New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.ny.gov

Local Law Filing

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

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

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of Oneonta

Local Law No. 4 **of the year 20**17

A local law Adopting a Community Choice Aggregation Program in the Town of Oneonta
(Insert Title)

Be it enacted by the Town Board **of the**
(Name of Legislative Body)

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of Oneonta **as follows:**

A Local Law to add a section to the General Law of the Town of Oneonta, authorizing the creation of a Community Choice Aggregation Program, and adopting certain provisions to facilitate Program implementation.

Be it enacted by the Town Board of the Town of Oneonta as follows:

Section 1. Purpose and Intent

It is the intent of the Town to establish a Community Choice Aggregation ("CCA") Program to aggregate the energy supply needs of residents and eligible small commercial customers, and to negotiate and enter into, or authorize its agent to negotiate and enter into, Energy Supply Agreements ("ESAs") with Energy Service Companies ("ESCOs") on behalf of eligible citizens to obtain stable, lower-cost energy prices, as well as environmental benefits and/or a community-based solution to meeting our collective energy needs. The purpose of this Local Law is two-fold: to establish a CCA Program in the Town and to adopt certain provisions relating to the creation and implementation of the CCA Program.

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

Section 2. Findings

A. New York State's energy industry is in the midst of a significant transition; a shift away from the old top-down, utility-centered model toward a cleaner, more affordable, more resilient system in which consumers and communities will have a substantial role to play. The State's ongoing Reforming the Energy Vision ("REV") initiative emphasizes the importance of reliability and grid-resilience, distributed energy resources, increased renewable generation, and greater opportunity for citizens to take an active role in helping the State reach its energy goals and in making more informed energy choices in their homes, businesses and communities.

B. As part of this REV initiative, the New York State Public Service Commission ("NYSPSC"), on April 21, 2016, adopted an Order authorizing cities, towns and villages within the State to create Community Choice Aggregation Programs, by themselves or in concert with other municipalities (hereinafter "NYSPSC Order Authorizing CCAs"), and/or to retain a CCA Administrator to implement the program and negotiate ESAs.

C. CCA Programs allow communities to take control of their energy supply through an open, transparent and competitive electric procurement process driven by the consumers themselves.

D. A successful CCA Program offers citizens cost savings, more stable energy prices, deterrence of deceptive marketing practices by unscrupulous ESCOs, fair contracts negotiated directly with energy suppliers, and/or the opportunity to pursue goals and initiatives important to the community, such as reliability, grid resiliency, supporting renewable energy generation, cutting greenhouse gas emissions, protecting the State's natural resources, and improving energy efficiency.

E. The Town has explored the CCA policy and background, and believes it would provide numerous benefits in this community, enhancing the public welfare and making energy more affordable and costs more predictable for our residents.

F. Therefore, the Town authorizes the creation of an opt-out CCA Program pursuant to rules of the NYSPSC in this community for the provision of electric supply service, as well as other high priority energy related value-added services as may be determined to meet the community's goals.

Section 3. Authority

The NYSPSC Order Authorizing CCAs expressly empowers cities, towns and villages in this state to create CCA Programs. Further, the New York Municipal Home Rule Law, Article 2, Section 10, authorizes a municipality to adopt general laws relating to its property, affairs and government, the protection and enhancement of its physical and visual environment, the protection and well-being of persons within the municipality, and for other authorized purposes.

Section 4. Definitions

AUTOMATICALLY ELIGIBLE CUSTOMERS: shall mean customers' accounts in those utility service classes eligible for inclusion in the CCA Program on an opt-out basis, as set forth in the NYSPSC Order Authorizing CCAs, Appendix C, or as otherwise specified by the Commission. Generally, these classes of customers include those receiving residential electric or gas supply service, including those in multi-family housing, certain types of institutions, and some small commercial customers covered by "small general service" class designations. Automatically Eligible Customers shall not include customers' accounts that have already been enrolled in service through an ESCO, enrolled in utility programs which require them to take supply service from their current utility, or that have a block on their utility account at the time of CCA formation; those customers' accounts shall be eligible to participate on an opt-in basis, if they so desire.

ELIGIBLE CUSTOMERS: shall mean all automatically eligible customers plus those utility customers eligible for inclusion in the CCA Program on an opt-in basis, as set forth in the NYSPSC Order Authorizing CCAs or otherwise authorized by the Commission. Those customers eligible to participate in the CCA Program on an opt-in basis currently include: those customers already enrolled in service through an ESCO at the time of CCA formation, customers in large commercial, institutional, or industrial utility service classes that cannot be automatically enrolled in the CCA on an opt-out basis, and all other customers not considered "automatically eligible customers." References to the broader class of "eligible customers" shall signify the entire pool of customers participating in the aggregation, either because they have been automatically enrolled on an opt-out basis, or because they have affirmatively opted in.

CCA ADMINISTRATOR: An agent of the municipality charged with overseeing creation, implementation and operation of a CCA Program, as well as competitively procuring and negotiating Energy Supply Agreements with ESCOs. The CCA Administrator shall be retained by the municipality via a separate CCA Administration Agreement, adopted by Resolution of the municipality's governing board.

