

Cape Light Compact Governing Board
Wednesday, March 13, 2013
Open Session Meeting Minutes

The Governing Board of the Cape Light Compact met in regular session on Wednesday, March 13, 2013 in Rooms 11 & 12, Superior Court House, 3195 Main Street, Barnstable, MA 02630.

Present were:

Joyce Flynn, Chairwoman, Yarmouth
Robert Schofield, Vice-Chair, Bourne
Peter Cocolis, Treasurer, Chatham
Barry Worth, Secretary, Harwich
David Anthony, Barnstable
William Doherty, Barnstable County
Deane Keuch, Brewster
Brad Crowell, Dennis
Fred Fenlon, Eastham
Ron Zweig, Falmouth
Tom Mayo, Mashpee
Richard Toole, Oak Bluffs
Ken Rowell, Orleans
Everett Horn, Sandwich
Bill Straw, Tisbury
Peter Fontecchio, Truro
Kathy Hubby, Wellfleet

Legal Counsel: Jeff Bernstein, Esq., BCK Law, LLC

Auditor: Chris Rogers – Sullivan, Rogers & Company

Absent Were:

Michael Hebert, Aquinnah
Timothy Carroll, Chilmark
Peter Cabana, Member at Large, Dukes County
Vacant, Edgartown
Sharon Lynn, Provincetown
Tim Twombly, W. Tisbury

Staff Present:

Maggie Downey, Compact Administrator
Joseph Soares, Sr. Power Supply Planner
Margaret Song, Residential Program Manager
Briana Kane, Sr. Residential Program Coordinator
Matt Dudley, Residential Program Coordinator
Meredith Miller, C&I Program Manager
Nicole Price, C&I Program Planner
Vicki Marchant, C&I Program Analyst
Phil Moffitt, EM&V Manager
Gail Azulay, EM&V Analyst
Lindsay Henderson, Communications and EE Data Analyst
Kevin Galligan, Program Manager
Nick Dowman, C&I Intern

Public Present:

Chris Powicki, Brewster Resident
Preston Ribnick, Wellfleet Resident
James Rogers, Sandwich Resident

CALL TO ORDER

At 2:00 pm, Chairwoman Flynn called the meeting to order.

She announced that meeting is being taped by Preston Ribnick, member of the public and stated that meeting is to be taped in its entirety and shut off during meeting recess. Auditor presentation will be recorded by the Cape Light Compact (the "Compact").

PUBLIC COMMENT

- James Rogers noticed that there is now an FAQ on the website. He also commented that the financial documents that were given to the Assembly of Delegates were not complete.
- Preston Ribnick stated that his questions regarding the Compact and CVEC have not been answered for the past 2 years.
- Chris Powicki stated that he sent a complaint to the State about the Compact's Power Supply program and that CLC has cost ratepayers \$30 million. He is concerned about the contract with ConEdison Solutions and the discrepancy between a \$520,000 invoice that was sent to CES and \$500,000 that was reported to Board. He also stated that the Compact has never filed a power supply contract with the DPU.

MEETING MINUTES

B. Worth had 2 revisions that needed to be made to the January 9, 2013 meeting minutes. The first revision is that Kevin Galligan is a Program Manager for CLC, not a consultant, and the second revision is to insert under Public comment "*James Rogers objected to the Board's entering Executive Session. Preston Ribnick announced an Open Meeting Law complaint will be filed, and requested meeting handouts, preferably in advance of meetings.*" B. Schofield moved to approve the minutes with revisions, seconded by P. Cocolis and voted unanimously with R. Zweig and B. Doherty abstaining.

PRESENTATION BY SULLIVAN, ROGERS & COMPANY – RESULTS OF PHASE I AGREED UPON PROCEDURES

Chris Rogers presented the Agreed upon Procedures for the Compact for the time period of 7/1/03-12/31/08. They did not perform an audit for this time period. The purpose of this was to determine the appropriateness of the expenditure of funds. He also reviewed procurement documents to determine their compliance with MGL Chapter 30B. C. Rogers explained how they determined the sample size, reviewed the summary of results and payroll disbursements. The Compact is exempt from 30b, so they do not have to go through the bid process, but they still did. In 2005, the bids submitted resulted in the lowest bidder being chosen and in 2010 the bid winner was the vendor with the best strategy. M. Downey reminded the Board that they had made it a policy decision that the Compact go out to bid to make sure that we had the best strategy for consumers in 2010. P. Cocolis asked what information the bidders allow to be released. M. Downey stated that all bidders are required to sign a Non-Disclosure Agreement in order for them to receive the customer information. Some suppliers have dropped out in the past because they didn't want to sign the Agreement. Suppliers also don't want their strategy disclosed to other competitors. When the Compact submits information to the Department of Public Utilities they see the entire document but the public documents are redacted with sensitive information.

