

RESOLUTION 30 OF 2024

At a regular meeting of the Town Board of the Town Clinton duly held at the Town Hall, Centre Road in the Town of Clinton on the 9th day of July, 2024. Upon the calling of the roll by the Clerk the following members were:

Present: Supervisor Whitton
Deputy Supervisor Werner
Councilwoman Mustello
Councilwoman Auspitz
Councilman Dykas

Absent: None

The following resolution was offered for adoption by Supervisor Whitton which resolution was seconded by Deputy supervisor Werner

RESOLUTION AUTHORIZING THE SETTLEMENT OF LITIGATION AGAINST COLUMBIA UTILITIES, LLC

WHEREAS, on or about April 30, 2021, the Town of Clinton entered into a Community Choice Aggregation Electricity Supply Agreement (“Supply Agreement”) with Columbia Utilities, LLC or its affiliate (“Columbia”) as Energy Service Company (“ESCO”) and Joule Assets Inc. (“Joule”), as Community Choice Aggregation Administrator, to provide energy benefits to certain residential and small non-residential customers within the Town of Clinton;

WHEREAS, on April 19, 2022, Columbia notified the New York State Public Service Commission (the “PSC”) that it intended to transfer these customers to the local utility, Central Hudson Gas & Electric Corp. (“Central Hudson”), which transfer constituted an alleged breach of the Supply Agreement by terminating service without cause or in accordance with the terms of the Supply Agreement;

WHEREAS, on June 3, 2022, the Town of Clinton together with other participating municipalities (two of which later joined), Joule, and individual plaintiffs (collectively, the “Plaintiff Parties”) filed a Verified Complaint (the “Complaint”) against Columbia in New York State Supreme Court, captioned *Town of Saugerties et al., v. Columbia Utilities Power, LLC et al.*, Index No. EF2022-1113 (N.Y. Sup. Ct., Ulster Co.) (the “Action”), seeking injunctive relief and damages in connection with the CCA Program and Columbia’s purported intention to terminate the Supply Agreement and transfer all of its CCA Program customers back to Central Hudson;

WHEREAS, the PSC intervened in the Action on behalf of the Plaintiff Parties;

WHEREAS, the parties to the Action engaged in extensive discovery as part of the litigation and subsequently sought to explore whether a resolution was possible;

WHEREAS, on April 3, 2024, the Plaintiff Parties, PSC, Columbia, and Central Hudson participated in a day-long mediation with Fred Fucci of Fucci Law & ADR, PLLC (the “Mediation”);

WHEREAS, as a result of the Mediation, all of the parties desire to resolve this action under terms set forth in the Settlement Agreement attached hereto and made a part hereof as **Exhibit A**; and

WHEREAS, we have concluded that this settlement of all of the claims and causes of action brought by in the Action, is fair, reasonable, adequate, and in the best interests of our constituents.

NOW THEREFORE, BE IT RESOLVED that the Settlement of the Action, under the terms of the Settlement Agreement (Ex. A) is hereby adopted, authorized and approved;

BE IT FURTHER RESOLVED, that the Town Supervisor and Town Clerk are authorized, directed and empowered to take all appropriate steps to support and effectuate the settlement of the action in accordance with the Settlement Agreement;

BE IT FURTHER RESOLVED, that the Town Supervisor is authorized, directed and empowered to execute the Settlement Agreement in the substantial the form attached hereto as Exhibit A, subject to any non-material changes deemed necessary in the Town Supervisor’s reasonable discretion; and

BE IT FURTHER RESOLVED, that this Resolution shall be effective immediately upon its adoption.

The vote having been taken upon such resolution the result was as follows:

Michael Whitton, Town Supervisor voting	AYE
Eliot Werner, Councilperson voting	AYE
Katherine Mustello, Councilperson voting	AYE
Charles Dykas, Councilperson voting	AYE
Marion Auspitz, Councilperson voting	AYE

There being a majority of the Town Board voting to approve the resolution, the resolution was declared by the Supervisor to have been adopted.

Dated: July 9, 2024

TOWN OF CLINTON, NEW YORK

A handwritten signature in dark ink, appearing to read "Carol-Jean Mackin". The signature is fluid and cursive, with the first name "Carol" and last name "Mackin" clearly distinguishable.

Town Clerk:

Carol-Jean Mackin

EXHIBIT A