

# **Community Choice Aggregation Program Rules**

**December 2024**



**Department  
of Public Service**

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## Purpose

The CCA Program Rules include all existing requirements that have been adopted by the Commission to date. This filing will serve as a valuable resource for market participants by providing a complete listing of rules - located in a single location - as well as identifying the responsibilities and requirements of CCA market participants. The CCA Rules are intended to provide clarity and consistency amongst all CCA Administrators. An Administrator will self-attest to the acknowledgment of these program rules when submitting their Master Implementation Plan. These CCA Program Rules will be updated as rules are added or modified by the Commission.

## CCA Program Compliance Filing

- 1) Standardized templates and adopted guidelines shall be used for CCA Administrator compliance filings. These include the Master Implementation Plan (MIP) and the Municipality Filing, which will include, but not be limited to, the Outreach and Education (O&E) Record, the opt-out letter, and Frequently Asked Questions (FAQs). (CCA Modification Order, p. 8).<sup>1</sup>
  - a) Standardized templates and specific guidelines will also be available for program reporting and notifications of billing issues.
  - b) Staff is afforded the flexibility to modify these templates as experience with CCA programs continue to develop.
  - c) These templates are posted on the Department of Public Service's CCA webpage.
- 2) All filings shall be made in the Commission's Document Matter Management system (DMM) via the e-filing process, and, unless otherwise identified, should be filed in the CCA proceeding, DMM Case 14-M-0224. (CCA Modification Order, p. 13).

## Master Implementation Plan and Administrator Authorization

- 3) Each prospective CCA Administrator shall continue to petition the Commission to become an authorized CCA Administrator. As part of this petition, the petitioning party shall complete the MIP template and submit their petition for Commission consideration. The petitioner shall also submit an attestation that they understand and will comply with the Commission's CCA rules, which are compiled in this listing of the CCA Program Rules. (CCA Modification Order, p. 11).
  - a) The MIP template requires information regarding the Administrator's background, executive contacts, program description, program goals, plans for value-added service, product offerings, and attestation of compliance with CCA rules.

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<sup>1</sup> Case 14-M-0224, Order Modifying Community Choice Aggregation Programs and Establishing Further Process (issued January 19, 2023) (CCA Modification Order).

- b) The Petition should include information regarding the program and why the Administrator should be authorized by the Commission to offer this program in New York State.
- 4) If the Commission approves an Administrator's MIP and there are, at a later date, intended changes to the operating structure, the CCA Administrator will need to file an updated MIP describing those changes for Commission approval. (CCA Modification Order, p. 12).

### Municipality Filing and Municipality CCA Program Approval

- 5) Upon seeking to add a new municipality to the program, an authorized CCA Administrator shall submit the Municipality Filing template that includes the approved local law filing, a copy of the Request for Proposal (RFP) and Energy Service Agreement (ESA), and final template opt-out letter(s) for Staff approval. The Municipality Filing must also include a completed Outreach and Education Record that complies with the applicable O&E requirements. The Municipality Filing should be e-filed in DMM Case 14-M-0224.(CCA Modification Order, pp. 11-12).
  - a) A Staff letter shall be filed in DMM system within 15 business days either approving or rejecting the filing, based on whether or not the filing complies with Commission requirements. (OE Modification Order, p. 48).<sup>2</sup>
  - b) An Administrator is allowed to file up to three Municipality Filings per day. (OE Modification Order, p. 48).
- 6) When a contract is 120-days from the date of expiration, the CCA Administrator shall file a letter with the Secretary advising of the intent of the municipalities that are part of the ESA. This letter should list the names of the municipalities and include the plans for either seeking another contract, renewing the existing contract, or discontinuing in the program. This filing is meant to be a notification of intent and does not require approval. (CCA Modification Order, p. 12).
  - a) In instances when a municipality's plan changes, an updated notification of intent is required to be filed with the Secretary to ensure full program transparency. (O&E Modification Order, p. 57).
- 7) In instances when a municipality's contract is being extended, renewed, otherwise changed, the CCA Administrator will need to file an updated Municipality Filing which shall include municipal specific information before receiving approval to go forward with a contract renewal or extension. (CCA Modification Order, p. 12).
- 8) When CCA electric programs in Long Island Power Authority (LIPA) territory become available they will be reviewed consistent with existing processes. Gas programs on Long Island are already approved consistent with these processes. (CCA Modification Order, p. 60).

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<sup>2</sup> Case 14-M-0224, Order Modifying Outreach and Education Requirements and Directing Program Evaluation (issued November 14, 2024) (OE Modification Order).

### Municipal Authorization

- 9) 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. (CCA Framework Order, Appendix D, p. 6).<sup>3</sup>
  - a) Any inter-municipal agreements may also require additional procedural steps imposed by the General Municipal Law or other applicable statutes. (CCA Framework Order, Appendix D, p. 6).