COMMUNITY CHOICE AGGREGATION (CCA)/CCA PROGRAM: A Program authorized by the New York State Public Service Commission (NYSPSC) to aggregate residential and commercial electric supply and/or energy related value-added products and services within a given municipality, and/or among multiple municipalities, in order to leverage that energy demand to negotiate favorable Energy Supply Agreements directly with ESCOs. Customers within a CCA Program would no longer purchase their energy supply directly from their utility. However, the utility would continue to deliver energy to these customers, to charge for that delivery, and will retain its transmission and distribution network. The energy supply portion of a customer's energy service is provided by an ESCO or ESCOs, pursuant to an Energy Supply Agreement competitively procured and negotiated for the CCA Program at large, then delivered to customers via the local utility.

ENERGY SUPPLY AGREEMENT (ESA): An agreement between an energy customer and an Energy Services Company (ESCO) to provide electricity service to the customer for a fixed or variable price. For purposes of this Local Law, the CCA Administrator would conduct a competitive procurement on behalf of all eligible customers, and would enter into an Energy Service Agreement(s) with an ESCO to provide power to all such customers in the community.

ENERGY SERVICES COMPANY (ESCO): A third-party energy supplier eligible to sell electricity and/or energy related value added services to customers in New York State, utilizing the transmission and distribution systems of existing utilities. ESCOs are regulated by the New York State Department of Public Service and the New York State Public Service Commission, and must comply with the New York State Public Service Law.

MUNICIPALITY/TOWN: Reference to these terms throughout this Local Law indicate the Town of Oneonta, unless otherwise noted.

UTILITY: This term refers to traditional electric and/or natural gas utilities regulated by the New York State Department of Public Service and the New York State Public Service Commission and permitted to provide electric supply, transmission and distribution services to all customers within their designated service territory. For purposes of this Local Law, the term Utility will refer to New York State Electric & Gas Corporation.

Section 5. Establishing Community Choice Aggregation

The Town hereby establishes a CCA Program for aggregation of electric supply to serve all eligible customers in its jurisdiction. All automatically eligible customers shall be included in the CCA Program on an opt-out basis, and shall be afforded the opportunity to opt-out of the CCA Program, within a specified period, at no cost. All customers who are not automatically eligible to be included in the CCA Program on an opt-out basis shall be permitted to affirmatively opt into the program in accordance with the terms of the ESA and/or the NYSPSC Order Authorizing CCAs.

Section 6. Provisions for Implementing CCA Program

Part A. Implementation Plan

1. The Town, with support from its CCA Administrator, will create and follow a CCA Implementation Plan which shall outline the details of how the CCA Program will be created and operated, including how public outreach and education will occur, what rules will apply to the Program, how the procurement process will implemented, how energy contracts will be selected, and how responsibilities will be divided amongst CCA Administrator, municipality, and eligible customers.

2. In accordance with the NYSPSC Order Authorizing CCAs, the CCA Implementation Plan will be reviewed and approved by the Public Service Commission. Such review may involve NYSPSC approval of a generic CCA Implementation Plan, with the understanding that community-specific Appendices would be submitted later and would outline appropriately tailored local education and outreach efforts.

3. Where a generic CCA Implementation Plan will be used, the Town and the CCA Administrator will make community-specific revisions to the Plan's Appendices to ensure the Plan is properly tailored to the needs of the Town's residents. Therefore, prior to or in conjunction with the enactment of this Local Law, and thereafter from time to time, the Town, with support from the CCA Administrator, will create and update a CCA Program Opt-Out Letter, as well as an Education and Outreach Plan, as provided in the Implementation Plan Appendix for this community.

4. The Town's Opt-Out Letter and Education and Outreach Plan shall conform to those requirements for public outreach, education, and opt-out procedures set forth in the NYSPSC Order Authorizing CCAs, and in any other applicable laws or regulations, and shall ensure that the Town and its CCA Administrator engage in a robust effort to educate and inform the community about the CCA Program and their options for participating or opting out.

5. Opt-out letters will be provided to all automatically eligible customers no less than 30 days prior to the time at which those customers would be automatically enrolled in the CCA Program. The letters will be printed on Town letterhead, in official Town envelopes. The logo of the CCA Administrator and selected ESCO may also be included on these letters, so long as it is clear that the letter is official correspondence from the Town.

Part B. Public Outreach and Education

1. The Town, together with its CCA Administrator, will provide public notices, presentations, information sheets, and other forms of outreach, as outlined in the Appendix of the Implementation Plan, to ensure residents are informed about the CCA Program and their options for participating or opting out.

2. Once the CCA Program is operating, the Town and its CCA Administrator will continue to engage in public outreach to keep CCA customers informed about any changes to the CCA Program; opportunities for new products or services available through the CCA Program, such as renewable energy buying options; important terms and durations of ESAs; information about the selected ESCOs; and any other matters related to the CCA Program.

