### **Low-Income Customer Participation**

11. CCA programs may include Assistance Program Participants or APPs so long as those customers are enrolled in products that comply with requirements for ESCO service of APPs at the time of enrollment but are not required to include APPs.
  - a. CCA Administrators should consult with relevant local or state social services program administrators in considering whether to include APPs.
  - b. For some low-income customers, a social services organization receives and pays the energy bill; in those cases, the social services organization, not the customers themselves, should make the decision regarding whether to opt out.
12. If a CCA intends to serve APPs, it must ensure that those customers are enrolled in a product that provides guaranteed savings by the ESCO or ESCOs that it selects to serve its customers.<sup>1</sup>

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<sup>1</sup> Case 14-M-0224, 16-M-0015, Rule was established in the October 19, 2017 Order Approving Community Choice Aggregation Program and Utility Data Security Agreement with Modifications (MEGA Order)

13. The CCA and its selected ESCO shall make a compliance filing, prior to mailing opt-out letters, describing the guaranteed savings product that will be offered to APPs and demonstrating: (a) an ability to calculate what the customer's total bill would have been if the commodity had been provided by the utility; (b) a willingness and ability to ensure that the customer will be paying no more than what they would have paid to the utility; and (c) appropriate reporting and ability to verify compliance with these assurances. Staff shall review this filing to ensure that it is consistent with the requirements in the Low-Income Order.<sup>2</sup>
  
13. Because the Low-Income Order is implemented through a block placed by the utility on the accounts of APPs and customers with a block on their account are normally considered ineligible customers for data exchanges between the utility and the CCA, modifications to those data exchanges are necessary to facilitate the participation of APPs in CCAs that offer guaranteed savings products for them. For a CCA that indicates it intends to serve APPs, the utilities shall include, in creating the initial aggregated data set, data related to customers with utility-initiated blocks on their accounts and should also specifically break out the number of customers that fall into this category and the consumption of those customers. Subsequently, as part of the customer contact information, utilities shall provide a separate list containing contact information for customers with utility-initiated blocks on their accounts so that the CCA can ensure that those customers are enrolled in the guaranteed savings product.<sup>3</sup>
  
14. The CCA should also develop a tailored opt-out letter for APP customers that explains the product they will be enrolled in, if they choose not to opt-out, and file that letter as part of the compliance filing regarding APP service described above.<sup>4</sup>

### **Customer Outreach and CCA Development Process**

15. NYSERDA shall be available as a technical consultant to assist municipalities and CCA Administrators, including through individual consultations and through a CCA toolkit describing best practices and including model documents such as customer outreach materials and contracts.
  
16. Before receiving data from the utility, soliciting proposals from energy services companies (ESCOs), or starting to operate as a CCA, the CCA Administrator

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<sup>2</sup> MEGA Order

<sup>3</sup> MEGA Order

<sup>4</sup> MEGA Order

must file and receive Commission approval of an Implementation Plan, Data Protection Plan, and certification of local authorization.

17. The Implementation Plan shall include a description of the program and its goals, plans for value-added services (e.g., installation of DER or other clean energy services) that will be included in a Request for Proposal (RFP), Power Purchase Agreements (PPA), contracts and/or bids, a public outreach plan, and drafts of written communications with its residents, including opt-out letters. The Commission determined in the March 16, 2018 Order approving Joule Assets' CCA program that CCA administrators are required to file with Staff any RFP, PPA, and contracts or bids seeking ESCOs or other suppliers for commodity supply or any other services.
  - a. The Implementation Plan must include multiple forms of outreach over a period of no less than two months.
  - b. The Implementation Plan shall also include contact information for a CCA liaison to respond to questions or concerns by CCA customers. Administrator websites shall identify at least one local official or agency in each municipality that residents of that municipality may contact with questions or comments.
  - c. The CCA Administrator shall file updates and supplements to the Implementation Plan as appropriate, including final versions of customer opt-out letters that provide details on program contracts.
  - d. The Implementation Plan must also be updated, and submitted for Commission consideration, at least 120 days prior to the expiration of any CCA supply contract to identify plans for soliciting a new contract, negotiating an extension, or ending the CCA program. If a new contract or contract extension is signed, CCA customers must be given the opportunity to opt-out prior to the beginning of the new contract or the extension period.
  - e. The Implementation Plan must be updated to include information regarding Limited English Proficiency (LEP) customers and how they will be identified and provided information in their native language, as required in the CCA Framework Order and the UBP. Additionally, information regarding the availability of translation services must be added to the Implementation Plan.<sup>5</sup>
  
18. The Data Protection Plan must describe how the CCA Administrator will ensure the same level of consumer protections as currently provided by utilities and

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<sup>5</sup> Case 14-M-0224, Rule was established in the January 18, 2018 Order Approving Community Choice Aggregation Programs with Modifications (Good Energy Order)

ESCOs; including data security protocols and restrictions to prevent the sale of that data or its use for inappropriate purposes, such as advertising.