## CCA Program Design and Requirements

### Eligible Municipal Governments

- 10) The three types of municipalities under New York State law eligible to form a CCA are: villages, towns, and cities. (CCA Framework Order, Appendix D, p. 1).
  - 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 in an administrative role.
  - b) A village board shall be the entity setting up a CCA in any village; a town board shall be the entity setting up a CCA in the area of any town outside of any villages; and a city council shall be the entity setting up a CCA in a city.
- 11) Municipalities may work together, such as through inter-municipal 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. (CCA Framework Order, Appendix D, p. 1).
- 12) 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 of the CCA program tasks. (CCA Framework Order, Appendix D, p. 1).
  - a) 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.
- 13) The municipality remains ultimately responsible for ensuring that the CCA program is operated in compliance with legal requirements, that it serves the interests of its residents, and that consumer information is appropriately protected. (CCA Framework Order, Appendix D, p. 1).

### Scope of CCA Programs

- 14) CCA programs are permitted to aggregate electric supply, gas supply, or both. (CCA Framework Order, Appendix D, p. 2).

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<sup>3</sup> Case 14-M-0224, Order Authorizing Framework for Community Choice Aggregation Opt-out Program (April 21, 2016) (CCA Framework Order).

- 15) CCA programs may aggregate or otherwise integrate, on an opt-in basis, into their program, energy efficiency and distributed energy resources (DERs). 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. (CCA Framework Order, Appendix D, p. 2).
- a) Such program designs should ensure that the costs of custom improvements for individual customers are not charged to other CCA participants. (CCA Framework Order, p. 36).

### Customer Eligibility

#### Opt-out Eligibility

- 16) CCA programs are permitted to enroll eligible customers on an opt-out basis. (CCA Framework Order, p. 20).
- 17) 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. (CCA Framework Order, Appendix D, p. 2).
- 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 small commercial and industrial customers. (CCA Framework Order, Appendix D, p. 2).
- 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 offered by the utility. (CCA Framework Order, Appendix D, p. 2).
- c) When an eligible service class includes demand customers, and a demand customer does not opt-out of the program, the CCA participant should remain enrolled with the CCA even if their service class subsequently changes to one that is not eligible for opt-out treatment. (CCA Modification Order, p. 42).
- 18) 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. (CCA Framework Order, p. 15).
- 19) If a customer opts-out of program, their choice to not participate should be recognized for the life of the program and the responsibility for tracking that choice falls on the CCA Administrator. (CCA Modification Order, p. 44).

#### Opt-in Eligibility

- 20) All customers, including residential and nonresidential, regardless of size, shall be eligible to participate in CCA programs on an opt-in basis. (CCA Framework Order, Appendix D, p. 2).
- 21) 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 any existing contracts. (CCA Framework Order, Appendix D, p. 3).

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.

i) The requirements of UBP Section 5(B)(1) is suspended for CCA program opt-in enrollments only, with the right to reinstitute this requirement in the event it is needed reserved. (CCA Modification Order, p. 49).

22) Customers who have previously opted-out of participation are still eligible to opt-in to the program if they choose. (CCA Modification Order, p. 44).

#### Newly Eligible Customers

23) The 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. (CCA Framework Order, p. 15).

a) Administrators may request a monthly list from the utility of new customers in a municipality and may enroll them consistent with current program rules. (CCA Framework Order, p. 15).

i) Utilities must identify why an account is included on the newly eligible list. (CCA Modification Order, p. 45).

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 current program rules. (CCA Framework Order, p. 15).

#### Low-income and Assistance Program Participants (APPs) Eligibility

24) CCA programs may include 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. (CCA Framework Order, Appendix D, p. 4).

a) CCA Administrators should consult with relevant local or state social services program administrators in considering whether to include APPs.

i) 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.

#### New Service Classes and Rate Structures

25) If a CCA intends to serve customers that are on a new utility rate structure, the CCA Administrator must first submit to Staff, for approval, a filing detailing the CCA product offering and showing how it will benefit the customer over the new utility rate structure. (CCA Modification Order, p. 41).

a) Customers served on a new utility rate structure are not eligible for opt-out treatment unless: (a) they are a sub-class of a service class included in Appendix C of the CCA

Framework Order; and (b) there is a comparable product being offered by the CCA that the customer will benefit from.

- 26) Current CCA customers are excluded from being opt-out enrolled in a new utility service class or rate structures without demonstration by the utility that the customer will receive a higher benefit by leaving the CCA. Such information should be provided to the Commission as part of any petition for approval of a new utility service class or rate structure. (CCA Modification Order, p. 42).
- 27) CCA Administrators and Staff should communicate with the utility regarding possible enrollment of current CCA participants into any new service classes, to determine where customers may receive the most benefit. (CCA Modification Order, p. 42).

#### Outreach and Education Requirements

- 28) The CCA Administrator shall provide information and education to potential CCA members over no less than a 120-day period that is broken into 3 distinct periods: pre-contract, post-contract, and opt-out. (O&E Modification Order, p. 13).
- a) Any CCA program that has more than a 60 day gap between O&E events, beginning with the first publicly held O&E meeting, will be required to perform the full O&E period again. This requirement is for the full 90 day O&E period before submitting the Municipality Filing for approval. (O&E Modification Order, pp. 26 - 27).
- b) If there is a break in a municipality's program, meaning customers are returned to the utility while a new contract is sought and put into place, this gap in contracts constitutes an end to the program and, therefore, a full O&E period shall be required to restart the program. (CCA Modification Order, p. 47).
- 29) All documentation sent to identified limited English proficiency consumers must be in their native language, throughout the life of the CCA program. (GE Order, p. 12).<sup>4</sup>
- a) Translation service must be available for all stages of a CCA program. (GE Order, p. 11).
- 30) Outreach & Education actions must be performed by the CCA Administrator, or their representative, authorized in the Master Implementation Plan. (CCA Modification Order, Appendix A) (O&E Modification Order, p. 28).
- a) Representatives of the CCA Administrator must identify themselves to customers and in any relevant materials as the CCA Administrator. (O&E Modification Order, p. 28).
- 31) O&E meetings may be held outside of the municipality, in the event the municipality does not have a building where the public meeting can be held.
- a) CCA Administrators must provide details of these circumstances in the Municipality Filing and include an acknowledgement from the Municipal Official. (O&E Modification Order, p.30).

