Cape Light Compact JPE
Governing Board Meeting

DATE:	**Wednesday, October 11, 2023**
LOCATION:	**Cape Light Compact Offices – Martha's Vineyard Conference Room** **261 Whites Path, Unit 4, South Yarmouth**
TIME:	**2:00 – 4:30 p.m.**

Note: The meeting will be held as a hybrid meeting (in-person and through remote participation) pursuant to St. 2023, c. 2, which, among other things, extends the temporary provisions pertaining to remote meetings of public bodies under the Open Meeting Law to March 31, 2025. Members of the Public can join in by audio and follow along with Meeting Materials, see the information below. Written public comments should be submitted to Maggie Downey, Compact Administrator, at mdowney@capelightcompact.org by 2:00 PM on Tuesday, October 10, 2023, and should follow the public comment protocol below. Written public comments received after the October 10th deadline will be distributed prior to the Compact's next Board meeting.

Telephone dial-in: +1 (646) 558-8656
Meeting ID: 865-9220-9220
Passcode: 627880
Further instructions are attached to this agenda.

AGENDA

1. Presentation on 2022 Cape Light Compact Audited Financial Statements, Jennifer Cook, Clifton, Larsen, Allen, LLP

2. Public Comment

3. Approval of September 13, 2023, Compact Board Meeting Minutes

4. Chairman's Report, Martin Culik
   A. Report Back on Meeting with DPU Commissioner Van Nostrand

5. Discussion and Potential Vote on Resolution Creating an Other Post Employment Benefits (OPEB) Trust and Vote to Establish a Pension Stabilization Fund, Maggie Downey

6. Discussion on Proposed Legislation to Promote Power Purchase Agreements for Offshore Wind, Mariel Marchand

7. Administrator's Report, Maggie Downey
   A. Board Member Email Protocols

8. Board Member Update (Reserved for Updates on Member Activities the Chair Did Not Reasonably Anticipate Would be Discussed – No Voting)

Cape Light Compact Public Comment Protocols
for Governing Board Meeting
(June 2023)

The Cape Light Compact Governing Board has adopted the following protocols to assist the public in effective participation in its Governing Board meetings, where some Board Members, staff and members of the public may be participating remotely:

1. Members of the public are welcome to address the Compact Board during the public comment section of the meeting or in writing.

2. Members of the public addressing the Compact Board at the meeting must state their name, and if appropriate the name of the organization the person is representing. Oral comments must be limited to three minutes.

3. Members of the public may also submit written comments. Written comments shall be submitted in writing to the Compact Administrator, Maggie Downey, at mdowney@capelightcompact.org by 2 p.m. on the Tuesday before a scheduled Compact Governing Board meeting (or such other time as may be established by the Compact Administrator). Written comments must include a person's name and, if appropriate, the name of the organization the person is representing. Public comments received after the deadline will be distributed prior to the Compact's next Board meeting.

4. Members of the public addressing the Compact Board may not use fighting words, slander, unreasonably loud or repetitive speech, or speech so disruptive of the Compact Board meeting that the deliberative process is substantially interrupted or impaired. Speakers may not disrupt others. Speech must be peaceable and orderly.

5. All written public comments submitted in advance consistent with these protocols shall be included in the Compact's Board meeting packet.

6. Board members and staff cannot respond to public comments for topics not on the current agenda during the Board meeting. The Cape Light Compact Board may respond to comments either by putting them on the agenda of a subsequent meeting or by requesting the administrator or staff to respond to the comment.

7. Copies of the Board meeting packet will generally be made available to members of the public in advance of the meeting at the Cape Light Compact JPE's web site at www.capelightcompact.org Documents exempt from disclosure pursuant to the Public Records Law or protected by the attorney-client privilege shall not be included.

We'll get you there.

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Cape Light Compact JPE
2022 Audit Exit Meeting

October 11, 2023

Agenda

- Terms of Engagement
- Financial Highlights
- Required Communications
- Internal Control Communications
- Other Matters

Terms of Engagement

$ Express an opinion on whether the financial statements are presented in accordance with GAAP

Express an in relation to opinion on the supplementary information (combining statements and expense reconciliation to DPU)

Provide a report on internal control over financial reporting and compliance with laws, regulations, contracts and grants

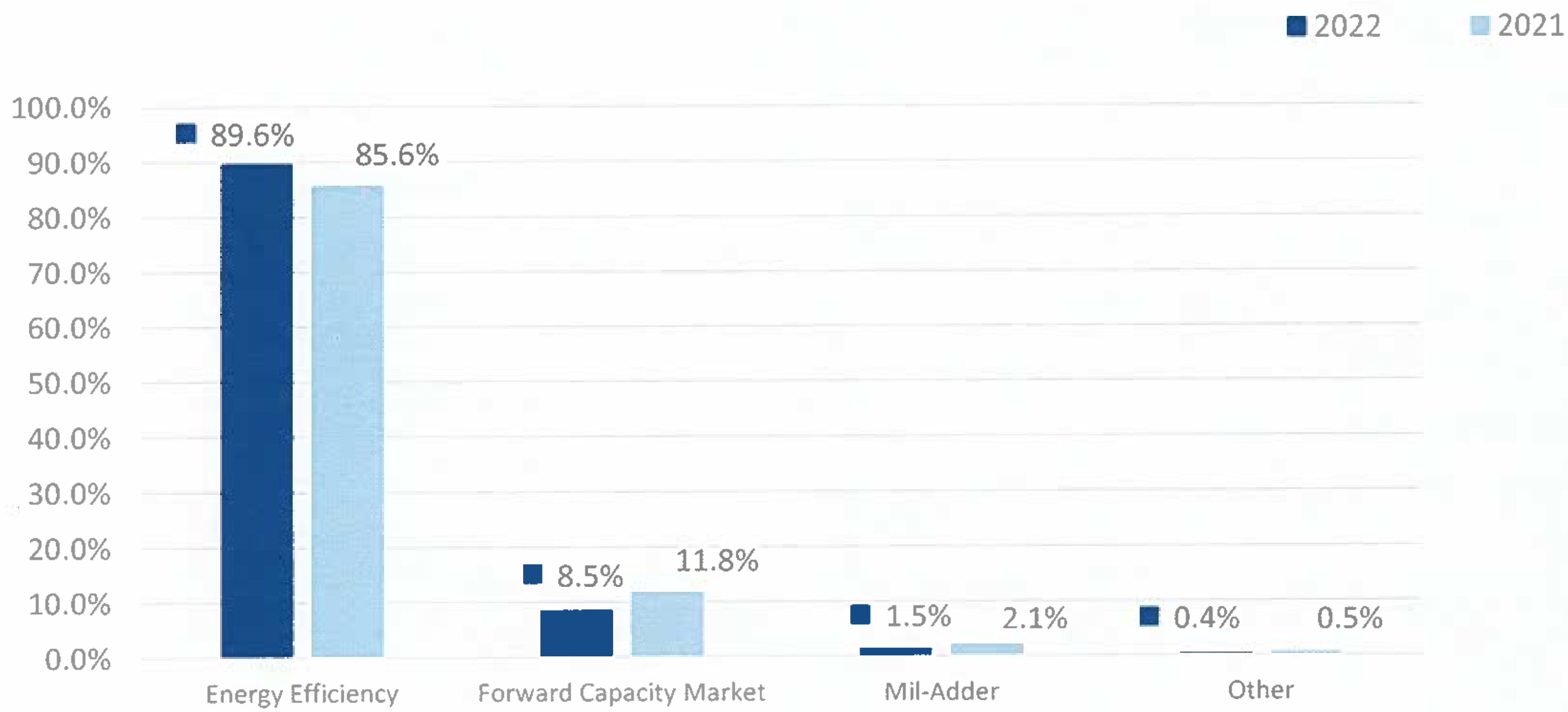
Financial Highlights – Statement of Net Position