19. The utilities, in consultation with Staff, shall develop and file a standard Data Security Agreement.
  - a. Data Protection Plans filed by CCA Administrators must be consistent with this agreement.
20. Each municipality intending to implement a CCA program must exercise its Municipal Home Rule Law authority by enacting a local law, after holding a public hearing on notice, giving itself the requisite legal authority to act as an aggregator and broker for the sale of energy and other services to residents.
  - a. Any inter-municipal agreements may also require additional procedural steps imposed by the General Municipal Law or other applicable statutes.
  - b. CCA Administrator must file a certification that the CCA Program has received all necessary local authorizations.
21. Once the Implementation Plan, Data Protection Plan, and certifications of local authorization have been filed, the Commission will determine whether they comply with the requirements of the Framework Order and, if they do, issue an approval.
  - a. Once the Commission deems a filing compliant, updates to that document need not be subject to formal review, except as otherwise required by a Commission Order.
22. The Implementation and Data Protection Plans may be filed as soon as the municipality begins considering CCA, but they and the certifications must be filed, and approved by the Commission, before the CCA Administrator can request any data from the utilities.
23. If a CCA program ends, each CCA customer must be returned to utility supply service, except for customers that affirmatively enter into a new, individual contract with the ESCO that complies with all relevant requirements for ESCO service to individual customers.
24. At least one additional meeting must be held in each municipality after an ESCO is selected and prior to opt-out letters being mailed to residents.<sup>6</sup>

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<sup>6</sup> MEGA Order



25. Additional outreach that focuses primarily on the Community Distributed Generation (CDG) integration model is required for Program Municipalities who elect to integrate CDG into their CCA program. A CDG focused outreach meeting should take place prior to the opt-out letters containing a CDG component being mailed to residents. This meeting could be combined with the additional meeting that must be held in each municipality after an ESCO is selected and prior to opt-out letters being mailed to residents.<sup>7</sup>
26. The Implementation Plan must be updated to include information regarding Limited English Proficiency (LEP) customers and how they will be identified and provided information in their native language, as required in the CCA Framework Order and the UBP. Additionally, information regarding the availability of translation services must be added to the Implementation Plan.

### **Customer Opt-Out Process**

27. The CCA Administrator shall provide information and education to potential CCA members over no less than a two-month period.
28. The mailing of an opt-out letter must be preceded by the filing of Implementation and Data Protection Plans and certifications of local authorization as well as certification of the opt-out letter itself as compliant.
  - a. The opt-out letter must include details about the selected ESCO and contract and therefore can only occur after the RFP and negotiation process has been completed.
  - b. The CCA Administrator must then provide at least one opt-out notification, on municipal letterhead, that sets an opt-out period of at least 30 days.
  - c. The opt-out letter must include information on the CCA program and the contract signed with the selected ESCO including specific details on rates, services, contract term, cancellation fee, and methods for opting-out of the program.
  - d. It must explain that customers that do not opt-out will be enrolled in ESCO service under the contract terms and that information on those customers, including energy usage data and APP status, will be provided to the ESCO.

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<sup>7</sup> Case 14-M-0224, 15-E-0082, Rule was established in the March 16, 2018 Order Approving Joule Assets' Community Choice Aggregation Program with Modifications (Joule Order)

- e. The letter shall be addressed as a letter from the municipality and use an envelope and letterhead that identify it as such.
  - f. All communications with customers must be provided in the individual customer's native language to the extent that such information is available from the utility or in municipal records.
  - g. The opt-out letter or letters must be filed at least 5 days before the CCA Administrator intends to mail them. Staff shall review the filings and respond within five days with a written acknowledgment that the filing is deemed compliant with the Framework Order, an explanation of the filing's failure to comply with the Framework Order, or a letter explaining that additional time is required.
29. Customers must be permitted by the selected ESCO to opt out and return to utility service any time before the end of the third billing cycle after enrollment without penalty.
30. The CCA should develop a tailored opt-out letter for APP customers that explains the product they will be enrolled in, if they choose not to opt-out, and file that letter as part of the compliance filing regarding APP service described above.<sup>8</sup>

### **Municipal Contracts with ESCOs and Other Providers**

31. The terms of the contract between the municipality and the ESCO or ESCOs providing service must comply with generally applicable requirements for ESCO service at the time the contract is entered into, including the terms of the February Reset Order once it comes into effect. Further guidance on contract requirements, including the approval of such products, will appear in future orders in proceedings relating to the February Reset Order.
32. CCA programs are not limited to contracting with only one ESCO and are encouraged to consider whether agreements with more than one ESCO offering different products or benefits, or with DER and energy efficiency providers in addition to one or more ESCOs, could support their development of holistic community energy initiatives.
- a. In developing such programs, CCA Administrators are encouraged to consult with NYSERDA and to consider how other Commission initiatives, such as Community Distributed Generation could work together with the CCA program.

