

**Cape Light Compact JPE
Governing Board
Executive Session Meeting Minutes
Wednesday, January 13, 2021**

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, January 13, 2021 at 2pm. The meeting was held through a Zoom videoconference for members of the Board with audio call-in available for members of the public.

Present Were:

1. David Anthony, Secretary/Executive Committee, Barnstable
2. Robert Schofield, Executive Committee, Bourne
3. Colin Odell, Brewster
4. Timothy Carroll, Chilmark
5. Brad Crowell, Dennis
6. Erik Peckar, Dukes County
7. Fred Fenlon, Eastham
8. Alan Strahler, Edgartown
9. Ronald Zweig, Chair/Executive Committee, Falmouth
10. Valerie Bell, Harwich
11. Richard Toole, Executive Committee, Oak Bluffs
12. Martin Culik, Executive Committee, Orleans
13. Nathaniel Mayo, Provincetown
14. Leanne Drake, Sandwich
15. Jay Grande, Tisbury Alternate
16. Bob Higgins-Steele, Truro Alternate
17. Richard Elkin, Wellfleet
18. Sue Hruby, West Tisbury
19. Joyce Flynn, Vice Chair/Executive Committee, Yarmouth

Absent Were:

1. Forrest Filler, Aquinnah
2. Peter Cocolis, Chatham
3. Wayne Taylor, Mashpee
4. Kirk Metell, Tisbury
5. Jarrod Cabral, Truro

Legal Counsel:

Jeffrey Bernstein, Esq., BCK Law, P.C.

Staff Present:

Austin Brandt, Senior Power Supply Planner
Maggie Downey, Administrator
Margaret Song, C&I Program Manager
Melissa Allard, Senior Administrative Coordinator

Open Session Vote on entry into Executive Session pursuant to M.G.L. c. 30A §§21(a) (10) to discuss matters below, to return to open session:

Martin Culik at 3:02 PM moved to enter into Executive Session pursuant to M.G.L. c. 30A §21(a)(3) and (10) to discuss litigation strategy and trade secrets and confidential, competitively sensitive, or other proprietary power supply information related to a proposed Low-Income Community Solar project, not to return to open session thereafter.

Martin Culik declared that an open session may have a detrimental effect on Cape Light Compact’s litigating position and ability to conduct business in relation to other entities making, selling, or distributing electric power and energy and that the consideration of the purchase, exchange, lease, or value of electricity will have a detrimental effect on Cape Light Compact’s negotiation position as a public body. The Governing Board will not return to Open Session at the conclusion of Executive Session. Seconded by Joyce Flynn.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Tim	Carroll	Chilmark	Yes
Brad	Crowell	Dennis	Yes
Fred	Fenlon	Eastham	Yes
Alan	Strahler	Edgartown	Yes
Ron	Zweig	Falmouth	Yes
Valerie	Bell	Harwich	Yes
Richard	Toole	Oak Bluffs	Yes
Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Yes
Leanne	Drake	Sandwich	Yes
Jay	Grande	Tisbury	Yes
Bob	Higgins-Steele	Truro	Yes
Richard	Elkin	Wellfleet	Yes
Sue	Hruby	West Tisbury	Yes
Joyce	Flynn	Yarmouth	Yes

Motion carried in the affirmative (18-0-0)

LOW-INCOME COMMUNITY SHARED SOLAR:

Austin Brandt began the review of the Low-Income Community Shared Solar (LICSS) PowerPoint. He stated that during a previous Board Meeting the option to work with a Yarmouth community solar project was discussed. The Yarmouth project would distribute the benefits from that project through our municipal aggregation power supply program to low-income customers within the Town of Yarmouth. In order to move forward the Compact is required to obtain approval from the Department of Energy Resources (DOER), through the submission of a Pre-Determination Letter. He stated that the letter authorizes a municipal aggregation program to distribute the benefits from LICSS projects as they are defined under the Solar Massachusetts Renewable Target (SMART) program to low-income customers. He stated that the recommendation from staff is that the Compact submits the request to DOER to start the qualification process.

Jeff Bernstein stated that Department of Utilities (DPU) Chair, Matt Nelson, sent a letter to the City of Boston informing it that the DPU is aware that it is highlighting a discount to low-income customers through the SMART program as part of Boston's customer education under its aggregation plan. He stated that Chair Nelson identified three issues in his letter: (1) the revised SMART tariffs are under review by DPU and have not yet been approved; (2) a discount to low-income customers in connection with SMART is not in Boston's plan, and therefore DPU has not reviewed or authorized the offering; and (3) the offering may be inconsistent with the municipal aggregation statute and DPU rulings. His letter states that if Boston wants to move forward with its LICSS project they will have to amend its aggregation plan to include a LICSS offering.

