

**Cape Light Compact JPE  
Governing Board  
Executive Session Meeting Minutes  
Wednesday, February 8, 2023**

Pursuant to Massachusetts Governor Charles D. Baker's Order Suspending Certain Provisions of the Open Meeting Law on March 12, 2020, the Cape Light Compact JPE Board of Directors met on Wednesday, February 8, 2023, at 2:00 p.m. The meeting was held through a Zoom videoconference for members of the Board with audio call-in available for members of the public.

**Participating In-Person Were:**

1. David Anthony, Secretary/Executive Committee, Barnstable
2. Robert Schofield, Executive Committee, Bourne
3. Colin Odell, Executive Committee, Brewster
4. Valerie Bell, Harwich
5. Martin Culik, Chair/Executive Committee, Orleans

**Participating Remotely Were:**

1. Peter Doyle, Barnstable Alternate
2. Peter Cocolis, Chatham
3. Tom McNellis, Eastham (no audio)
4. Gary Senecal, Eastham Alternate
5. Alan Strahler, Edgartown
6. Matthew Patrick, Falmouth
7. David Jacobson, Orleans Alternate
8. Nathaniel Mayo, Provincetown
9. Ralph Vitacco, Sandwich Alternate
10. Richard Elkin, Executive Committee, Wellfleet

**Absent Were:**

1. Forrest Filler, Aquinnah
2. Brad Crowell, Dennis
3. Meghan Gombos, Dukes County
4. Timothy Carroll, Chilmark
5. Wayne Taylor, Mashpee
6. Peter Meleney, Oak Bluffs
7. Leanne Drake, Sandwich
8. Russ Hartenstine, Tisbury
9. Jarrod Cabral, Truro
10. Erik Peckar, Executive Committee, West Tisbury
11. Joyce Flynn, Vice Chair/Executive Committee, Yarmouth

**Legal Counsel Participating Remotely:**

Audrey Eidelman Kiernan, Esq., KO Law, P.C.

**Staff Participation In-Person:**

Maggie Downey, Administrator

**Staff Participating Remotely:**

Dan Schell, Senior Analyst - Retail and Demand Response  
Dave Botelho, Data Analyst  
Briana Kane, Residential and Commercial & Industrial Program Manager  
Isabelle Caplan, Communications Coordinator  
Lindsay Henderson, Senior Analyst - Small Business  
Melissa Allard, Senior Administrative Coordinator  
Phil Moffitt, Chief Financial Officer

Martin Culik noted that before he makes the required Executive Session declaration, he asked those members who are participating remotely confirm that no other person is present or able to hear the executive session discussion at their remote location. He did this by asking everyone as a group to say yes, affirming that no one can hear the discussion. After receiving affirmation from the Board members participating remotely, Martin made the required declaration to enter into executive session.

**OPEN SESSION VOTE ON ENTRY INTO EXECUTIVE SESSION PURSUANT TO M.G.L. C. 30A §21(A)(3) TO DISCUSS MATTERS BELOW, TO NOT RETURN TO OPEN SESSION:**

*Martin Culik at 3:41 PM moved to enter into Executive Session pursuant to M.G.L. c. 30A §21(a)(3) to consider strategy and potential vote on pending litigation, the appeal of Massachusetts Department of Public Utilities D.P.U. 20-40, Cape & Vineyard Electrification Offering (CVEO) and the appeal of CVEO as proposed in the 2022-2024 Energy Efficiency Plan, D.P.U. 21-126, SJ-2021-0443 and SJ-2022-0088, respectively, not to return to open session thereafter. Seconded by David Anthony.*

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Peter	Cocolis	Chatham	Yes
Gary	Senecal	Eastham	Yes
Alan	Strahler	Edgartown	Yes
Matt	Patrick	Falmouth	Yes
Valerie	Bell	Harwich	Yes
Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Yes
Ralph	Vitacco	Sandwich	Yes
Richard	Elkin	Wellfleet	Yes

*Motion carried in the affirmative (12-0-0)*

**Cape & Vineyard Electrification Offering (CVEO):**

Audrey Kiernan reviewed the D.P.U. 20-40 and D.P.U. 21-126 CVEO Appeal Considerations PowerPoint.