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<sup>8</sup> MEGA Order

33. Termination charges after the grace period will be subject to the contract between the municipality and the ESCO and must be consistent with the then-effective UBP provisions.
  - a. Termination fees shall not be charged to customers that cancel their CCA service as a result of moving out of the premises served.
34. CCA contracts shall not include terms that would restrict the installation or use of DER or energy efficiency products by the municipality or CCA customers, or otherwise penalize the municipality or customers for reductions in energy usage or the installation of clean energy technologies.
35. CCA Administrators will be permitted to collect funds from customer payments to pay for administrative costs associated with running the CCA program.
  - a. CCA customer payments to the CCA Administrator will have to be negotiated as part of the contract and built into the per kWh rates.
  - b. Municipalities may not collect funds from customer payments to cover lost sales tax revenues.

### **Clean Energy Integration, Funding, and Collections**

36. Municipalities will not be permitted to allocate a portion of the CCA customer payments to a clean energy or public benefit fund at this time.

### **Green Energy**

37. If a CCA intends to offer green energy, it must ensure that such energy is generated by biomass, biogas, hydropower, solar energy, or wind energy, as defined in and subject to the environmental attributes and delivery rules of the Commission's Environmental Disclosure Program.<sup>9</sup> ESCO's with the intent to purchase Renewable Energy Credit's (REC) will follow the requirements effective January 1, 2019.

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<sup>9</sup> Joule Order

38. ESCOs selling green products are required to disclose to customers the premium the customer will be charged for the purchase of the green product separate from the underlying commodity charge.<sup>10</sup>
39. ESCOs providing green energy in the context of CCA must maintain auditable New York specific records to demonstrate that such customers are receiving green energy compliant with the environmental attributes and delivery rules of the Commission's Environmental Disclosure Program. Failure to maintain such auditable New York specific records or to allow access to such records by Department Staff or its designee would be grounds for disqualifying the ESCO or its affiliates from using the utility distribution systems to provide any services to any customers in New York State.<sup>11</sup>

### **Provision of Customer Data**

40. The CCA Administrator may commence requesting aggregated data once the Commission has approved its filing of its Implementation and Data Protection Plans and certifications of local authorization consistent with the Framework Order.
41. Customer-specific contact information can be requested for all eligible customers once the CCA Administrator demonstrates to the utility that the requisite contracts with ESCOs have been entered into and executed.
42. Detailed customer information can be requested for eligible customers who did not opt-out once the initial opt-out period has closed.
43. After Implementation and Data Protection Plans and certifications of local authorization have been approved by the Commission, the utility shall transfer the aggregated customer and usage data within twenty days of a request from the CCA Administrator.
  - a. This aggregated data shall include all customers eligible for opt-out treatment based on the terms of the Framework Order and the CCA program design.
    - i. This aggregated data shall include the number of customers by service class, the aggregated peak demand (kW) (for electricity) by month for the past 12 months, by service class to the extent

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<sup>10</sup> Joule Order

<sup>11</sup> Joule Order

possible, and the aggregated energy (kWh) for electricity or volumetric consumption for gas by month for the past 12 months by service class.

44. Utilities shall not provide data for any service class that contains so few customers, or in which one customer makes up such a large portion of the load, that the aggregated information could provide significant information about an individual customer's usage. At this time, utilities shall follow their current internal policies in addressing the anonymity issue for ensuring that aggregated data is sufficiently anonymous.
45. After the CCA Administrator has entered into a CCA contract with an ESCO, the utility shall transfer the customer-specific data to the CCA Administrator, within five days of a request, to support the mailing of opt-out notices.
  - a. This data shall include all customers in the municipality eligible for opt-out treatment based on the terms of the Framework Order and the CCA program design.
    - i. The data shall consist of the customer of record's name, mailing address, account number, and primary language, if available, and any customer-specific alternate billing name, and address.<sup>12</sup>
46. The Commission determined in the MEGA Order that account numbers are not essential during the opt-out phase and that allowing utilities to withhold account numbers reduced the risk to customers.
47. After the opt-out period has ended, the CCA Administrator or the ESCO may submit a request to the utility for further data on the customers who have not opted-out consistent with existing Electronic Data Interchange (EDI) protocols. The utility shall transfer customer data based on the general standards for transfers of data to ESCOs through EDI, including usage data and low-income status.
48. Because the Low-Income Order is implemented through a block placed by the utility on the accounts of APPs and customers with a block on their account are normally considered ineligible customers for data exchanges between the utility and the CCA, modifications to those data exchanges are necessary to facilitate the participation of APPs in CCAs that offer guaranteed savings products for them. For a CCA that indicates that it intends to serve APPs, the utilities shall

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<sup>12</sup> The Commission determined in the MEGA Order that account numbers are not essential during the opt-out, phase and that allowing utilities to withhold account numbers reduced the risk to customers.

include, in creating the initial aggregated data set, data related to customers with utility-initiated blocks on their accounts and should also specifically break out the number of customers that fall into this category and the consumption of those customers. Subsequently, as part of the customer contact information, utilities shall provide a separate list containing contact information for customers with utility-initiated blocks on their accounts so that the CCA can ensure that those customers are enrolled in the guaranteed savings product.<sup>13</sup>

