

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on January 23, 2025

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
James S. Alesi
David J. Valesky
John B. Maggiore
Uchenna S. Bright
Denise M. Sheehan
Radina R. Valova

CASE 14-M-0224 - Proceeding on Motion of the Commission to
Enable Community Choice Aggregation Programs.

ORDER APPROVING POWERMARKET'S
COMMUNITY CHOICE AGGREGATION PROGRAM

(Issued and Effective January 27, 2025)

BY THE COMMISSION:

INTRODUCTION

On April 20, 2024, ProjectEconomics dba PowerMarket (PowerMarket) filed a petition (Petition) seeking Public Service Commission (Commission) authorization as a Community Choice Aggregation (CCA) Administrator in New York State with a Master Implementation Plan (IP) template detailing the proposed program. By this Order, the Commission authorizes PowerMarket as a CCA Administrator and approves its proposed CCA program, with modifications that reflect the current CCA Program Rules, specifically the requirements for outreach and education, filing information, additional product offerings, and customer data handling.

BACKGROUND

On April 21, 2016, the Commission established the framework for the development and implementation of municipal CCA programs Statewide.¹ The CCA Framework Order aims to increase consumer choice and engagement in local energy planning and deployment of Distributed Energy Resources (DERs). In a CCA program, one or more municipalities aggregate the load of its residential and small-commercial account holders on an opt-out basis and procure supply product offerings, and potentially DER services, on their behalf.² The CCA Framework Order required interested municipalities, on their own or through a selected CCA Administrator, to file an IP requesting Commission authorization to become an authorized CCA Administrator and to initiate a CCA program.

On January 19, 2023, the Commission adopted the CCA Modification Order, requiring, among other things, specific changes to the Commission's approval process for authorizing a new CCA Administrator.³ As described in the CCA Modification Order, each prospective CCA Administrator was directed to continue to petition the Commission to become an authorized CCA Administrator and include with its petition the Master IP template for Commission consideration. The CCA Administrator Master IP template requires information regarding the Administrator's background, executive contacts, program description, program goals, plans for value-added service,

¹ Case 14-M-0224, Order Authorizing Framework for Community Choice Aggregation Opt-Out Program (issued April 21, 2016) (CCA Framework Order).

² On an opt-out basis, customers are automatically enrolled in the CCA unless they affirmatively opt-out.

³ Case 14-M-0224, Order Modifying Community Choice Aggregation Programs and Establishing Further Process (issued January 19, 2023) (CCA Modification Order).

product offerings, and includes a self-attestation that the Administrator will comply with CCA Program Rules and Commission requirements, as well as any other State, Local, and Federal regulations. The petition itself must sufficiently describe the proposed CCA program and explain why the Administrator should be authorized by the Commission to offer this program in New York State.

On November 19, 2024, the Commission issued the CCA Outreach and Education Order, strengthening and improving the existing minimum outreach and education requirements and the need to incorporate additional outreach and education requirements into the CCA Program Rules.⁴ The CCA Outreach and Education Order also clarified the rules relating to the exchange of CCA required data and explained the appropriate data governance practices for when customers participating in a CCA program voluntarily elect, or consent to, additional non-supply energy related products and services. Additionally, the Order addressed municipalities' legal and program requirements, along with their rights and responsibilities, and directed Department of Public Service staff (Staff) to update CCA Program Rules and applicable templates consistent with the discussion of the Outreach and Education Order. The updates to the CCA Program Rules were filed in case 14-M-0224 on December 12, 2024, and posted to the New York State Department of Public Service CCA webpage.⁵

⁴ Case 14-M-0224, Order Modifying Community Choice Aggregation Program Outreach and Education Requirements (issued November 19, 2024) (CCA Outreach and Education Order).

⁵ See: <https://dps.ny.gov/community-choice-aggregation>.

THE PETITION

PowerMarket asserts it was founded in 2014 and is a 100% employee-owned company that is committed to making clean energy more accessible, affordable, and widespread. PowerMarket explains that it is a registered DER supplier and indicates that it is a recognized market leader in customer acquisition and management services for community solar. The Petition asserts that with its municipal partners, PowerMarket has developed and implemented turn-key community energy programs. PowerMarket states that it has a proven track record of successfully managing large-scale public outreach and education efforts through its work with municipalities on community campaigns to promote community solar to local residents. PowerMarket avows that its proprietary technology platform, policy and regulatory know-how, and community-led partnerships provide a clear path forward for communities interested in developing a local CCA program.