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<sup>4</sup> Case 14-M-0224, Order Approving Community Choice Aggregation Programs with Modifications (January 18, 2018) (GE Order).

## 32) Minimum O&amp;E Requirements:

<b>Municipality Size</b>	<b>Minimum 60 day Initial Period Requirements</b>	<b>Minimum 30 day Post-Award Period Requirements</b>	<b>Minimum 30 day Opt-Out Period Requirements</b>
<b>&lt;10,000 Residents</b>	2 Public Meetings  1 Information Session  4 Supplemental: 2 Electronic & 2 Physical	2 Public Meetings  1 Information Session  4 Supplemental: 2 Electronic & 2 Physical	1 Public Meeting  1 Information Session  4 Supplemental: 2 Electronic & 2 Physical
<b>&gt;10,000 Residents</b>	2 Public Meetings  2 Information Sessions  8 Supplemental: 4 Electronic & 4 Physical	2 Public Meetings  2 Information Sessions  8 Supplemental: 4 Electronic & 4 Physical	1 Public Meeting  2 Information Sessions  8 Supplemental: 4 Electronic & 4 Physical

(OE Modification Order, p. 19).

## 33) Countable O&amp;E forms, with their associated requirements, to be completed by the CCA Administrator:

Meeting Types

- a) Hybrid (virtual and in-person) must be a live event that allows for a question-and-answer period, be recorded and placed on the program website, be properly noticed, provide all required information, and include a participant count.
- b) Information Session: Virtual only is allowed, it must be a live event that allows for a question-and-answer period, be recorded and placed on the program website, be properly noticed, provide all required information, and include a participant count.

Meeting Requirements:

- c) Meeting notices must be provided in both physical and electronic formats, with multiple forms of each format, including, but not limited to, available municipality

communications, the CCA Administrators' municipality-specific CCA program webpage, newspapers, flyers, and radio announcements. Proof of such advertisement is required for verification. While encouraged as an additional option, CCA Administrator social media posts do not count as verifiable advertisements as the success of such postings hinges on community awareness of the CCA Administrator's social media page.

- d) Advertising of the event must occur at least 10 days prior to the date of the event.
- e) A record of attendance numbers must be kept and should not include attendees representing the CCA Administrator, the ESE, or the municipality.

#### Supplemental Types

- f) Compliant supplemental types of O&E must include all the required minimum program information items occurring during opt-out periods and will also need to include information for how customers can opt-out of the program and the opt-out date.
  - i) Electronic:
    - (a) Digital Advertisements
    - (b) Television or Radio Coverage
    - (c) Municipal Communications such as emails, digital newsletter, social media, and other channels that can reach all constituents.
  - ii) Physical:
    - (a) Posters/Flyers
    - (b) Newspaper Print Advertisements
    - (c) Municipal Communications such as printed newsletter
    - (d) Additional mailing such as post card
    - (e) Insert in municipal tax or water bill
    - (f) Tabling event with flyer performed in the CCA municipality

34) At a minimum, Outreach & Education must include the following information: (CCA Modification Order, Appendix A)

- a) CCA Administrator name and, if applicable, Program name;
- b) CCA Administrator contact information and program specific website link;
- c) General information about the program;
- d) Information to inform municipal residents of opt-out enrollment;
- e) Information that informs customers how to read and comprehend their energy bills;
  - i) Information pertaining to how to read a bill shall only be required in instances where a verbal presentation is made, such as in-person meetings and information sessions. (OE Modification Order, p. 25).
- f) When available, contract terms, pricing, ability to opt-up or opt-down, price comparison;
  - i) The CCA Administrator is responsible for informing its CCA customers of all terms of its proposed program, including any termination fees. (CCA Framework Order, p. 32).