## Reporting

49. Annual reports shall be filed with the Secretary and filed by March 31 each year and cover the previous calendar year.
  - a. Annual reports will include, at a minimum: number of customers served; number of customers cancelling during the year; number of complaints received by the CCA liaison; 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 customers who opted out in response to the initial opt-out letter or letters.
  - b. CCA programs with CDG projects will include in their annual reports, at a minimum: overall number of CDG projects; number of CDG projects that began in that reporting year; number of municipalities who choose to offer CDG credits; overall number of CDG subscribers; number of complaints received by the CCA liaison related to CDG; and number of customers who opted-out of the CDG membership.<sup>14</sup>

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<sup>13</sup> MEGA Order

<sup>14</sup> Joule Order

# Customer Eligibility

## APPENDIX C

### LIST OF OPT-OUT ELIGIBLE SERVICE CLASSES BY UTILITY

| Company                                           | Electric Opt-Out Service Classes                                                                                                                                                                | Gas Opt-Out Service Classes                                                                                                                             |
|---------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| Central Hudson Gas & Electric Corporation         | SC 1 Residential Service; and<br>SC 2 General Service                                                                                                                                           | SC 1 Residence Rate; and<br>SC 2 Commercial and Industrial Rate                                                                                         |
| Consolidated Edison Company of New York, Inc.     | SC 1 Residential and Religious;<br>SC2 General - Small;<br>SC 8 Multiple Dwellings - Redistribution;<br>SC 12 Multiple Dwelling - Space Heating; and<br>SC 13 Bulk Power - Housing Developments | SC 1 Residential and Religious Firm Sales Service;<br>SC 2 General Firm Sales Service; and<br>SC 3 Residential and Religious-Heating Firm Sales Service |
| KeySpan Gas East Corp. dba Brooklyn Union of L.I. | N/A                                                                                                                                                                                             | SC 1 Residential Service;<br>SC 2 Non-Residential Service; and<br>SC 3 Multiple Dwelling Service                                                        |
| National Fuel Gas Distribution Corporation        | N/A                                                                                                                                                                                             | SC 1 Residential; and<br>SC 3 General                                                                                                                   |
| New York State Electric & Gas Corporation         | SC 1 Residential Service; and<br>SC 6 General Service                                                                                                                                           | SC 1 Residential Service; and<br>SC 2 General Service                                                                                                   |
| Niagara Mohawk Power Corporation                  | SC 1 Residential and Farm Service; and<br>SC 2 Small General Service                                                                                                                            | SC 1 Residential Service; and<br>SC 2 Small General Service                                                                                             |

|                                        |                                                                         |                                                                                                                                                                        |
|----------------------------------------|-------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Orange and Rockland Utilities, Inc.    | SC 1 Residential Service; and SC 2 General Secondary or Primary Service | SC 1 Residential and Space Heating; and SC 2 General Service                                                                                                           |
| Rochester Gas and Electric Corporation | SC 1 Residential Service; and SC 2 General Service- Small Use           | SC 1 General Service                                                                                                                                                   |
| The Brooklyn Union Gas Company         | N/A                                                                     | SC 1A Residential Non-Heating Service; SC 1B Residential Heating Service; SC 2 General Service; and SC 3 Heating and/or Water Heating Service (Multi-Family Buildings) |



# Low-income/APP Customer Participation

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## Low-Income Customer Participation

- CCA programs may include Assistance Program Participants or APPs so long as those customers are enrolled in products that comply with requirements for ESCO service of APPs at the time of enrollment but are not required to include APPs.<sup>15</sup>
  - CCA Administrators should consult with relevant local or state social services program administrators in considering whether to include APPs.
  - For some low-income customers, a social services organization receives and pays the energy bill; in those cases, the social services organization, not the customers themselves, should make the decision regarding whether to opt out.
- If a CCA intends to serve APPs, it must ensure that those customers are enrolled in a product that provides guaranteed savings by the ESCO or ESCOs that it selects to serve its customers.
- The CCA and its selected ESCO shall make a compliance filing, prior to mailing opt-out letters, describing the guaranteed savings product that will be offered to APPs and demonstrating: (a) an ability to calculate what the customer's total bill would have been if the commodity had been provided by the utility; (b) a willingness and ability to ensure that the customer will be paying no more than what they would have paid to the utility; and (c) appropriate reporting and ability to verify compliance with these assurances. Staff shall review this filing to ensure that it is consistent with the requirements in the Low-Income Order.
- Because the Low-Income Order is implemented through a block placed by the utility on the accounts of APPs and customers with a block on their account are normally considered ineligible customers for data exchanges between the utility and the CCA, modifications to those data exchanges are necessary to facilitate the participation of APPs in CCAs that offer guaranteed savings products for them. For a CCA that indicates that it intends to serve APPs, the utilities shall include, in creating the initial aggregated data set, data related to customers with utility-initiated blocks on their accounts and should also specifically break out the number of customers that fall into this category and the consumption of those

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<sup>15</sup> The Commission established the necessary requirements for APP customer participation in the MEGA Order

customers. Subsequently, as part of the customer contact information, utilities shall provide a separate list containing contact information for customers with utility-initiated blocks on their accounts so that the CCA can ensure that those customers are enrolled in the guaranteed savings product.