C. Rogers stated that he has been provided with the trial balances for 2009-2011 and will start auditing those documents. He expects to have 2009 & 2010 (and possibly 2011) completed by June 30. F. Fenlon asked if they have done this at other agencies before and C. Rogers stated that they had. B. Doherty asked about the 2 invoices that were mis-entered and if it was of concern to them. C. Rogers stated that it was not a concern because it was still under the proper parameters.

ENERGY EFFICIENCY PRESENTATION

- P. Moffitt stated that the 2013-15 Energy Efficiency Plan was approved in January. M. Song reviewed the costs and benefits for 2007-2015.

- M. Miller gave an overview of accomplishments in 2012 and reviewed the budget for 2013. Margaret explained that the annual MWH does not tell the whole story, but that the overall dollar benefits are worth it. B. Straw asked to have the number of residential and commercial customers in future slides.
- M. Song stated that the Compact is different from rest of state as we offer enhanced benefits for Residential customers.
- M. Miller mentioned that C&I added a tenant program which is offering a 95% incentive for year round tenants. C&I Programs are also adding HVAC to the upstream program.
- P. Moffitt explained that they use studies to adjust savings factors.
- F. Fenlon commented at what an amazing year the Compact had in 2012 and that it was the first year that CLC exceeded goals.
- B. Doherty stated that recognition has been given from the Cape Cod Selectmen and Councilors' Association recognizing the great work that the Compact and CVEC does.

REQUEST FOR WAIVER OF CLC CAP ON CONTRIBUTION FOR C&I PROJECTS

M. Miller and N. Price presented the energy efficiency improvements proposed for the Barnstable County facility leased to Open Cape. Staff requested a waiver from the Board to the \$150,000 cap on improvements for public facilities. The total project cost is \$385,762 and the savings are substantial. B. Crowell asked if the Board has granted waivers before and what are the criteria. N. Price stated that it has to pass the Cost Benefit Ratio and that Barnstable High School is an example of a project that the Board granted a waiver for, which was for over \$1 million. B. Straw asked if any waivers had been done for the Vineyard. K. Galligan stated that the Board had granted waivers for the Edgartown Wastewater Treatment Center and others. He also gave background as to why the waiver was put into place by the Board. It was also noted that other Program Administrators C&I program incentives, do not have a dollar cap on the incentive.

D. Anthony moved to approve the waiver of the \$150,000 incentive cap for the Barnstable County Open Cape Data Center New Construction Project, thereby allowing a total project incentive of \$385,762 seconded by E. Horn, the Board voted unanimously in favor with B. Doherty abstaining.

LED STREETLIGHT INSTALLATION PROJECT UPDATE

K. Galligan stated that he has been doing presentations and outreach with the towns updating them on the progress of the LED Streetlight installation. There are 148 fixtures that have been installed. They are waiting for the West Barnstable Fire District to procure lights from NSTAR before those lights are installed. A couple of locations will receive replacement lights with a different color light, not as strong or bright. K. Galligan stated that they have learned a lot throughout this process with pre-install visits, the demos and feedback that has been received. R. Zweig asked what the cost is to retrofit all of the lights. K. Galligan stated that the cost is about \$5 million, with about \$500,000 annual savings for the Towns. R. Zweig asked about NSTAR adjusting the rate so that the Towns realize the rate savings. K. Galligan stated that NSTAR has received data and are working on changing the process for billing. R. Toole asked what the lifetime is for the fixtures and K. Galligan stated that it is about 50,000 hours. B. Straw asked if this technology would spill over into Residential. M. Song said that people can currently purchase LED lights at a reduced price, and that we will be introducing LED lights into the assessment to see how it is received. D. Keuch asked if there were any plans to change the lights on the bridges. N. Price stated that the Sagamore Bridge is due to be retrofitted with LED lights soon, but that the Bourne Bridge had fairly new decorative lighting, so it isn't cost effective to do that bridge now.

At 3:40 the Board took a recess and reconvened at 3:51

Brad Crowell left the meeting

TREASURER'S REPORT

P. Cocolis stated that he changed the format of the report to make it easier to understand. The short version is the operating budget for the Compact and the longer format is the Energy Efficiency budget along with year to date actuals. This is the exact format that goes to the DPU in the filing. Our funding for the Energy Efficiency program will now run on a calendar year in conjunction with our program year vs. fiscal year funding for a calendar year program.