- g) Disclosures that customers may pay a premium for renewable supply services though they will be contributing to NYS clean energy goals. (CCA Modification Order, Appendix A).
  - i) In addition, Administrators offering a renewable energy product shall also explicitly disclose the product pricing, including a potential premium for renewable energy, at the post-award meeting detailing the supply contract terms and conditions. (CCA Mod Order, pp. 51-52).
  - h) Supplemental items performed during opt-out periods are to include information on how customers can opt-out of the program and the opt-out date. (OE Modification Order, p. 19).
- 35) CCA Administrators are encouraged to proactively discuss data rights during outreach and education events where there is an opportunity for questions and answers from the public. (OE Modification Order, p. 44).
- 36) The record of Outreach & Education that has been performed must clearly record the event and include links to evidence of occurrences. Whenever applicable, direct website links to the Outreach & Education event, as well as the supporting advertisement of the event, must be included. (CCA Modification Order, Appendix A).
- 37) Staff's review and approval of O&E will include review of CCA Administrator and CCA Program websites. (CCA Modification Order, p. 16).
- 38) To ensure this information is available to municipalities and customers, the following data points must be included and easily found on CCA program websites: (CCA Modification Order, p. 15).
- a) CCA Administrator name and contact information;
  - b) A list and link to all participating municipalities' program information including:
    - i) contract information with rates, identification of the ESCO providing commodity, price to compare information, opt-out periods, and O&E;
      - (1) The Price to Compare information must be placed next to (or near) the contract pricing information to allow customer to make informed decisions with the rate information available.
    - ii) municipal liaison contact information, including name and phone number;
    - iii) customer service and complaint filing information;
    - iv) links to clearly identified opt-in offerings;
    - v) links to the Department's CCA webpage and the New York State Energy Research and Development Authority (NYSERDA) CCA resource information (NYSERDA CCA Toolkit);
    - vi) notification of upcoming events
    - vii) contact information for incumbent utility; and
    - viii) adopted FAQs.
  - c) Outreach and Education
    - i) After an O&E event has occurred, the website must be updated to include all CCA Admin's O&E actions for each participating municipality, including those required for

- necessary minimum compliance as well as any additional actions. (OE Modification Order, p. 31)
- d) Data sharing and permissions must be clearly disclosed on the website. (OE Modification Order, p. 43)
- 39) All required website information outlined here must be easily accessible to ensure customers are easily finding all relevant information. (OE Modification Order, p. 31)

#### Opt-Out Letters and FAQs

- 40) Once the Municipality Specific Filing is approved, the Administrator is permitted to mail out the opt-out letter and newly eligible letter approved in the filing.
- a) As the enrollment dates will vary depending on when the newly eligible letters are mailed, a copy of the approved letter with the dates must be e-filed in DMM previous to the mailing of them. The newly eligible letter will not need to be approved again, the filing of the letter is to ensure the required 30-day minimum opt-out period has been observed. (CCA Modification Order, pp. 45-46).
- 41) All CCA Administrator opt-out letters shall be created using a DPS issued template and filed and approved as part of the Municipality Filing. (CCA Modification Order, p. 45).
- 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. (CCA Framework Order, p. Appendix D, p. 7).
- 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. (CCA Framework Order, p. Appendix D, p. 7).
- i) The letter shall be addressed as a letter from the municipality and use an envelope and letterhead that identifies it as such. (CCA Framework Order, p. Appendix D, p. 8).
- ii) The opt-out period must last at least 30 days and is separate from the outreach period. (GE Order, p. 12).
- iii) The opt-out letter must include information on the CCA program and contract signed with the selected ESCO including specific details on rates, services, contract term, cancellation fees, and methods for opting-out of the program. (CCA Framework Order, p. Appendix D, p. 7).
- (1) Termination fees, if any, must be stated in the final opt-out letter; if there are not such fees, the letter should so indicate. (MEGA Order, p. 17).
- iv) 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. (CCA Framework Order, p. Appendix D, p. 8).
- v) Contact information for a CCA liaison to respond to questions or concerns by CCA customers and identify at least one local official or agency in each municipality that residents of that municipality may contact with questions or comments. (CCA Framework Order, p. Appendix D, p. 5).

- vi) The price to compare shall be the 12-month trailing average consisting of the utility rate plus Merchant Function Charge (MFC) plus any other defined adder that applies to utility supply customers but not ESCO customers. (CCA Modification Order, p. 20).
  - (1) The use of Power to Choose pricing is disallowed not only for customer O&E but also in regard to the information given to the municipalities. (CCA Modification Order, p. 20).
- vii) 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. (CCA Framework Order, p. Appendix D, p. 8).
  - (1) Opt-out letters shall advise customers that translation services are available. (Joule Order, p. 20).<sup>5</sup>
- viii) For all opt-out period informational meetings held after the approval of the Municipality Filing, details pertaining to the meetings, or a link to the municipality CCA program webpage that includes those details, should continue to be advertised on the opt-out notification letter. (OE Modification Order, p. 21).
- ix) Administrators offering a renewable energy product must include a disclosure on the opt-out letter regarding the price of renewable products compared to non-renewable offerings. (CCA Modification Order, p. 51).
- x) Additional opt-in product offerings cannot appear on the CCA supply opt-out letter. Instead, the opt-out letter can point CCA program participants to where they might find these additional offerings through a website link, phone number, etc., but CCA participants cannot opt-in to additional offerings using the opt-out letter. (CCA Modification Order, p. 53).
  - (1) All communications to CCA participants should disclose the reason why the CCA participant is receiving communication of an additional opt-in product for marketing purposes. Specifically, CCA participant communications should clearly state the fact that the customer is receiving such communication because they are currently participating in their municipal opt-out CCA supply program. (OE Modification Order, p. 43).
  - (2) Any reference to the term "opt-out" in the context of data sharing must be replaced with more specific language, such as "choose to not receive communication for the marketing of additional products and services." (OE Modification Order, p. 43).
- 42) The opt-out letters shall include the FAQ document that is consistent with the approved template. (CCA Modification Order, p. 12).
  - a) Regarding the FAQs template, the substance of the questions and answers are all that Administrators are required to include with their opt-out letter, and Administrators are

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<sup>5</sup> Case 14-M-0224, Order Approving Joule Assets' Community Choice Aggregation Program with Modifications (March 18, 2018) (Joule Order).

free to modify the formatting of the document to reflect, for example, a header with the name of the Administrator and/or CCA program. (CCA Modification Order, p. 8).