- The CCA should also develop a tailored opt-out letter for APP customers that explains the product they will be enrolled in, if they choose not to opt-out, and file that letter as part of the compliance filing regarding APP service described above.

# Customer Outreach and Education & CCA Development Process

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## **Implementation Plan**

- The Implementation and Data Protection Plans may be filed as soon as the municipality begins considering CCA, but they and the certifications must be filed, and approved by the Commission, before starting to operate as a CCA.
- The Implementation Plan describes the program and its goals, plans for value-added services that will be included in an RFP and PPA, contracts and/or bids, a public outreach plan, and drafts of written communications with its residents, including opt-out letters. It must also include, when applicable, information on APP Guaranteed Savings Program and CDG Program implementation.
- The CCA Framework Order establishes the requirements but gives the CCA Administrator flexibility in how they design their program. As an example, we have wide variances in outreach and education plans; some are submitted with completed details and while others are submitted showing anticipated details of future actions. Both plans are approved because they both meet the requirements and should not lead to customer confusion.
- Providing accurate program actions and structure information in the Implementation Plan is extremely important. Staff refers to the approved Implementation Plan when doing any review or verification of the CCA Program and its requirements.
- If you need to make changes to your Implementation Plan, please submit an updated Implementation Plan for review and approval. Any major program changes would need to be approved by the Commission.

# Implementation Plan Checklist

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## **CCA Implementation Plan**

1. Description of the program and its goals.
2. Plans for value-added services that will be included in a Request For Proposal (RFP) and Power Purchase Agreements (PPA).
3. Public outreach and education plan that includes multiple forms of outreach over a period of no less than 2 months. (See Outreach and Education Requirements)
4. Drafts of written communications.
5. Include information regarding Limited English Proficiency (LEP) customers and how they will be identified and provided information in their native language, and information regarding the availability of translation services.
6. APP guaranteed savings program information.
7. Contact information for a CCA liaison to respond to questions or concerns by CCA customers.
8. Identification of at least one local official or agency in each municipality that residents of that municipality may contact with questions or comments.

## **CDG Implementation Plan**

**In addition to the requirements for the CCA Implementation Plan, the following information must be submitted in the CDG Implementation Plan:**

1. Magnitude of participating CDG projects;
2. Target subscription class;
3. Scope and structure of guaranteed savings;
4. Billing details; and
5. Outreach and education details and a draft opt-out letter.

## Outreach and Education

- Education and outreach must include multiple forms of outreach over a period of no less than two months.
  - This is separate from the 30 day opt-out period.
  
- NYSERDA Tool Kit: Implementation Plan, Part 4: Public Outreach Plan
  - Gives examples of different types of potential outreach activities.
  - Provides a template for outlining education and outreach for each municipality.
  
- At least one additional meeting after the ESCO contract has been awarded but before beginning the opt-out period.
  
- Additional outreach that focuses primarily on the CDG integration model is required for Program Municipalities who elect to integrate CDG into their CCA program.
  - A CDG focused outreach meeting should take place prior to the opt-out letters containing a CDG component being mailed to residents. This meeting could be combined with the additional meeting that must be held in each municipality after an ESCO is selected and prior to opt-out letters being mailed to residents.
  
- Opt-out letter
  
- When filing a completed outreach and education plan to Staff for approval, supporting documentation should be provided. Such as copy of actual newspaper article, flier, etc. Currently, we do not require videotaped information sessions, but these have been requested by the Commission in the past.

## What Qualifies?

- Reported outreach and education must be specific to that municipality and the specific program and program details:
  - Newspaper article on CCA Program for a specific municipality.
  - Fliers that are specific to the CCA Program that is serving that municipality.
  - Local meetings that discuss the CCA Program for that municipality.
  - If you're not sure, check with Staff.

- Advertising, articles, or blogs related to the CCA Administrator and/or its staff, do NOT qualify as education and outreach for a participating community.

#### Staff Review

- Reviews the outreach and education plan from the approved Implementation Plan and compares it to what was submitted for verification.
- Checks all websites for accuracy: Municipality, CCA Program, CCA Administrator.
- Review of all supporting documentation to confirm that the item was completed and what date.
- Confirms accurate, consistent, consumer friendly information has been provided.
- Staff contacts the CCA Administrator with any questions or concerns.