The Petition details PowerMarket's program offerings, including its technology-enabled capability to subscribe large numbers of CCA members into its default 100% renewable electric supply product offering, which it affirms would be backed by New York State Renewable Energy Certificates (RECs). Additionally, PowerMarket indicates that it would also offer the option for customers to opt-down or switch to a standard supply product offering for those who do not want to be enrolled in the renewable product offering. The Petition further details the community solar and decarbonization retrofit opt-in products that would be offered as part of its CCA program. PowerMarket describes its opt-in community distributed generation (CDG) as providing a guaranteed cost savings on utility bills through CDG credits applied directly to electric bills. Additionally, PowerMarket asserts it would offer decarbonization retrofits

that would utilize different strategies such as energy efficiency, installation of heat pumps, utilization of DERs, integration of community thermal solutions, and installation of electric vehicle infrastructure through PowerMarket's Open Energy Platform. PowerMarket informs that its Open Energy Platform is a program management and customer engagement platform designed to support clean energy initiatives through its fully interactive personal dashboard. According to PowerMarket, the Platform will be highly customizable, secure, and scalable to meet any future CCA growth.

In its petition, PowerMarket emphasizes technology-driven solutions and community outreach, highlighting community engagement strategies, data security measures including encryption and compliance with the Data Security Agreement (DSA), administrative support through the personal dashboard and customer service, and its commitment to fulfilling all required reporting obligations and Commission regulations.

Finally, PowerMarket indicates it has partnered with Sustainable Westchester and Mid-Hudson Energy Transition (MHET) and that it may also explore partnerships or subcontracting opportunities with other CCA Administrators, local groups, and industry partners to support CCA and other clean energy initiatives.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rule Making was published in the State Register on May 24, 2023 [SAPA No. 14-M-0224SP25] (SAPA Notice). The time for submission of comments pursuant to the SAPA Notice expired on July 24, 2023. No comments were received.

LEGAL AUTHORITY

The Commission's authority stems from its jurisdiction over gas and electric corporations, including the utilities and Energy Service Companies (ESCOs), and the provision and sale of gas and electric service. Public Service Law (PSL) §5(1) grants the Commission jurisdiction and supervision over the sale or distribution of gas and electricity. PSL §5(2) requires the Commission to "encourage all ... corporations subject to its jurisdiction to formulate and carry out long-range programs, individually or cooperatively, for the performance of their public service responsibilities." Pursuant to PSL §65(1), every gas corporation and electric corporation must safely and adequately "furnish and provide [gas and electric] service, instrumentalities, and facilities." PSL §66(1) extends general supervision to gas corporations and electric corporations having authority to maintain infrastructure for the "purpose of furnishing or distributing gas or of furnishing or transmitting electricity" such that the Commission may direct terms under which ESCOs will be provided retail access to distribution systems and to customer data.

Pursuant to PSL §66(2), the Commission may "examine or investigate the methods employed by ... corporations ... in manufacturing, distributing, and supplying gas or electricity," as well as "order such reasonable improvements as will best promote the public interest ... and protect those using gas or electricity." Pursuant to PSL §66(3), the Commission is authorized to "[e]xamine all persons, corporations and municipalities under its supervision and keep informed as to the methods, practices, regulations and property employed by them in the transaction of their business." Accordingly, the Commission has the requisite jurisdiction over the gas utilities, electric

utilities, and ESCOs affected by this Order to require them to comply with the requirements outlined herein.

In addition, CCA programs utilizing an opt-out method of customer enrollment are not possible without Commission authorization because, pursuant to the Uniform Business Practices (UBPs) adopted by the Commission, ESCOs cannot request customer data or enroll customers without individual customer authorization. Since such CCA programs depend on the ability of the municipality or ESCO to contract and enroll customers on an opt-out basis, Commission action is necessary to authorize CCA programs. Furthermore, the Commission can exercise oversight of CCA Programs, including by setting practices for the establishment and operation of those programs, by conditioning the ability of the ESCO to receive data and enroll customers in compliance with Commission directives.