- 43) Customers in CCA programs where both gas and electric supply are offered shall have the option to opt-out of either aggregation, individually. (CCA Framework Order, p. 11).
- 44) Municipalities have the ability to inform and educate their constituents and can create their own materials to share with their constituents. These materials are not part of the opt-out program requirements, and the municipality is free to customize them however they would like. However, these items should not be paid for by the CCA program participants or somehow built into the administrative fee pricing related to the program. Any actions the municipality chooses to take should not be tied to the CCA Administrator or the program for funding. (CCA Modification Order, p. 9).

#### CCA Data Requirements

- 45) CCA Administrators must create a Data Privacy Rights process by January 18, 2025, that includes full disclosure of what data will be shared, for what purpose, for what length of time, and provides a means for customers to opt-out of data sharing for these additional purposes. This process must also include an option for customers to request the return or destruction of any previously consented data shared that is not necessary for CCA supply program administration. (OE Modification Order, p. 44).
- 46) In order to effectuate CCA programs, CCA Administrators will require three types of data: (CCA Framework Order, p. 43).
- a) aggregated customer counts and consumption (usage) data to support procurement;
  - b) customer contact information to send opt-out letters; and
  - c) detailed customer information for the purpose of enrolling and serving each customer.

#### Aggregated Customer and Consumption Data

- 47) The utility shall transfer the aggregated customer and usage data within twenty days of a request from the CCA Administrator. (CCA Framework Order, Appendix D, p. 10).
- 48) 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. (CCA Framework Order, Appendix D, p. 10).
- 49) 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 possible, and the aggregated energy (in kilowatt hours (kWh)) for electricity or volumetric consumption for gas by month for the past 12 months by service class. (CCA Framework Order, Appendix D, p. 11).
- 50) The distribution of meter reads is to be included in the aggregated data set. The utilities are to determine the most accurate means by which CCA eligible accounts' meter read dates can be compiled. (CCA Modification Order, p. 33).
- 51) With the requirement for a Data Security Agreement to be in place before any data can be shared, there is no need to pass a privacy screen with respect to this aggregated data as the customer consent requirement has been replaced by municipal consent and the Data

Security Agreement ensures that the appropriate handling of such data, including system protections. (CCA Modification Order, p. 34).

- 52) 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. (MEGA Order, p. 20).

#### Customer Specific Contact Information

- 53) 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. (CCA Framework Order, Appendix D, p. 11).
- 54) The customer list provided to a municipality and/or Administrator for purposes of the opt-out process must be used for that purpose only. (MEGA Order, p. 16). This data shall include all customers in the municipality eligible for opt-out treatment based on the terms of the CCA Framework Order and the CCA program design. (CCA Framework Order, Appendix D, p. 11).
- 55) The data shall consist of the customer of record's name, mailing address, telephone number and primary language, if available, and any customer-specific alternate billing name, address, and telephone number. (CCA Framework Order, Appendix D, p. 11, as modified by the MEGA Order, pp. 22 -23).
- a) While customer account numbers were originally envisioned as useful information in the CCA Framework Order, the Commission later found that the account numbers were not essential to identify customers to conduct the opt-out phase. Utilities are allowed to withhold account numbers and use an alternative method to identify customers. (MEGA Order, pp. 22-23).
  - b) Until customers have had the opportunity to opt-out of the program, account numbers will remain with the utility until those customers become program participants. (OE Modification Order, p. 47).
- 56) Also included in the Customer Specific Contact Information data set is meter read data including bill cycle and period code, tax-exempt status, net metered/Value Stack/solar account indicator, and dual meter indicator. (CCA Modification Order, p. 35).
- 57) It is the responsibility of the municipality, working with its CCA Administrator, to ensure that the customer list provided by each utility to begin the opt-out process is, in fact, within the municipality's jurisdiction and that customers not residing within the municipality are not inadvertently enrolled in the CCA Program for which they are not eligible. (MEGA Order, p. 26).
- 58) For a CCA that indicates it intends to serve APPs, 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. (MEGA Order, p. 20).

### Detailed Customer Information

- 59) After the opt-out period has ended, the CCA Administrator or 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 and low-income status. (CCA Framework Order, Appendix D, p. 12).
- a) The supplying ESCO shall not transfer customer account numbers back to the CCA Administrator without proof of explicit customer consent that the individual has agreed to have their account number shared with the CCA Administrator by the ESCO and for what purposes. To clarify, customers have the right to affirmatively share their account number with CCA Administrators for the purposes of opting into additional opt-in services, switching commodity offerings and/or opting out of the program, in accordance with the provisions discussed within the CCA DSA, UBP and/or UBP-DERS. (OE Modification Order, p. 47).

