PROPOSED LOCAL LAW L – 2015

A LOCAL LAW TO ESTABLISH A COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM IN THE VILLAGE OF MAMARONECK, NY

BE IT ENACTED by the Board of Trustees of the Village of Mamaroneck as follows:

Section 1. The Code of the Village of Mamaroneck is hereby amended by adding a new Chapter 145, entitled "COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM," to read as follows:

ARTICLE I

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

A. It is the policy of both the Village of Mamaroneck and the State of New York to reduce costs and provide cost certainty for the purpose of economic development, to promote deeper penetration of energy efficiency and renewable energy resources such as wind and solar, and wider deployment of distributed energy resources as well as to examine the retail energy markets and increase participation of and benefits for residential and Small Commercial customers in those markets. Among the policies and models that may offer benefits in New York is community choice aggregation, which allows local governments to determine the default supplier of electricity and natural gas on behalf of its residential and Small Commercial customers.

B. The purpose of this CCA Program is to allow participating local governments including the Village of Mamaroneck to procure energy supply service for their residential and Small Commercial customers, who will have the opportunity to opt out of the procurement, while maintaining transmission and distribution service from the existing Distribution Utility. This Chapter establishes a program that will allow the Village of Mamaroneck to put out for bid the total amount of natural gas and/or electricity being purchased by local residential and Small Commercial customers. Bundled Customers will have the opportunity to have more control to lower their overall energy costs, to spur clean energy innovation and investment, to improve customer choice and value, and to protect the environment; thereby, fulfilling the purposes of this Chapter and fulfilling an important public purpose.

C. The Village of Mamaroneck is authorized to implement this COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM pursuant to Section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law; and State of New York Public Service Commission Case No. 14-M-0564, Petition of Sustainable Westchester for Expedited Approval for the Implementation of a Pilot Community Choice Aggregation Program within the County of Westchester, Order Granting Petition in Part (issued February 26, 2015) as may be amended, including subsequent orders of the Public Service Commission issued in connection with or related to Case No. 14-M-0564 (collectively, the "Order"). Order shall also mean orders of the Public Service Commission related to State of New York Public Service Commission Case No. 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs (issued December 15, 2104) to the extent that orders related to Case No. 14-M-0224 enable actions by the Village of Mamaroneck not otherwise permitted pursuant to orders related to Case 14-M-0564; provided, however, that in the event of any conflict between orders from Case No. 14-M-0564 and orders from

Case No 14-M-0224, orders from Case No 14-M-0564 shall govern the CCA Program.

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

§2. Definitions.

For purposes of this Chapter, and unless otherwise expressly stated or unless the context otherwise requires, the terms in this Chapter shall have the meanings employed in the State of New York Public Service Commission's Uniform Business Practices or, if not so defined there, as indicated below:

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

Small Commercial - Non-residential customers as permitted by the Order.

Community Choice Aggregation Program or CCA Program– A municipal energy procurement program, which replaces the incumbent utility as the default Supplier for all Bundled Customers within the Village of Mamaroneck.

Distribution Utility – Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission.

Public Service Commission – New York State Public Service Commission.

Suppliers – Energy service companies (ESCOs) that procure electric power and natural gas for Bundled Customers in connection with this Chapter or, alternatively, generators of electricity and natural gas or other entities who procure and resell electricity or natural gas.

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

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

A. A COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM is hereby established by the Board of Trustees of the Village of Mamaroneck, whereby the Village of Mamaroneck shall work together with Sustainable Westchester to implement the CCA Program to the full extent permitted by the Order, as set forth more fully herein. The Village's role under the CCA Program involves the aggregating of the electric and/or natural gas supply of its residents and the entering into a contract with one or more Suppliers for supply and services. Under the CCA Program, the operation and ownership of the utility service shall remain with the Distribution Utility.

B. The Village of Mamaroneck's participation in a CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The Village of Mamaroneck will not take over any part of the electric or gas transmission or distribution system and will not furnish any type of utility service, but will instead negotiate with Suppliers on behalf of participating residential and Small Commercial customers.

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

including but not limited to signing a contract for a compliant bid with one or more Suppliers, all as consistent with the Local Law and the Order.

D. The Public Service Commission supervises retail markets and participants in these markets through legislative and regulatory authority and the Uniform Business Practices, which includes rules relating to the eligibility of participating ESCOs, the operation by which ESCOs provide energy services, and the terms on which customers may be enrolled with ESCOs.

§4. Procedures for Eligibility; Customer Data Sharing.

A. As permitted by the Order, the Village of Mamaroneck may request from the Distribution Utilities aggregated customer information by fuel type and service classification on a rolling basis.

B. Sustainable Westchester, on behalf of the Village of Mamaroneck, shall issue one or more requests for proposals to Suppliers to provide energy to participants and may then award a contract in accordance with the CCA Program.

C. Sustainable Westchester or the Village of Mamaroneck, if the Village of Mamaroneck so chooses, will then request individual customer data from the Distribution Utility in accordance with the CCA Program.

D. Sustainable Westchester or the Village of Mamaroneck, if the Village of Mamaroneck so chooses, and the selected Supplier will then notify Bundled Customers of the contract terms and their opportunity to opt out of the CCA Program.

E. In accordance with and for purposes of the Order, the existing Distribution Utility, Con Edison Company of New York, Inc. will provide to Sustainable Westchester aggregate and customer-specific data (including usage data, capacity tag obligations, account numbers, and service addresses) of all Bundled Customers in the Village of Mamaroneck not currently enrolled with an ESCO.

F. Sustainable Westchester and the Village of Mamaroneck, will protect customer information as required by law, subject to the Order and the limitations of the New York State Freedom of Information Law.

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

A. The Village of Mamaroneck or in conjunction with the ESCO will notify its residential and Small Commercial customers, by letter notice, of the Village of Mamaroneck's decision to establish the CCA Program, of the contract terms with an ESCO, and of the opportunity to opt out of the CCA Program.

B. The letter notice will be sent to each customer at the address provided by the Distribution Utility and explain the CCA Program and the material provisions of the ESCO contract, identify the methods by which the customer can opt out of the CCA Program, and provide information on how the customer can access additional information about the CCA Program.

C. The opt-out period shall be twenty (20) days.

D. CCA Program Bundled Customers, upon enrollment, will receive a welcome letter that will explain the customers' options for canceling the enrollment if they believe they were

enrolled incorrectly or otherwise decide to withdraw from the CCA Program in favor of another Supplier. The welcome letter also will explain that residential customers are entitled to the added protection of the mandated Three (3) Day rescission period as detailed in Section 5(B)(3) of the Uniform Business Practices.

§6. Verification and Reporting.

A. Sustainable Westchester shall be responsible for filing an annual report with the Public Service Commission, which identifies the number of customers enrolled in the CCA Program by municipality and customer class, the number of customers who returned to utility service or service with another Supplier during the reporting period, and the average cost of commodity supply by month for the reporting period.

Section 2. Severability
If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section 3. Effective Date
This Local Law shall take effect immediately upon adoption and filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.