Part C. Customers Moving into or out of the Community After CCA Adoption

Residents and possible eligible small commercial customers who establish utility accounts in this community after the effective date of this Local Law shall be afforded the opportunity to join the CCA Program within a reasonable time after their utility account is established, in accordance with contractual agreements between the CCA Administrator and any ESCO(s) providing service to the Program.

Part D. Customer Data Protection

The Town, or its CCA Administrator, will create and follow a Customer Data Protection Plan which ensures that any confidential or sensitive personal customer information provided by the utility to the Town, its CCA Administrator, and/or the selected ESCO(s), will be given all privacy protections required by law and regulation, and protected from unauthorized release or use to the greatest extent possible. This Customer Data Protection Plan will ensure that the CCA Program and any selected ESCO(s) handle all confidential or sensitive customer data in keeping those customer data protections already afforded by the Utility prior to the enactment of this Local Law. This Plan will also ensure that CCA customer data, such as contact information, is not used for inappropriate purposes, such as solicitation of business unrelated to the CCA Program, its goals and objectives.

Section 7. CCA Administrator

Part A. CCA Administration Agreement

The Town will enter into a CCA Administration Agreement with its CCA Administrator. Such agreement will set forth the various rights and responsibilities of the parties, and will govern the manner in which the CCA Program is run. This Agreement shall also authorize the CCA Administrator to act as the Town's agent for the purpose of procuring energy supply or other energy related value-added services for CCA Program eligible customers.

Part B. Customer Service, Complaints

The CCA Administrator will provide the Town with clear, up-to-date contact information for customer questions, concerns or complaints. The CCA Administrator shall, from time to time, and/or at the request of the Town Board of the Town, report to the Town regarding customer service matters.

Section 8. Compliance with Public Service Law and Regulations

In accordance with the NYSPSC Order Authorizing CCAs, it shall be the responsibility of the Town, supported by any CCA Administrator that may be under contract, to ensure the CCA Program is operated in compliance with all applicable provisions of the New York State Public Service Law, regulations of the New York State Public Service Commission and/or the New York State Department of Public Service, the Uniform Business Practices (to the extent applicable), the NYSPSC Order Authorizing CCAs and any other relevant laws or regulations. This provision applies regardless of whether a CCA Administrator is retained to organize and implement the Town CCA Program. This shall include, but not be limited to, compliance with any reporting requirements related to the CCA Program.

Section 9. Review and/or Dissolution of the CCA Program

A. The Town will, from time to time, review the CCA Program and its progress to determine how the program is faring, confirm it is affording benefits to the community, and provide information to the public thereon.

B. As the expiration of its ESA(s) approaches, or in the event an ESCO provides notice of its intention to terminate an ESA (where authorized by the terms of that ESA), the Town may consider whether it wishes to discontinue the CCA Program. Dissolution of the CCA Program will require (1) enactment of a Local Law amending or repealing this Local Law, (2) lawful termination of ESAs in accordance with their terms, (3) lawful termination of the CCA Administration Agreement, in accordance with its terms, and (4) at least 60 days' notice to customers that their energy services will be automatically returned to the Utility, an effective date upon which such a change would occur, and information on what other options may be available to those customers, if applicable.

Section 10. Conflicts

In the event the New York State Public Service Commission, the State Legislature, or other State agency, enacts laws or regulations regarding the operation of CCAs which are in conflict with this Local Law, the State provisions shall govern.

Section 11. Liability

Nothing in this Local Law shall be read to create liability on the part of the Town related to the provision of electric service to customers. The ESCO selected to provide such service will be ultimately responsible for compliance with all applicable laws, rules and regulations governing retail energy services, and will assume any liability stemming from the provision of such service to retail customers, including any potential liability associated with the service itself, customer data and information, and any other matters which would traditionally fall under the purview of a merchant utility providing the same service to customers prior to the formation of the CCA. This Local Law is meant merely to facilitate the creation of an aggregation program in this community. The Town will not assume the role of ESCO or utility in the sale or delivery of energy services.

Section 12. Severability

Each provision of this Law is severable from the others, so that if any provision is held to be illegal or invalid for any reason whatsoever, such illegal or invalid provision shall be severed from this Law, which shall nonetheless remain in full force and effect.

Section 13. Effective Date

This Local Law shall take effect upon the filing with the Secretary of State.

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

1. (Final adoption by local legislative body only.)
I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2017 of the ~~(County)(City)~~(Town)~~(Village)~~ of Oneonta was duly passed by the Town Board on May 10 2017, in accordance with the applicable
(Name of Legislative Body)
provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)
I hereby certify that the local law annexed hereto, designated as local law No. of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ and was deemed duly adopted
(Elective Chief Executive Officer)*
on _____ 20☐☐, in accordance w ith the applicable provisions of law.

3. (Final adoption by referendum.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____.
(Elective Chief Executive Officer)*

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

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____. Such local
(Elective Chief Executive Officer)*
law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

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

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

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

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Cheryl L. Shackelton
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: May 10, 2017