CHAIRWOMAN'S REPORTS

- J. Flynn stated that she has had requests for handouts at meetings in the past. She mentioned that the packet materials were posted to the Compact's website Tuesday 3/12 and is trying to make sure that there are enough handouts at the meetings for everyone. T. Mayo mentioned that the Compact needs to find a bigger room to accommodate all board members, as some members are forced to sit to the side. M. Downey mentioned that the Harborview Conference room is available, but that it would make it difficult for staff to retrieve documents/information that may be requested during the meeting. She also said that they may be able to add a table to rooms 11/12.
- The Board had suggested in past years that they add a meeting in April to discuss the budget before voting on the budget in May. M. Downey clarified that it is an Executive Committee meeting where she presents the budget to the committee, and that the whole Board is invited to attend.
- R. Schofield moved to change the meeting format to have a regular board meeting in April (instead of May), then meet in June (instead of July) and resume regular scheduled meetings in September with being able to add a meeting if necessary in July. The new meeting schedule is 4/17 at 2 pm and 6/12 at 2 pm. B. Worth seconded. F. Fenlon stated that the Board should be given consideration before picking a date, as everyone's schedules are busy. There was consensus from the Board to move the meetings with F. Fenlon abstaining and E. Horn stated that he will not be able to attend the April meeting.
- J. Flynn asked if the Board wanted to start having the meetings audio recorded. She also mentioned that they would not be transcribed. B. Doherty stated that the Compact's minutes reflect a lot of detail, so that if folks were not in attendance they would be able to understand what occurred during the meeting and that the agendas have more detail now so that folks would know what was to be discussed at the meeting. He does not think that recording the meetings is necessary. J. Flynn stated that her representation at the 1/16/13 Assembly meeting was misconstrued and that members of the public had said that they had it recorded. She also mentioned that the meeting minutes are not released until they are approved and that it is public practice on the Cape is to release minutes once approved. B. Doherty stated that we need to focus on what we do and not who we are and to focus on following the law and requirements which the Compact has been doing. D. Anthony stated that with audio sometimes it is difficult to determine who is talking versus having a video recording. J. Flynn stated that it can be discussed at a future Board meeting.
- T. Mayo mentioned that he would like the paper with the waiver of the C&I cap motions to include the metrics associated with the project so that he may have it in case he is asked.

LEGAL UPDATE

Atty. J. Bernstein stated that a request had been made in Harwich of its legal counsel as to whether or not the CLC Board Representative had the authority to approve amendments to the Inter-Governmental Agreement (IGA) or if it needed to go back to the Town Board of Selectmen for approval first. The initial IGA stated that the Board member had the authority to approve amendments, as long as it would not impact the town financially, which would have to go back to the towns for approval. The opinion from the Town of Harwich

legal counsel affirmed that the CLC Board representative had the authority to approve amendments to the IGA without going back to the Town Selectmen first. Doherty stated that the person who made the request asked the Board of Selectmen if they knew that this was going on and if they had approved it.

Atty. Bernstein stated the Compact sought permission in 2004 from the DPU to start power supply aggregation and that they have consistently filed with the DPU.

CVEC UPDATE

M. Downey stated that Phase 1 PV projects are vested with NSTAR and are moving forward. It is expected that they will be completed by end of 2013. She also mentioned that with increasing responsibilities with the Compact that the Board will need to appoint a new representative to CVEC and that the representative would be a member of the CVEC Executive Committee.

EXECUTIVE SESSION

- Proposed Executive Session to discuss release of Executive Session Meeting Minutes Held Pursuant to-M.G.L. Ch. 30A,§21(a)(3) & (10)
- Update on DPU Regulatory Litigation-M.G.L. Ch. 30A, §21(a)(3)

Following declarations by the Chair concerning the nature and purpose of an Executive Session and stating that the Board would not reconvene into Open Session on this day, at 4:36 p.m. *R. Schofield moved the Board vote to enter into Executive Session pursuant to MGL Chapter 30A § 21(a) (3)& (10) to discuss release of Executive Session Meeting Minutes Held and pursuant to MGL Chapter 30A, § 21 (a) (3) for an update on DPU Regulatory Litigation seconded by D. Keuch and voted by roll call vote 16-0-0 in favor.* Legal Counsel and Cape Light Staff present were allowed to remain.