DISCUSSION AND CONCLUSION

The CCA Program Rules provide the framework to guide the creation and operation of CCA Programs in New York. PowerMarket's Master IP and proposed program are generally consistent with the CCA Program Rules and are therefore approved, subject to modifications, described below, to bring it into consistency with current Commission requirements. Its CCA program shall be implemented and operated in compliance with, and subject to, all Commission-adopted CCA program requirements which are codified in the CCA Program Rules, and any applicable State, Local, and Federal regulations. PowerMarket may add municipalities to its CCA program after submitting and receiving Staff approval of the required Municipality Filing template.

Master Implementation Plan Template

As mentioned previously, the Commission recently adopted additional requirements in its CCA Outreach and

Education Order that have been incorporated into the CCA Program Rules and the applicable templates. Part of that included modification to the details required as part of the Master IP template, such as disclosure of any potential conflict of interest. PowerMarket, within its petition, indicated that it was partnering with existing CCA Administrator Sustainable Westchester and also with MHET, who also currently has a petition pending before the Commission to become an authorized CCA Administrator and implement its CCA Program. As such, PowerMarket will need to file the updated Master IP template and provide the specific information required, including the details of any potential conflicts of interest. Templates are utilized to support efficiency and consistency in the information being provided to the Commission for its decision making. PowerMarket only needs to file the updated Master IP template; however, it does not need to include the other items included in its original filing.

Additional Product Offerings

A CCA program is considered active when it is currently providing opt-out supply to its participants through an ESCO contract. If there is no current ESCO supply offering, there is no CCA program that can be identified when discussing opt-in product offerings. The CCA Outreach and Education Order clarified that, in addition to any CCA program specific requirements, opt-in product offerings that are marketed to CCA program participants are still subject to all the existing regulatory and oversight requirements. PowerMarket described within its Petition and Master IP that it intends to offer customers the options to participate, through opt-in enrollment, in its CDG and decarbonization retrofit programs. The Commission affirms that these additional offerings may be regulated by the UBPs and UBPs for DER Suppliers and include,

but are not limited to, registration requirements, compliance filings, marketing standards, and customer disclosures.

Therefore, CCA Administrators that offer opt-in products and services to CCA participants must comply with all Commission requirements related to that offering type in addition to any requirements specific to CCA programs. This includes, but is not limited to, the applicable UBP rules that govern the products and services the customer is opting in to receive.

Open Energy Platform

PowerMarket proposes the use of its Open Energy Platform within the Master IP, which is a program management and customer engagement platform offering a personal dashboard for CCA members in which they can view the current status of their CCA participation, their monthly and cumulative savings, and their environmental impact. One of the main goals of the CCA program is to increase customer engagement through education and outreach relating to energy supply, and a personalized customer portal could be a great way to aid in this goal. The Commission supports and authorizes the use of a personal dashboard for each member of the CCA program, so long as each member voluntarily elects to sign up to use PowerMarket's Open Energy Platform. Moreover, in enrolling customers on its platform, PowerMarket is required to comply with all provisions of the CCA Data Security Agreement and the UBP and UBP-DERS including requirements related to its collection, storage, and use of customer information.

The Commission orders:

1. ProjectEconomics dba PowerMarket shall file a completed Master Implementation Plan using the updated template within 60 days of the date of this Order, consistent with the discussion in the body of this Order.

2. ProjectEconomics dba PowerMarket is authorized to implement its Community Choice Aggregation Program, consistent with the terms of this Order, as soon as it has completed the requirements in Ordering Clause No. 1 and has entered into a Data Security Agreement with the relevant utility or utilities.

3. ProjectEconomics dba PowerMarket shall comply with the Public Service Law and all applicable regulatory requirements.

4. ProjectEconomics dba PowerMarket shall, within 30 days of the issuance of this Order, file with the Secretary a verified written statement signed by a duly authorized officer indicating its complete and unconditional acceptance of this Order and its terms and conditions. Failure to comply with this condition shall invalidate this Order.

5. ProjectEconomics dba PowerMarket shall file a Municipality Filing in compliance with all regulatory requirements (e.g., all required documentation, information, and demonstration that outreach and education consistent with Community Choice Aggregation (CCA) Program Rules was conducted in each municipality), subject to approval by Department of Public Service staff (Staff) as evidenced by a Staff letter filed in Case 14-M-0224 approving the Municipality Filing, before being permitted to implement its CCA program in any municipality.

6. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

7. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary