

**Cape Light Compact JPE
Governing Board
Executive Session Meeting Minutes
Wednesday, December 5, 2018**

The Cape Light Compact JPE Board of Directors met on Wednesday, December 5, 2018 in the Martha's Vineyard Conference Room at the Cape Light Compact JPE Offices at 261 Whites Path, Yarmouth MA 02664 at 2:00 PM.

Present Were:

1. David Anthony, Secretary, Barnstable
2. Robert Schofield, Executive Committee, Bourne
3. Colin Odell, Brewster
4. Peter Cocolis, Executive Committee, Chatham
5. Brad Crowell, Dennis
6. Fred Fenlon, Eastham
7. Paul Pimentel, Edgartown
8. Ronald Zweig, Vice-Chair, Falmouth
9. Valerie Bell, Harwich
10. Richard Toole, Executive Committee, Oak Bluffs – **By phone**
11. Martin Culik, Orleans – **By phone**
12. Leanne Drake, Sandwich
13. Richard Elkin, Wellfleet
14. David Mead-Fox, Wellfleet Alternate
15. Sue Hruby, West Tisbury
16. Joyce Flynn, Chair, Yarmouth
17. Daniel Knapik, Yarmouth Alternate

Absent Were:

1. Michael Hebert, Aquinnah
2. Timothy Carroll, Chilmark
3. Robert Hannemann, Dukes County
4. Wayne Taylor, Mashpee
5. Thomas Donegan, Executive Committee, Provincetown
6. Kirk Metell, Tisbury
7. Jarrod Cabral, Truro

Members/Alternates:

Physically present: 15

Present by phone: 2

Legal Counsel:

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

Staff Present:

Austin Brandt, Senior Power Supply Planner

Briana Kane, Planning and Evaluation Manager

Dan Schell, Marketing and Communications Coordinator

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)(3) to discuss matters below, to return to open session:

1. Regulatory litigation strategy for the following matters: DPU 18-116, CLC 2019-2021 Energy Efficiency Plan Filing; DPU 16-169, National Grid; DPU 18-128, 2019 Energy Efficiency Surcharges; and DPU 19-MA, 2018 Aggregator Annual Report, Potential Vote

Joyce Flynn at 3:02 PM moved to enter into Executive Session pursuant to M.G.L. Chapter 30A §21(a)(3) to discuss strategy with respect to regulatory litigation.

Joyce Flynn declared that an open session may have a detrimental effect on the litigating position of the Cape Light Compact. The Governing Board will return to Open Session at the conclusion of Executive Session. Seconded by Robert Schofield.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Peter	Cocolis	Chatham	Yes
Brad	Crowell	Dennis	Yes
Fred	Fenlon	Eastham	Yes
Paul	Pimentel	Edgartown	Yes
Ronald	Zweig	Falmouth	Yes
Valerie	Bell	Harwich	Yes
Richard	Toole	Oak Bluffs	Yes
Martin	Culik	Orleans	Yes
Leanne	Drake	Sandwich	Yes
Richard	Elkin	Wellfleet	Yes
Sue	Hruby	West Tisbury	Yes
Joyce	Flynn	Yarmouth	Yes

Motion carried in the affirmative (15 – 0 – 0)

1. **Regulatory litigation strategy for the following matters: DPU 18-116, CLC 2019-2021 Energy Efficiency Plan Filing; DPU 16-169, National Grid; DPU 18-128, 2019 Energy Efficiency Surcharges; and DPU 19-MA, 2018 Aggregator Annual Report, Potential Vote**

Maggie Downey stated that the Compact has been asked through Information Requests (“IRs”) to show the effect of removal of all of the proposed 2019-2021 Energy Efficiency Plan (“EEP”) enhancements the Board voted and approved for the EEP. Legally, the Compact will not know until January 31, 2019 the outcome of the Department of Public Utilities (“DPU”) decision on the Compact’s EEP. She stated that the Board needs to think about what they want to do should the DPU issue an Order that removes some or all of the Compact EEP enhancements. Specifically, the Board will need to decide if the Compact is going to appeal and/or accept the decisions in the DPU Order on the EEP. Jeffrey Bernstein stated that the Board may have to make some decisions at the January meeting when it has received an Order in DPU 18-128 (Energy Efficiency Surcharges).