	12/31/2022	12/31/2021	Change ($)	Change (%)
Assets and Deferred Outflows of Resources				
Current Assets	$ 43,645,248	$ 24,779,879	$ 18,865,369	76%
Noncurrent Assets	503,796	-	503,796	100%
Deferred Outflows of Resources	1,556,650	1,551,083	5,567	0%
Total Assets and Deferred Outflows	45,705,694	26,330,962	19,374,732	74%
Liabilities and Deferred Inflows of Resources				
Current Liabilities	9,622,717	10,371,636	(748,919)	-7%
Noncurrent Liabilities	4,946,721	6,114,344	(1,167,623)	-19%
Deferred Inflows of Resources	2,293,969	968,390	1,325,579	137%
Total Liabilities and Deferred Outflows	16,863,407	17,454,370	(590,963)	-3%
Net Position				
Net Investment in Capital Assets	25,457	-	25,457	100%
Restricted	76,257	75,000	1,257	2%
Unrestricted	28,740,573	8,801,592	19,938,981	227%
Total net position	$ 28,842,287	$ 8,876,592	$ 19,965,695	225%

Financial Highlights – Statement of Revenues, Expenses and Changes in Net Position

	12/31/2022	12/31/2020	Change	Change (%)
Operating Revenues	$ 63,936,387	$ 44,184,298	$ 19,752,089	45%
Operating Expenses	50,055,597	51,651,112	(1,595,515)	-3%
Operating Income (Loss)	13,880,790	(7,466,814)	21,347,604	-286%
Nonoperating Revenues (Expenses), Net	6,084,905	5,945,523	139,382	2%
Change in net position	19,965,695	(1,521,291)	21,486,986	-1412%
Net position, beginning of year	8,876,592	10,397,883	(1,521,291)	-15%
Net position, end of year	$ 28,842,287	$ 8,876,592	$ 19,965,695	225%

Financial Highlights – Revenue Funding Sources



Financial Highlights - Net Pension Liability

Footnote 6 (p. 21)

- Total Pension Liability – $2,462,840
  - Measurement Date – December 31, 2021
  - Discount Rate: 6.90% (7.15% in prior year)
  - Reserve Balance: $3,365,566
- Sensitivity Analysis

	1% Decrease (5.90%)	Current Discount Rate (6.90%)	1% Increase (7.90%)
Net Pension Liability	$ 3,621,802	$ 2,462,840	$ 1,487,965

Financial Highlights - Total OPEB Liability

Footnote 7 (p. 25)

- Total Pension Liability – $2,076,959
- Measurement Date – December 31, 2022
  - Discount Rate: 3.72% (2.06% in prior year)
  - Reserve Balance: $1,759,035
- Sensitivity Analysis

	1% Decrease (2.72%)	Current Discount Rate (3.72%)	1% Increase (4.72%)
Total OPEB Liability	$ 2,438,735	$ 2,076,959	$ 1,786,690

Financial Highlights – Lease Liability

Footnote 9 (p. 28)

- Total Lease Liability – $478,339
  - Discount Rate: 3.25%

Total future principal and interest payments under lease agreements are as follows:

Fiscal Years Ending December 31,	Principal	Interest
2023	$ 89,561	$ 13,939
2024	92,515	10,985
2025	95,567	7,933
2026	98,720	4,780
2027	101,976	1,524
Total Minimum Lease Payments	$ 478,339	$ 39,161

Right-to-Use assets acquired through outstanding leases are shown below, by underlying asset class.

Buildings	$ 565,039
Less: Accumulated Amortization	(95,499)
Total	$ 469,540

Required Communications

Significant accounting policies

Management is responsible for accounting policies which are outlined in Note 2 to the financial statements

* Implementation of GASB 87

No significant or unusual transactions identified

Significant accounting estimates

* Net OPEB Liability

* Net Pension Liability

Reviewed for indicators of management bias

Reviewed for reasonability of estimates

Required Communications (Continued)

Significant Disclosures	Disclosures are neutral, consistent and clear
Difficulties encountered	No difficulties or disagreements with management
Passed and Corrected Adjustments	None noted.

Required Communications (Continued)

Management representations	Management will provide certain representations in a management representation letter
Management consultations with other accountants	No consultations with other accountants
Significant issues discussed with management	No issues discussed

Internal Control Communications

Financial Statements (GAO):

- No material weaknesses or significant deficiencies identified
- No noncompliance reported

Other Matters

- Upcoming GASB Standards
  - GASB 96 – *Subscription-Based Information Technology Arrangements (SBITA)*
    - Effective for fiscal years beginning after June 15, 2022
    - Under this Statement, a government is now required to recognize a subscription liability and a subscription right-to-use asset.