### Request for Proposals and Energy Service Agreements

#### Generally

- 60) Contracts should be procured through an open competitive process such as an RFP. (CCA Framework Order, p. 32).
- 61) CCA Administrations are required to file any requests for proposals or similar solicitation seeking commodity supply or other energy services and any draft correspondences on such services with members of the CCA program. (CCA Modification Order, p. 11).
- 62) 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. (CCA Framework Order, Appendix D p. 9).
- 63) ESCOs serving CCA customers are not required to mail CCA customers' sales contracts or an ESCO Bill of Rights, as the ESCO customer is the municipality, not its constituents. (OE Modification Order, p. 37)
- 64) The UBP remains applicable to those entities subject to it, including ESCOs offering service through CCA programs, in an unbiased manner. (CCA Framework Order, p. 48).
- 65) CCA programs do not have the authority to and shall not impose any costs on the utility or non-participant ratepayers (CCA Framework Order, p. 48).
- 66) 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. (CCA Framework Order, Appendix D p.7).
- 67) CCA customers must be given the opportunity to opt-out prior to the beginning of the new contract or the extension period. (CCA Framework Order, p. 27).
- 68) The ESCOs may enroll all customers who have not opted out at the end of the opt-out period. (CCA Framework Order, p. 45).

- 69) The contracts must not include terms restricting the installation or use of DERs or energy efficiency products by the municipality or customers for reductions in energy usage. (CCA Framework Order, p. 34).
- 70) CCA programs are not limited to contracting with only one ESCO, and municipalities may enter into agreements with more than one ESCO offering different products or benefits, or with DERs and energy efficiency providers in addition to one or more ESCOs. (OE Modification Order, p. 52).

#### Termination Fees

- 71) Termination fees are permitted subject to the limitations below.
- a) Customers shall be permitted to cancel and return to utility service or service by another ESCO with no cancellation/termination fees or other charges any time before the end of the third billing cycle after their enrollment. (CCA Framework Order, p. 33).
  - b) Termination charges after the end of the third billing cycle after enrollment are subject to the contract between the municipality and the ESCO and must be consistent with the then-effective UBP provisions. (CCA Framework Order, Appendix D p. 9).
  - c) Termination fees shall not be charged to customers that cancel their CCA service as a result of moving out of the premises served. (CCA Framework Order, Appendix D p. 9).

#### DER and Energy Efficiency

- 72) 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. (CCA Framework Order, Appendix D, p. 9).
- 73) 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. (CCA Framework Order, Appendix D, p. 9).
- 74) Utilities should work with CCA communities to identify services that they can supply to CCA Administrators that are of value to them and their customers and further evolve the utility business model and earnings opportunities. (CCA Framework Order, p. 36).
- 75) Once a CCA is formed after the opt-out process, a municipality interested in offering CCA participants other energy-related value-added services may do so on an opt-in basis through the ESCO(s) providing supply, through other DER providers, or both. (CCA Framework Order, p. 34).

#### CCA Administrator Fees

- 76) CCA Administrators are permitted to collect funds, through the supply charge, to pay for administrative costs associated with running the CCA program. (CCA Framework Order, Appendix D, p. 9).

- 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. (CCA Framework Order, Appendix D, p. 10).
  - b) Municipalities may not collect funds from customer payments to cover lost sales tax revenue. (CCA Framework Order, Appendix D, p. 10).
  - c) Payments to the CCA Administrator for CCA administrative purposes shall be processed and remitted by the ESCO. (CCA Framework Order, p. 32).
- 77) Administrators will not be permitted to allocate a portion of the CCA customer payments to a clean energy or public benefit funds. (CCA Framework Order, Appendix D, p. 10).

### Product and Pricing Requirements

- 78) Fixed-rate products shall be limited to a price no greater than 5% above the trailing 12-month average utility supply rate, and variable-rate products must guarantee a savings compared to what the customer would pay as a full-service utility customer. (CCA Modification Order, p. 51).
- a) The Municipal Filing will include municipal attestation to affirmatively acknowledge contract rates when those rates are higher than the utility 12-month trailing average. (OE Modification Order, p. 50).
- 79) Renewable product offerings will not have a price cap (CCA Modification Order, p. 51).
- a) 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, and 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. (SW Renewal Order, p. 12).
    - i) 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. (Joule Order, p. 21).
    - ii) The ESCO requirement to disclose the premium for renewable product offerings can be satisfied with the comparison of the CCA product's rate to the utility posted 12-month trailing average and the disclosure that the customer would be paying a premium for the renewable product offering. (OE Modification Order, p. 32).
  - b) Staff will work with CCA ESCOs to manually create CCA specific EDP labels which would then be posted on the Department website, as is currently done for other manually created labels. (CCA Modification Order, p. 58).
- 80) Variable rate product offerings would be subject to the guaranteed savings requirements identified in the UBPs. (OE Modification Order, p. 23).
- 81) All CCA program participants on the same product are required to receive the same product pricing, regardless of when they were enrolled. (CCA Modification Order, p. 13).
- a) Customers who enroll outside of the original opt-out period, either because they originally opted-out and are deciding now to participate, or because they are new to the

area, shall be enrolled on the same rate as if they had enrolled during the initial opt-out period. (CCA Modification Order, p. 14).