Audrey Kiernan reviewed the procedural history. She stated that during the Summer of 2022 Section 87A of the 2022 Climate Bill is enacted, providing an option for proposing a different version of CVEO. In fall 2022 through Winter 2023 the Compact filed and received approval for CVEO under Section 87A.

Audrey Kiernan reviewed the issues on appeal from the Department of Public Utilities’ (DPU) denial orders. She stated that the DPU’s interpretation of the Green Communities Act (GCA) is that the law does not authorize incentivizing solar PV and installation of battery storage for resilience through three-year energy efficiency plans. The DPU’s interpretation is also that the Legislature intended for the SMART program to be the only solar PV incentive program and incentivizing solar PV through energy efficiency would violate the Legislature’s intent. She stated that the DPU’s determination on “Other Issues” in these denial orders is that the bill impacts for CVEO participants and non-participants were too high and/or not reasonable and the program design did not properly account for SMART and Net Metering issues.

Audrey Kiernan reviewed the appeal status and intervening events. D.P.U. 20-40 Appeal Filed in December 2021 and D.P.U. 21-126 Appeal Filed in February 2022. She stated that neither case has moved. The DPU has not certified the case records to the Supreme Justice Court (SJC) or hired outside counsel. She stated that the 2022 climate bill section 24 clarifies Energy Efficiency Plans may contain programs that combine energy efficiency and electrification with renewable generation and storage. She stated that Section 24 is applicable starting with the next three-year plan. She stated that section 87A authorized a DPU friendly version of CVEO, which the Compact filed and received approval to implement in 2023-2024. The DPU required all program administrators to wait until CVEO is evaluated and DPU files a report with the Legislature in August 2026 before proposing a program under Section 24.

Audrey Kiernan reviewed possible next steps. She stated that the claims pending in the CVEO appeals have largely been overtaken by the new climate legislation. Proceeding with the appeals will be costly and likely not necessary given that the law has changed. The remaining issue of bill impacts is a policy issue that the SJC is likely to defer to DPU on and the DPU policy under a new Administration could change. She stated that the Compact is implementing CVEO under Section 87A and getting it up and running for 2023-2024. She stated that the DPU’s requirement for program administrators to wait until after August 2026 to propose a Section 24 program is problematic. However, the PAs are going to consider solar, and storage paired with electrification in their forthcoming potential studies. A new Commission at DPU will soon be in place under a new Administration and there may be creative ways for the Compact to consider extending the existing offering for 2025-2027 that a new Commission could approve.

Colin Odell asked what the legal recommendation is. Audrey Kiernan stated that the recommendation would be to withdraw the appeals. She stated that she thinks it is not worth the Compact’s resources and because the law has changed, she is unsure what benefit the Compact would get out of pursuing the appeals.

*Valerie Bell moved the Board to withdraw the appeals. Seconded by Colin Odell.*

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Peter	Cocolis	Chatham	Yes
Gary	Senecal	Eastham	Yes
Alan	Strahler	Edgartown	Yes
Matt	Patrick	Falmouth	Yes
Valerie	Bell	Harwich	Yes
Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Yes
Ralph	Vitacco	Sandwich	Yes
Richard	Elkin	Wellfleet	Yes

*Motion carried in the affirmative (12-0-0)*

**ADJOURNMENT:**

*Motion to adjourn made at 3:54 PM moved by Colin Odell, seconded by Robert Schofield.*

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Peter	Cocolis	Chatham	Yes
Gary	Senecal	Eastham	Yes
Alan	Strahler	Edgartown	Yes
Matt	Patrick	Falmouth	Yes
Valerie	Bell	Harwich	Yes
Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Yes
Ralph	Vitacco	Sandwich	Yes
Richard	Elkin	Wellfleet	Yes

*Motion carried in the affirmative (12-0-0)*

Respectfully submitted,

Lindsay Henderson

**LIST OF DOCUMENTS AND EXHIBITS:**

- Meeting Notice/Agenda
- D.P.U. 20-40 and D.P.U. 21-126 CVEO Appeal Considerations PowerPoint