Jeff Bernstein stated that the DPU does not have general supervisory oversight over municipal aggregators like it does over electric companies. However, the DPU's level of involvement in aggregation plan implementation has increased over the years. He stated that the Compact has a pending challenge to the DPU requirement that the Compact change its customer enrollment process in the Plan. The essence of the issue is that the DPU applied this requirement without adequate due process (e.g. prior notice and an opportunity to participate in the adjudication of the requirement).

Jeff Bernstein noted that each of the Compact's member towns is authorized to implement the Compact's aggregation plan. The Compact's Aggregation Plan does not expressly address a separate supply offering for low-income customers from a LICSS project. Rather, it speaks generally about the Compact's goals and the development of renewable energy resources. The Aggregation Plan also states that the generation charge for each customer class, or any customer grouping, will reflect the Compact's best efforts to secure the best terms and conditions and the most competitive market rates available at the time of contracting. He stated that the Compact has stated that it will update its Aggregation Plan should it seek to "materially deviate" or if the approved plan no longer accurately describes the primary operation of the aggregation.

Jeff Bernstein reviewed the potential next steps. It is recommended that the Compact proceed to implement LICSS with or without notification to DPU and without a plan amendment or advisory ruling. Maggie Downey stated that the Compact is looking for a sense of the Board on how to proceed. It will impact the letter Austin Brandt is drafting to the DOER.

Maggie Downey stated that ConEdison Clean Energy Business reached out to the Compact about participating in its LICSS program. She stated that it is developing 14 MW of LICSS, estimated to be online in third quarter of 2021. It is proposing to allocate 50% of the output to Compact's Low Income power supply customers. ConEdison proposed a \$5 MWh administration fee for the Compact which would generate \$45,000 annually for 20 years. She stated that the staff has recommended that the Compact's administrative fee should reflect its costs and that the difference be applied to the low income customer discount. She stated that staff suggest that the ConEdison presents to Board.

Colin Odell suggests that the Compact not work with ConEdison unless it is willing to put a performance bond on its commitments. He stated that CVEC had to pull their contracts on previous projects because ConEdison did not honor what it had proposed, and the Compact should look into that. Martin Culik stated that inviting ConEdison to the February Board Meeting may be premature and that the Compact would look into these issues with CVEC. Maggie Downey stated that that is fine, and she could have ConEdison then address what happened and the Board's concerns.

Maggie Downey stated that she is looking for sense of Board on going forward on the Pre-Determination Letter. Colin Odell asked how much in legal it would cost. Jeff Bernstein stated that it is not a large amount unless the Compact decides to amend its Aggregation Plan. Colin Odell asked if JPE's are allowed to go out for 20-year agreements. Jeff Bernstein answered yes. Richard Elkin asked if the Compact does notify the DPU and they

decide to study it and file a docket. He asked what the Compact would do under those circumstances. Jeff Bernstein stated that the Compact could stop with its LICSS plans or fight it. Maggie Downey stated that there is no legal requirement to notify the DPU; the Compact would just be sending it to the Department for informational purposes. David Anthony stated that that is something the Compact has always done, send notification as a courtesy and thinks we should do it this time as well. Martin Culik is looking for a sense of board on preparing and submitting a Pre-Determination Letter to DOER and send notification of those plans to the DPU. Sense of Board is yes.

ADJOURNMENT:

Motion to adjourn made at 3:56 PM moved by Robert Schofield, seconded by Colin Odell.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Brad	Crowell	Dennis	Yes
Fred	Fenlon	Eastham	Yes
Alan	Strahler	Edgartown	Yes
Ron	Zweig	Falmouth	Yes
Valerie	Bell	Harwich	Yes
Richard	Toole	Oak Bluffs	Yes
Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Yes
Leanne	Drake	Sandwich	Yes
Jay	Grande	Tisbury	Yes
Bob	Higgins-Steele	Truro	Yes
Richard	Elkin	Wellfleet	Yes
Sue	Hruby	West Tisbury	Yes
Joyce	Flynn	Yarmouth	Yes

Motion carried in the affirmative (17-0-0)

Respectfully submitted,

Melissa Allard

LIST OF DOCUMENTS AND EXHIBITS:

- Meeting Notice/Agenda
- Low-Income Community Shared Solar PowerPoint