# CCA Resources

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## **Staff Contacts**

|                |                                                                          |              |
|----------------|--------------------------------------------------------------------------|--------------|
| Kelly Strait   | <a href="mailto:kelly.strait@dps.ny.gov">kelly.strait@dps.ny.gov</a>     | 518-474-8026 |
| Adrienne Bletz | <a href="mailto:adrienne.bletz@dps.ny.gov">adrienne.bletz@dps.ny.gov</a> | 518-474-4502 |
| Ted Kelly      | <a href="mailto:Theodore.Kelly@dps.ny.gov">Theodore.Kelly@dps.ny.gov</a> | 518-473-4953 |

Guidance Document - Checklists and Requirements

DPS CCA Webpage with GIS Map and Resources – Coming Soon

## **NYSERDA**

NYSERDA Toolkit: <https://www.nyserda.ny.gov/All-Programs/Programs/Clean-Energy-Communities/Clean-Energy-Communities-Program-High-Impact-Action-Toolkits/Community-Choice-Aggregation>

Municipalities and CCA Administrators can email [cec@nyserda.ny.gov](mailto:cec@nyserda.ny.gov) for assistance.

## **Commission Orders**

### **14-M-0564 - Approval for the Implementation of a Pilot Community Choice Aggregation Program within the County of Westchester**

- Petition of Sustainable Westchester for Expedited Approval for the Implementation of a Pilot Community Choice Aggregation Program within the County of Westchester. – February 26, 2015.

### **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 – April 21, 2016.
- Order Approving Community Choice Aggregation Program and Utility Data Security Agreement with Modifications – October 19, 2017

- Order Establishing Community Choice Data Access Fees - December 14, 2017
- Order Approving Community Choice Aggregation Programs with Modification – January 18, 2018
- Order Approving Joule Assets' Community Choice Aggregation Program with Modifications – March 16, 2018.
- Order Adopting Utility Energy Registry – April 20, 2018.
- Order Approving Renewal of Sustainable Westchester Community Choice Aggregation Program – November 15, 2018.

**16-M-0411 - In the Matter of Distributed System Implementation Plans**

- Order on Distributed System Implementation Plan Filings – March 9, 2017



# Filing Requirements

| <u>Requirement</u>                                                    | <u>Filing</u> | <u>Approval</u> | <u>Timing</u>                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------------------------------------------------------|---------------|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Implementation Plan (IP) for Approval                                 | Secretary     | Commission      | The Implementation and Data Protection Plans may be filed as soon as the municipality begins considering CCA, but they and the certifications must be filed, and approved by the Commission, before the CCA Administrator can request any data from the utilities. CCA Administrators are encouraged to file Implementation and Data Protection Plans as soon as they are ready to facilitate Commission review. |
| Approved IP - Updates and Supplements                                 | Secretary     | Staff           | As appropriate                                                                                                                                                                                                                                                                                                                                                                                                   |
| Approved IP - End of supply contract or ending CCA Program            | Secretary     | Commission      | At least 120 days previous to end date.                                                                                                                                                                                                                                                                                                                                                                          |
| Date Protection Plan for Approval                                     | Secretary     | Commission      | File with initial IP and Municipal Authorizations                                                                                                                                                                                                                                                                                                                                                                |
| Municipal Authorization - Initial participants filed with IP and DPP  | Secretary     | Commission      | File with initial IP and DPP                                                                                                                                                                                                                                                                                                                                                                                     |
| Municipal Authorization - Municipalities added after initial approval | Secretary     | Staff           | As necessary                                                                                                                                                                                                                                                                                                                                                                                                     |
| Public Outreach and Education Plan - Completed or Plan                | Secretary     | Commission      | Filed with initial IP and DPP                                                                                                                                                                                                                                                                                                                                                                                    |
| Compliance filing of proof of completion                              | Secretary     | Staff           | After completion                                                                                                                                                                                                                                                                                                                                                                                                 |
| Compliance filing of proof of additional meeting                      | Secretary     | Staff           | After completion previous to approval of opt-out letter at least 5 days before the CCA Administrator intends to mail them                                                                                                                                                                                                                                                                                        |
| Opt-Out Letter and other customer letters                             | Secretary     | Staff           |                                                                                                                                                                                                                                                                                                                                                                                                                  |
| APP Guaranteed Savings Program Information and APP Opt-out Letter     | Secretary     | Staff           | Prior to mailing of approved APP opt-out letters                                                                                                                                                                                                                                                                                                                                                                 |

|                                                                                |           |            |                                                 |
|--------------------------------------------------------------------------------|-----------|------------|-------------------------------------------------|
| Energy Service Agreements                                                      | Staff     | Review     | Before issuance                                 |
| RFP/RFQ seeking ESCOs or other suppliers for commodity supply or other service | Staff     | Review     | Before issuance                                 |
| CDG Implementation Plan - if approved in IP                                    | Secretary | Staff      | Previous to implementing program                |
| CDG Implementation Plan - If not included in approved IP                       | Secretary | Commission | Previous to implementing program                |
| Annual Report - CCA and CDG                                                    | Secretary | Staff      | Filed March 31 each year to cover previous year |

# Opt-out and Opt-in Process

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## **Customer Opt-out Process**

- Before mailing opt-out letters and beginning the opt-out period, the CCA Administrator will need:
- Approved Implementation and Data Protection Plans and certifications of local authorization.
- Staff approval of completion of outreach and education – including additional meeting after ESCO contract is awarded.
- The opt-out letter has been reviewed and approved by Staff.
- Any FAQs or other information being sent with the opt-out letter will need Staff review and approval as well.