82) Opt-in products and services must comply with applicable UBP and UBP-DERS rules that govern the products and services the customer is electing to receive. (OE Modification Order, p. 39).

#### APP Product Compliance Filing Requirements

83) 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. (MEGA Order, p. 19).

- a) The CCA Administrator 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:
  - i) An ability to calculate what the customer's total bill would have been if the commodity had been provided by the utility;
  - ii) A willingness and ability to ensure that the customer will be paying no more than what they would have paid to the utility; and
  - iii) Appropriate reporting and ability to verify compliance with these assurances.
- b) Staff shall review this filing to ensure that it is consistent with the requirements in the Commission's Order Adopting a Prohibition on Service to Low-Income Customers by Energy Service Companies issued on December 12, 2016, in Case 12-M-0476, et al.

#### Quarterly and Annual Reporting

84) Administrators shall use a standardized form for reporting quarterly data, which will allow for annual reports to be generated from the completed quarterly reporting. (CCA Modification Order, pp. 54-55).

- a) Quarterly reporting is due 90 days from the end of the quarterly period.
- b) Reporting must include information on all CCA participants, this means both opt-in supply and opt-out participants.

85) Annual reports shall be filed with the Secretary and filed by March 31 each year and cover the previous calendar year (CCA Framework Order, Appendix D, p. 12).

86) Annual reports will include, at a minimum; number of customers served; number of customers opting out 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. If a CCA supply contract will expire less than one year following the filing of the annual report, the report must identify current plans for soliciting a new contract, negotiating an extension, or ending the CCA program. (CCA Framework Order, Appendix D, p. 12).

- 87) In addition, the expansion and modification of the existing program reporting requirements to include standardized and detailed reporting requirements, categories, clear guidelines, the incorporation of additional reporting requirements. (CCA Modification Order, p. 54).
- a) Opt-out reporting categories:
- (1) Does not agree with opt-out enrollment;
  - (2) Is unfamiliar with the program or its offerings;
  - (3) Does not like the CCA program or Administrator;
  - (4) Does not feel they will benefit from the CCA program;
  - (5) Other; and
  - (6) Utility Reported.
- (a) Utilities are to track opt-out requests they receive by creating a list of names of customers who specifically identified themselves as wanting to opt-out of the CCA program and provide this list to CCA Administrators. If possible, capturing the reason for opt-out would be helpful but is not required. The program reporting opt-out categories shall include "Utility Reported". (CCA Modification Order, p. 30).
- (b) This information must also be recorded by the utility and provided to the CCA Administrator each year to be included in the required annual reporting. (CCA Modification Order, p. 57).
- b) Complaint reporting to shall include complaints received by all sources, this includes the CCA Administrator, ESCO, municipality, DER provider, and DPS Office of Consumer Services. (CCA Modification Order, pp. 55-56).
- 88) Reporting data shall be available on the Department CCA webpage to ensure transparency for anyone seeking information on the existing CCA Administrators and programs. (CCA Modification Order, p. 54).

## Billing Issues

- 89) Upon awareness of a billing issue that impacts 50 or more participants, the CCA Administrator, ESCO, and utility must notify each other and Staff by furnishing the required reporting template of the suspected billing issue within 48-hours of awareness. Once resolved, subsequent notification of when and how the issue was resolved must be filed in Matter 23-00028 – In the Matter of Community Choice Aggregation Issue Reporting. (CCA Modification Order, p. 23).

## Enforcement Mechanism

- 90) A CCA Administrator may be subject to an enforcement action for reasons, including, but not limited to: failure to comply with any Commission Order; failure to comply with the Administrator's Commission approved plan for program implementation; failure to comply with applicable NYISO requirements, reporting requirements, or Department oversight requirements; failure to adhere to the policies and procedures described in the CCA service agreement with the municipality; failure to comply with required customer protections; a

material pattern of consumer complaints on matters within the Administrator's control; or failure to comply with any federal, state, or local laws, rules, or regulations. In determining the appropriate consequence for a failure or non-compliance in one or more of the categories above, the Commission or Department may take into account the nature, the circumstances, including the scope of harm to individual customers, and the gravity of the failure or noncompliance, as well as the Administrator's history of previous violations. (CCA Modification Order, pp. 58-60).

- a) An enforcement action may be initiated by either:
  - i) Notification to the Administrator in writing of its failure to comply and request that the Administrator take appropriate corrective action or provide remedies within the directed cure period, which will be based on a reasonable amount of time given the nature of the issue to be cured, or
  - ii) Order that the Administrator show cause why a consequence should not be imposed.
- b) The Commission may impose the consequences described below if:
  - i) The Administrator fails to take corrective actions or provide remedies within the cure period; or
  - ii) The Commission determines that the incident or incidents of noncompliance are substantiated, and the consequence is appropriate.
- c) Consequences shall not be imposed until after the Administrator is provided notice and an opportunity to respond. A CCA Administrator found to be non-compliant may be subject to consequences, including, but not limited to: revocation of the Administrator's ability to conduct CCA programs in New York State, or any specific distribution utility territory; imposition of additional O&E requirements; forfeiture of any administrative fees collected; and issuance of refunds to customers.