Questions?

CLAconnect.com

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CAPE LIGHT COMPACT JPE

FINANCIAL STATEMENTS AND SUPPLEMENTARY INFORMATION

YEAR ENDED DECEMBER 31, 2022

CAPE LIGHT COMPACT JPE
TABLE OF CONTENTS
YEAR ENDED DECEMBER 31, 2022

INDEPENDENT AUDITORS' REPORT

Board of Directors
Cape Light Compact JPE
South Yarmouth, Massachusetts

Report on the Audit of the Financial Statements

Opinion

We have audited the accompanying financial statements of the Cape Light Compact JPE (Compact), as of and for the year ended December 31, 2022, and the related notes to the financial statements, which collectively comprise the Compact's basic financial statements as listed in the table of contents.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Compact as of December 31, 2022, and the changes in its financial position and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Compact and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Emphasis of Matter

As discussed in Note 2 to the financial statements, effective January 1, 2022, the Compact adopted new accounting guidance for leases. The guidance requires lessees to recognize a right-of-use lease asset and corresponding lease liability for all leases with lease terms greater than twelve months. Our opinions were not modified with respect to this matter.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Compact's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

Auditors' Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and *Government Auditing Standards*, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Compact's internal control. Accordingly, no such opinion is expressed.

- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.

- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Compact's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and certain pension and other postemployment benefit information be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with GAAS, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Supplementary Information

Our audit was conducted for the purpose of forming an opinion on the financial statements that collectively comprise the Compact's basic financial statements. The combining statements and reconciliation of audited energy efficiency GAAP expenses to Department of Public Utilities Report (collectively the supplementary information) are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with GAAS. In our opinion, the supplementary information is fairly stated, in all material respects, in relation to the basic financial statements as a whole.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated REPORT DATE, on our consideration of the Compact's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Compact's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Compact's internal control over financial reporting and compliance.

CliftonLarsonAllen LLP

Boston, Massachusetts
REPORT DATE

CAPE LIGHT COMPACT JPE
MANAGEMENT'S DISCUSSION AND ANALYSIS
DECEMBER 31, 2022

As management of the Cape Light Compact JPE (Compact), we offer readers of these financial statements this narrative overview and analysis of the Compact's financial activities for the calendar year ended December 31, 2022.

The management's discussion and analysis (MD&A) is presented in the following sections:

1. Background
2. Overview of the Financial Statements
3. Financial Statement Analysis

Please refer to the audited *Financial Statements* when reading the MD&A.

Cape Light Compact Joint Powers Entity:
The Compact's mission is to serve our over 207,000 customers through the delivery of proven energy efficiency programs, effective consumer advocacy, and renewable competitive electricity supply. The Compact is a Joint Powers Entity (JPE) pursuant to Massachusetts General Law Chapter 40, Section 4A ½, consisting of the 21 towns on Cape Cod and Martha's Vineyard, and Dukes County.

The Compact as Energy Efficiency Program Administrator and the 2022 Energy Efficiency Plan-Year Report:
The Cape Light Compact JPE ("Compact" or "CLC") is pleased with the results for the first year ("2022 Plan-Year") of its 2022–2024 Three-Year Energy Efficiency Plan ("2022–2024 Three-Year Plan"), the fifth of such plans envisioned by the Green Communities Act and approved by the Department of Public Utilities ("Department" or "DPU"). The Compact and the other Massachusetts Energy Efficiency Program Administrators ("Program Administrators" or "PAs") diligently implemented their respective plans over the past year, making significant progress toward their three-year goals. The 2022 Plan-Year built on the nationally acclaimed accomplishments of the prior Three-Year Plans, showing remarkable success with respect to goal attainment and achievement of real benefits for the environment and the economy in the Commonwealth of Massachusetts. The Compact is on a trajectory to achieve our greenhouse gas ("GHG") reduction goals.