## **Customer Opt-in Process**

Customers who are choosing to participate may be enrolled on an opt-in basis, but this process needs to be consistent with the requirements of the UBP, including third-party verification requirements.

# Opt-out Letter Requirements Checklist

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1. Opt-out period must be at least 30 days.
2. Must include information on the CCA program and the contract signed with the selected ESCO including specific details on:
  - a. rates
  - b. services
  - c. contract term
  - d. cancellation fee
  - e. opt-out options
3. It must explain that customers that do not opt-out will be enrolled in ESCO service under the contract terms and that information on those customers, including energy usage data and APP status, will be provided to the ESCO.
4. The CCA Administrator must be clearly identified on the letter.
5. The letter shall be addressed as a letter from the municipality and use an envelope and letterhead that identify it as such.
6. Municipality contact shall be encouraged through the aggregation websites rather than the opt-out letters. Future opt-out letters should read: “to call your municipality to discuss this CCA, visit \_\_\_\_\_ to find your community’s CCA liaison.
7. All communications with customers must be provided in the individual customer’s native language to the extent that such information is available from the utility or in municipal records.
8. If providing service to APP customers, there must be a tailored opt-out letter that explains the product they will be enrolled in, if they choose not to opt-out.

# Opt-in Verification Requirements

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1. For enrollments over the phone, we are required to record them as a matter of enhanced consumer protection and to make this a valid agreement to join the program. Is that OK?
2. For the record it is [time/date].
3. Please state your name and address (Company name).
4. Are you the primary account holder or do you have authority to make changes to this account?
5. Customers who participate in the utility's low-income assistance programs are not currently eligible to enroll in "CCA Program Name" – (Exception being if there is an approved Guaranteed Savings Program). Are you in such an assistance program?
6. We are the Administrator/ESCO for the "CCA Program Name" that your municipality participates in, the supplier of the "CCA Program Name" is [supplier name]. Do you have any questions about this?
7. Would you like to get an email confirmation of the enrollment application? If yes, what is your email address?
8. Please state your distribution utility account number? "CCA Program Name" participants will be receiving a) a fixed price of \$xx for (electricity and/or natural gas) for the # months (years) contract term or b) a variable price for (electricity and/or natural gas) for the contract term of # months (years). A variable price contract means the price may fluctuate from month-to-month c. The early termination fee (if any) is \$XX.
9. Do you agree to these terms that I've reviewed with you?
10. If savings is guaranteed (compared to the utility rate), a plain description of the type of savings and the conditions that must be present in order for the customer

to be eligible for savings. If savings is not guaranteed (as compared to the utility supply service) a statement indicating such.

11. Please be advised that energy supply will be provided by the ESCO, and that energy delivery shall continue to be provided by your utility and the utility will also be available to respond to leaks or other emergencies should they occur.
  
12. Do you understand that you will be enrolled with the “CCA Program Name” ESCO under the contract terms and that your customer information including energy usage data and APP status will be provided to the ESCO? Do you understand that you may rescind this authorization at any time by calling your CCA Program Administrator at phone #, ESCO at phone # or your utility at phone #?
  
13. Your enrollment will become effective within one to two billing cycles, depending on your meter read date. After the utility receives the enrollment request, you will receive a notification letter in the mail advising you of the switch.

# Provision of Customer Data

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Per the CCA Framework Order, a DSA must be signed prior to data request and transfer.

## **Aggregated Data**

- Aggregated customer and consumption (usage) data to support Procurement.
- Utility shall transfer the aggregated customer and usage data within twenty days of a request from the municipality or the CCA Administrator.
- Aggregated data should include the number of customers by service class, the aggregated peak demand (kW) (for electricity) by month for the past 12 months, by service class to the extent possible, and the aggregated energy (kWh) for electricity or volumetric consumption for gas by month for the past 12 months by service class.
- For a CCA that indicates that it intends to serve APPs, the utilities shall include, in creating the initial aggregated data set, data related to customers with utility-initiated blocks on their accounts and should also specifically break out the number of customers that fall into this category and the consumption of those customers.

## **Privacy Screen**

15/15 privacy screen to be applied to CCA aggregated data.<sup>16</sup>

## **Customer Contact Information**

- Customer contact information to send opt-out Letters- after each municipality has entered into a CCA contract with an ESCO, the utility will transfer the customer specific data to the municipality or CCA Administrator within five days of a request to support the mailing of opt-out notices.
- The data should consist of the customer of record's name, mailing address, telephone number, proxy ID number, and primary language, if available, and any customer-specific alternate billing name, address, and phone number.