Sue Hruby questioned whether the DPU is asking to see the enhancements taken out of the DPU 18-128 filing/budget. Maggie Downey stated yes, they want to see the 2019 EEP budget without the EEP enhancements. She mentioned that she is not sure if the Compact is being affected by concerns about other municipal aggregators offering EEPs triggered by the in the City of Lowell's submission of its Energy Efficiency Plan. She also stated that the DPU is asking whether other Program Administrators ("PAs") have EEP enhancements. Other PAs do offer varying incentives, but the other PAs don't call them "enhancements," don't publicize them, and don't include them in their EEP. The DPU has also asked questions regarding incentive amounts; staff believes the DPU is trying to determine if the Compact over-incentivizes customers for certain programs.

Fred Fenlon asked if there was to be an appeal, will that affect the budget? Jeff Bernstein stated that it would not be from the Operating Budget, but would come from the Energy Efficiency Budget. David Mead-Fox asked if any of the utility PAs had any influence on the DPU's decision in the interest of trying to prevent the Compact from offering enhancements to the statewide EEP. Maggie Downey stated that this may have to do with Lowell and their submission of an EEP.. Jeffrey Bernstein stated that there is a concern on the part of utility PAs of balkanizing the delivery of energy efficiency programs if more municipal aggregators request the authority to deliver energy efficiency programs. He stated that the Compact was trying to protect the integrity of the Cape and Vineyard energy efficiency programs. Brad Crowell asked what was the point of stripping out the enhancements from the Plan? Maggie Downey stated that it is so the Compact doesn't offer any incentives/enhancements that other PAs do not; there is a feeling among some that all PAs should all offer the same incentive/enhancements. She stated that the cause for concern is the possible removal of EEP enhancements that the Compact has administered for the past 9 years or so. Maggie also stated that the Compact has been asked to revise the EEP and budget to remove providing weatherization services to all mutual natural gas customers.

On another matter, Maggie Downey stated that the Compact has been asked to file an Annual Aggregator Report. The Compact received a Hearing Officer Memo saying that the DPU changed the reporting period from a fiscal year to a calendar year. The Compact has drafted a letter to submit to the DPU on this matter, requesting that aggregators be informed and offered a chance to comment before the DPU makes changes as to the information and requirements for these annual reports. Jeffrey Bernstein stated that the Compact has been through this before and has appealed to the DPU Commission a Hearing Officer ruling on a municipal aggregation matter that was issued without offering prior notice and an opportunity to be heard by affected municipal aggregators. Maggie Downey stated that the DPU now is requesting municipal aggregators to report on several items that don't really apply to the Compact. For example, a public education plan and supplier complaints. Our supplier doesn't document complaints and if it did then it would increase the cost of providing service to the Compact, which in turn would increase the Compact customers' electric rates. David Anthony stated that the Compact should respond with the notion that it can comply with a, b and c instead of responding and saying it won't comply at all. The Compact should show it is willing to do some of it, but at same time to make the point that we don't like the way they went about it. Jeffrey Bernstein stated that the Compact doesn't have to file the report until March 2019. The sense of the Board is to send the letter. Colin Odell asked if each town has to file the Annual Report with the DPU, or if the Compact files on behalf of the member Towns. Jeffrey Bernstein stated that it is as a single filing done by the Compact. Colin Odell asked for verification that Massachusetts doesn't draft tentative decisions like Connecticut. Jeffrey Bernstein stated that that is correct.

Richard Elkin asked if the Compact has intervened in the individual utility PA Energy Efficiency Plans. Jeffrey Bernstein stated that the Compact hasn't wanted to spend the time or money on doing so. Maggie Downey stated that if the Compact did intervene in anyone's Plan it could also end up causing more problems. David Anthony asked if the Compact submits its EEP budget without the enhancements, is it possible that the DPU

will approve it without any discussion and then we are stuck? Jeffrey Bernstein stated that there will be a briefing period and if the Compact gets a result like that there is the option to appeal the DPU decision or ask the Commission to reconsider its decision.

Richard Toole and Martin Culik stopped participation by phone at 3:42 PM.

ADJOURNMENT:

Motion to adjourn made at 3:44 PM moved by Peter Cocolis, seconded by Robert Schofield.

Respectfully submitted,

Melissa Allard

LIST OF DOCUMENTS AND EXHIBITS:

- Memorandum: Reporting Procedures – 2018 Municipal Aggregation Annual Report to the Department of Public Utilities, D.P.U. 19-MA
- Draft Letter to the MA DPU on Municipal Aggregation Annual Report to the DPU