The results of the first year of the 2022–2024 Three-Year Plan indicate that the Compact is on track to reach its three-year goals by the end of 2024. In 2022, the Compact achieved 96% of its lifetime energy savings goal, achieved 80% of its total benefit goal, and spent 82% of its planned budget. Based on these results plus the planned values for 2023 and 2024, over the three-year term, the Compact expects to achieve:

- cost-effective programs with a benefit-cost ratio ("BCR") of 1.79
- net benefits of $163 million
- avoided $CO_{2}e$ emission reductions of over 29,000 metric tons in 2030
- annual energy savings of 24 gigawatt hours ("GWh")
- lifetime energy savings of 211 GWh
- total benefits of $368 million
- program costs of $188 million

The Compact is committed to energy education outreach within its community and continues to be a regionally and nationally recognized leader in the design and implementation of its energy education programs. As a municipal aggregator with a unique service territory, the Compact supports the community's efforts to develop a deeper and broader knowledge of energy efficiency technology and practices, moving towards an energy-literate society.

The Compact's Power Supply Program:

During fiscal year 2022 (FY22), the Compact's power supplier for all residential, commercial, and industrial customers was NextEra Energy Services of Massachusetts (NextEra). The Compact is pleased that our residential price in FY22 remained price-competitive with the utility's basic service residential and commercial price while also being 100% renewable.

The Compact has been a green aggregation since January 2017, meaning 100% of Compact's power supply customers' annual electricity usage is met with renewable energy certificates (RECs). Because NextEra retires RECs to match the Compact's customers' usage, Compact customers are financially supporting renewable energy resources, including resources located in New England and on Cape Cod. In addition, NextEra deposits all premiums paid for voluntary RECs, plus their supplier and retail fees (expected to total over $3 million per year), into a trust fund to be used solely for the development of new renewable energy resources. The Compact has a long-term power purchase agreement (PPA) for both energy and RECs from a solar facility in Farmington, Maine which supplies a small percentage of the Compact's load. By purchasing electricity through the Compact, all Compact power supply customers are supporting renewable energy to combat climate change.

In March 2019, the Compact launched two new power supply options, CLC Local Green 50 and CLC Local Green 100. The CLC Local Green program gives customers an option to support local renewable energy development by paying a small premium on their monthly electric bill. The Compact uses this premium to purchase and retire Massachusetts Class 1 RECs to match either 50% or 100% of customers' annual electricity usage, in addition to the voluntary RECs retired as part of the Compact's standard power supply product. These Class 1 RECs are sourced from renewable energy projects in New England, including several solar installations on Cape Cod. By participating in CLC Local Green, customers are driving the market to bring new renewable energy resources to New England.

The Compact as Consumer Advocate:

Since 1997, Cape Light Compact has advocated for the ratepayers of Cape Cod and Martha's Vineyard at the local and state level.

In FY22, the Compact's consumer advocacy efforts focused on the following Department of Public Utilities (DPU) regulatory proceedings:

- DPU 22-22, Eversource Rate Case: The Compact focused its review on the allocated cost of service (ACOS) study that was prepared by Eversource. The Compact's involvement resulted in Eversource making corrections to calculations for both ACOS and voltage allocations.
- DPU 22-55, Eversource Cape Cod Capital Investment Program: The Compact reviewed Eversource's filing for impacts to customers' electric bills and whether the proposed infrastructure upgrade would improve distributed generation and electrification opportunities for customers on Cape Cod and Martha's Vineyard.

- DPU 21-80, Grid Modernization: The Compact focused its review and involvement on Eversource's customer facing investments including advanced metering infrastructure (AMI), data access for customers and competitive suppliers, and time varying rates.
- DPU 21-90, Electric Vehicle Infrastructure: The Compact reviewed Eversource's filing to ensure that customers on Cape Cod and Martha's Vineyard would be able to benefit from electric vehicle infrastructure investments.

Overview

This discussion and analysis (required supplementary information) is intended to serve as an introduction to the financial statements, which consists of the following two components:

1. Financial statements
2. Notes to the financial statements

This report also contains additional pension and other postemployment benefits required supplementary information and additional information that supplements the financial statements.