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<sup>16</sup> Case 16-M-0411- March 9, 2017 Order on Distributed System Implementation Plans

- For a CCA that indicates that it will serve APPs, utilities shall provide a separate list containing contact information for customers with utility-initiated blocks on their accounts so that the CCA can ensure that those customers are enrolled in the guaranteed savings product.

### **Detailed Customer Data- Energy Usage Data via EDI**

- Detailed customer information for the purpose of enrolling and serving each customer. After the opt-out period has ended, the municipality or the ESCO may submit a request to the utility for further data on the customers who have not opted-out consistent with existing EDI protocols.
- The utility should transfer customer data based on the general standards for transfers of data to ESCOs through EDI, including usage data and low-income status.

### **Data Fees**

- Commission established a uniform fee, for all utilities, of \$.80 per account. The fee will be allocated 20% for aggregated data and 80% for customer lists.<sup>17</sup>

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<sup>17</sup> Case 17-M-0315, 16-M-0411, 14-M-0224- December 14, 2017 Order Establishing Community Choice Data Access Fees.



# Annual Reporting

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Annual reports are to be filed with the Secretary by March 31 each year and cover the previous calendar year.

## **CCA Annual Report**

Annual report numbers should be reported by Municipality, Utility, Program, and, if applicable, the total for all Programs in the CCA.

The report should include:

1. Number of customers who opted-out in response to initial opt-out letters (first report);
2. Number of customers served;
3. Number of customers that cancelled during the year;
4. Comparison between monthly and annual utility supply price (for each product) and CCA contract price for the reporting period;
5. Number of complaints received for the reporting period (from all sources);
6. Value-added services provided during the year (e.g. installation of DER or other clean energy services);
7. Administrative costs collected; and
8. If the 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.

It is recommended to provide updates, upcoming plans, details for any unusual reporting metrics (such as unusually high opt-out in a specific area), or additional information that you feel should be included in the report.

### **CDG Annual Reporting**

In addition to the CCA reporting requirements, any CCA that has incorporated CDG into its program must also report:

1. Overall number of CDG projects;
2. Number of CDG projects that began in that reporting year;
3. Number of municipalities who choose to offer CDG credits;
4. Overall number of CDG subscribers;
5. Number of complaints related to CDG (from all sources); and
6. Number of customers who opted-out of the CDG membership

### **Complaint Reporting**

To accurately record the number and types of customer complaints received during the reporting period, please include complaint numbers from all sources (ESCO, Municipality, CCA Administrator, CCA Liaison) in your report. To prevent duplication, the ESCO should not include the complaints that came from DPS Office of Consumer Services. Staff will include those in the final reporting.

Please record and report the following customer complaints:

1. Enrolled without notice - customer states they didn't receive opt-out notification or didn't opt-in.
2. Difficulty enrolling or dropping - customer states they requested to drop or enroll, and it wasn't completed.
3. Program dissatisfaction – customer is dissatisfied with the program price, terms, etc.

## EDP Label Guidance

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If a CCA intends to offer green energy, it must ensure that such energy is generated by biomass, biogas, hydropower, solar energy, or wind energy, as defined in and subject to the environmental attributes and delivery rules of the Commission's Environmental Disclosure Program.<sup>18</sup>

ESCOs selling green products are required to disclose to customers the premium the customer will be charged for the purchase of the green product separate from the underlying commodity charge. ESCO's with the intent to purchase Renewable Energy Credit's (REC) will follow the requirements effective January 1, 2019.

ESCOs providing green energy in the context of CCA must maintain auditable New York specific records to demonstrate that such customers are receiving green energy compliant with the environmental attributes and delivery rules of the Commission's Environmental Disclosure Program. Failure to maintain such auditable New York specific records or to allow access to such records by Department Staff or its designee would be grounds for disqualifying the ESCO or its affiliates from using the utility distribution systems to provide any services to any customers in New York State.

### **NYGATS**

The New York Attribute Tracking System (NYGATS) is the facility in which Environmental Disclosure Program (EDP) labels are produced. The labels display the fuel mix and the emissions attributed to each LSE as a percentage of the total NYS system mix. Work is in progress to create labels for CCA-related ESCOs to reflect the claims associated with the CCA (i.e. 100% renewable) and create access transparency for CCA consumers regarding general label contents.

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<sup>18</sup> The Commission established rules for green energy in its Joule Order

# CCA Expectations

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- IP description of how Program will be administered matches actions taken;
- Outreach and education follow approved IP outreach and education plan;
- Ability to provide verification that green energy supply equals load served and that it is EDP compliant;
- Commission approved CCA Administrator name is listed on all CCA Program materials, websites, etc.;
- Information about the CCA Program, Administrator, and participating municipality is easy to understand, customer friendly, and accurate;
- Marketing information and websites are clear and do not lead to inaccurate conclusions;
- Filings are timely and include all required items;
- If Utility website has CCA information, it should be up to date and include CCA contact information;
- Communication and cooperation between utilities, CCA Administrators and ESCOs; and
- All parties should take all possible steps to limit customer confusion.