## Dispute Resolution

91) Dispute resolution process for disputes between CCA Administrators, Energy Service Entities (ESEs),<sup>6</sup> and utilities in relation to a CCA program. (CCA Modification Order, pp. 36-38).

### a) Applicability

This Section describes the dispute resolution processes available at the Department to resolve disputes relating to CCA programs involving utilities, CCA Administrators, and/or ESEs. The processes are not available to resolve disputes between customers and Administrators, ESEs, or distribution utilities. They are also not applicable to matters that, in the opinion of the Department Staff, should be submitted by formal petition to the Public Service Commission for its determination or are pending before a court, state, or federal agency. The availability of the processes does not limit the rights of a

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<sup>6</sup> An ESE is any entity seeking access to energy related data, and can include, among other entities, ESCOs and DER providers.

distribution utility, Administrator, or ESE to submit any dispute to another body for resolution.

b) Dispute Resolution Processes

The parties shall in good faith use reasonable efforts to resolve any dispute before invoking any of these processes. Distribution utility tariffs and operating and service agreements between the parties shall identify the processes used to resolve disputes and shall refer to these dispute resolution processes as acceptable processes to resolve disputes.

Standard Process: The parties shall use a method to send documents described in this paragraph that will verify the date of receipt. Any distribution utility, Administrator, or ESE may initiate a formal dispute resolution process by providing written notice to the opposing party and Department Staff. Such notice shall include a statement that the CCA dispute resolution process is initiated, a description of the dispute, and a proposed resolution with supporting rationale. Department Staff may participate in the process at this or any later point to facilitate the parties' discussions and to assist the parties in reaching a mutually acceptable resolution.

- i) No later than ten calendar days following receipt of the dispute description, if no mutually acceptable resolution is reached, the opposing party shall provide a written response containing an alternative proposal for resolution with supporting rationale and send a copy to Department Staff.
- ii) No later than ten days after receipt of the response, if no mutually acceptable resolution is reached, any party or Department Staff may request that the parties schedule a meeting for further discussions. The parties shall meet no later than 15 calendar days following such request, upon advance notice to Department Staff, unless the parties and Department Staff agree upon another date. The Department may assign one or more Staff members to assist the parties in resolving the dispute.
- iii) If no mutually acceptable resolution is reached within 40 calendar days after receipt of the written description of the dispute, any party may request an initial decision from the Department. A party to the dispute may appeal the initial decision to the Public Service Commission.
- iv) If the parties reach a mutually acceptable resolution of the dispute, they shall provide to Department Staff a description of the general terms of the resolution.

Expedited Process: In the event that an emergency situation arises to justify immediate resolution of a dispute, any party may file a formal dispute resolution request with the Secretary to the Public Service Commission asking for expedited resolution. An emergency situation includes, but is not limited to, a threat to public safety or system reliability or a significant financial risk to the parties or the public. The filing party shall provide a copy of the request to other involved parties and the Department Staff designated to receive information related to dispute resolution under these provisions. The request shall describe in detail the emergency situation requiring expedited

resolution, state in detail the facts of the dispute, and, to the extent known, set forth the positions of the parties.

## Utility Roles and Responsibilities

### Customer Communications and Billing Requirements

- 92) Utility notification letters. The letter advising of ESCO enrollment, otherwise known as a switch letter, must clearly indicate that it is for enrollment in the CCA program and include the contact information for the CCA Administrator and the utility customer service representatives who have been trained on CCA programs, and direct questions and opt-out requests to the CCA or ESCO for handling. (CCA Modification Order, pp. 26-27).
- 93) When the utility has determined it needs to send communications to CCA program participants due to errors, including but not limited to billing errors, the need for customers awareness, or other issues, these communications must first be approved by Staff. These communications should be emailed to the CCA email box ([cca@dps.ny.gov](mailto:cca@dps.ny.gov)) for Staff review and informal approval for use. At the same time any approved customer communication is sent to customers, the utility shall also file the customer communication in Matter 23-00082 - In the Matter of Community Choice Aggregation Issue Resolution. (CCA Modification Order, p. 27).
- 94) The CCA Administrator name (not the program name) and the ESCO serving name shall to be provided on the customer bill. Additionally, the contact information provided on the bill shall be for whomever is performing customer service for the municipal program, whether it is the ESCO or the Administrator. (CCA Modification Order, p. 22).
- 95) When new systems or changes are made to existing systems that impact the identified EDI daily transactional limits, the utilities shall notify impacted parties of the new limits. (CCA Modification Order, p. 25).

### Utility Website Requirements

- 96) Any distribution utility with tariffed provisions providing for CCA in their territory shall update their websites to include a dedicated CCA page that includes the name of the CCA Administrator(s) and Administrator specific information including: (CCA Modification Order, p. 17)
- a) Administrator phone numbers;
  - b) Administrator websites;
  - c) links to the Commission's CCA webpage and the NYSERDA CCA Toolkit;
  - d) utility points of contact for Administrators; and
  - e) a link to the 12-month trailing average data provided on the utility websites.
- 97) The Administrators are responsible to inform the utility of any changes to the above information so that the utility can keep this webpage updated. (CCA Modification Order, p. 17).

## NYSERDA's Role

### Technical Consultant and Toolkits

98) NYSERDA is 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. (CCA Framework Order, p. Appendix D p. 4).