<u>Financial Statements</u>

The Compact's financial statements are prepared in accordance with accounting principles generally accepted in the United States of America (GAAP), as set forth by the Governmental Accounting Standards Board (GASB). The financial statements are presented on the accrual basis of accounting and include the following three basic financial statements: (1) the Statement of Net Position, (2) the Statement of Revenues, Expenses and Change in Net Position, and (3) the Statement of Cash Flows.

The financial statements can be found on pages 9 – 11 of this report.

<u>Notes to Financial Statements</u>

The notes provide additional information that is essential to a full understanding of the data provided in the financial statements. The notes to the financial statements can be found on pages 12 – 26 of this report.

<u>Required Supplementary Information</u>

In addition to the financial statements and accompanying notes, this report also presents certain required supplementary information. Presented in this information are certain pension and other postemployment benefits information, which can be found on pages 27 – 28.

<u>Supplementary Information</u>

In addition to the financial statements and accompanying notes, this report also presents supplementary information. Presented in this information are combining statements of net position and revenues, expenses and change in net position, as well as a reconciliation of audited energy efficiency GAAP expenses to the amounts reported to the DPU. The additional information can be found on pages 29 – 31.

Financial Statement Analysis

The following tables present current and prior year data on the financial statements.

Net Position

The Compact's assets and deferred outflows exceeded liabilities and deferred inflows by $28,842,287 at the close of the calendar year and are summarized as follows:

	2022	2021	Change ($)	Change (%)
Assets				
Current Assets	$ 43,645,248	$ 24,779,879	$ 18,865,369	76.1%
Noncurrent Assets	503,796	-	503,796	100.0%
Total Assets	44,149,044	24,779,879	19,369,165	78.2%
Deferred Outflows of Resources	1,556,650	1,551,083	5,567	0.4%
Liabilities				
Current Liabilities	9,622,717	10,371,636	(748,919)	-7.2%
Noncurrent Liabilities	4,946,721	6,114,344	(1,167,623)	-19.1%
Total Liabilities	14,569,438	16,485,980	(1,916,542)	-11.6%
Deferred Inflows of Resources	2,293,969	968,390	1,325,579	136.9%
Net Position				
Net Investment in Capital Assets	25,457	-	25,457	100.0%
Restricted	76,257	75,000	1,257	1.7%
Unrestricted	28,740,573	8,801,592	19,938,981	226.5%
Total Net Position	$ 28,842,287	$ 8,876,592	$ 19,965,695	224.9%

The Compact's assets consist primarily of cash and cash equivalents, accounts receivable and prepaid expenses. The increase in the Compact's current assets primarily reflects the increase in the current year revenues related to the energy efficiency program.

Liabilities primarily consist of accounts payable, the net pension liability and total OPEB liability. The decrease in noncurrent liabilities is primarily due to the decrease in liabilities related to net pension liability and OPEB liability.

Changes in Net Position

The Compact's net position increased by $19,965,695 for the year ended December 31, 2022 and is summarized as follows:

	2022	2021	Change ($)	Change (%)
Operating Revenues	$ 63,936,387	$ 44,184,298	$ 19,752,089	44.7%
Operating Expenses	50,055,597	51,651,112	(1,595,515)	-3.1%
Operating Income (Loss)	13,880,790	(7,466,814)	21,347,604	-285.9%
Nonoperating Revenues (Expenses), Net	6,084,905	5,945,523	139,382	2.3%
Change in Net Position	19,965,695	(1,521,291)	21,486,986	-1412.4%
Net Position - Beginning of Year	8,876,592	10,397,883	(1,521,291)	14.6%
NET POSITION - END OF YEAR	$ 28,842,287	$ 8,876,592	$ 19,965,695	224.9%

Operating revenues primarily consist of mandatory energy efficiency charges ($4,936,762) and energy efficiency reconciliation factor charges ($57,702,504). The increase in operating revenues primarily reflects the increase of energy efficiency funds earned during 2022.

Approximately 90% (or $45,074,404) of the Compact's operating expenses relate directly to energy efficiency programs. This compares to approximately 91% in 2021.

Requests for Information

This financial report is designed to provide a general overview of the Compact's finances for all those with an interest in its finances. Questions concerning any of the information provided in this report should be addressed to the Compact Administrator, 261 Whites Path, Unit 4, South Yarmouth, Massachusetts, 02664.

CAPE LIGHT COMPACT JPE
STATEMENT OF NET POSITION
DECEMBER 31, 2022

ASSETS	
Current Assets:	
Cash and Cash Equivalents	$ 35,452,942
Restricted Investments	76,257
Receivables:	
Energy Efficiency	617,590
Energy Efficiency Reconciliation Factor	6,715,546
Mil-Adder	79,215
Green Program	1,666
Forward Capacity Market	266,171
Other	133,104
Prepaid Expenses	302,757
Total Current Assets	43,645,248
Noncurrent Assets:	
Capital Assets, Net of Accumulated Depreciation	34,256
Right-to-Use Lease Assets, Net of Amortization	469,540
Total Noncurrent Assets	503,796
Total Assets	44,149,044
DEFERRED OUTFLOWS OF RESOURCES	
Related to Pensions	847,136
Related to OPEB	709,514
Total Deferred Outflows of Resources	1,556,650
LIABILITIES	
Current Liabilities:	
Accounts Payable and Accrued Expenses	9,451,839
Accrued Payroll	79,301
Compensated Absences, Current	2,016
Short-Term Lease Liability	89,561
Total Current Liabilities	9,622,717
Noncurrent Liabilities:	
Compensated Absences, Net of Current	18,144
Total OPEB Liability	2,076,959
Net Pension Liability	2,462,840
Long-Term Lease Liability	388,778
Total Noncurrent Liabilities	4,946,721
Total Liabilities	14,569,438
DEFERRED INFLOWS OF RESOURCES	
Related to Pensions	1,145,628
Related to OPEB	1,148,341
Total Deferred Inflows of Resources	2,293,969
NET POSITION	
Net Investment in Capital Assets	25,457
Restricted - Financial Assurance Requirement	76,257
Unrestricted	28,740,573
Total Net Position	$ 28,842,287

CAPE LIGHT COMPACT JPE
STATEMENT OF CASH FLOWS
YEAR ENDED DECEMBER 31, 2022

OPERATING REVENUES	
Energy Efficiency	$ 4,936,762
Energy Efficiency Reconciliation Factor	57,702,504
Mil-Adder	1,017,468
Green Program	17,300
Intergovernmental	225,221
Intergovernmental (SMART)	14,632
Other	22,500
Total Operating Revenues	63,936,387
OPERATING EXPENSES	
Salaries and Benefits (Excluding Pension and OPEB)	2,487,780
Pension and OPEB	(203,539)
Energy Efficiency Programs:	
Residential Programs	26,868,125
Low Income Programs	9,962,380
Commercial and Industrial Programs	7,611,364
Other Programs	632,535
Legal and Related Consulting Services	1,150,879
Other Professional Services	80,570
Marketing	340,163
Other Operating	1,026,727
Depreciation and Amortization	98,613
Total Operating Expenses	50,055,597
OPERATING INCOME	13,880,790
NONOPERATING REVENUES & EXPENSES	
Forward Capacity Market	5,972,911
Renewable Energy Certificates, Net	(26,245)
Lease Interest Expense	(16,800)
Investment Income	155,039
Total Nonoperating Revenues & Expenses	6,084,905
CHANGE IN NET POSITION	19,965,695
Net Position - Beginning of Year	8,876,592
NET POSITION - END OF YEAR	$ 28,842,287

CAPE LIGHT COMPACT JPE
STATEMENT OF CASH FLOWS
YEAR ENDED DECEMBER 31, 2022

CASH FLOWS FROM OPERATING ACTIVITIES	
Receipts from Customers and Users	$ 62,347,726
Payments to Vendors and Customers	(48,514,116)
Payments for Salaries and Benefits	(2,526,190)
Net Cash Provided by Operating Activities	11,307,420
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES	
Proceeds from Sales of Renewable Energy Certificates	54,126
Purchase of Renewable Energy Certificates	(46,305)
Proceeds from Forward Capacity Market	6,220,018
Net Cash Provided by Noncapital Financing Activities	6,227,839
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES	
Principal Paid on Leases Payable	(58,706)
Interest Paid on Leases Payable	(38,294)
Acquisition of Capital Assets	(37,370)
Net Cash Used for Capital and Related Financing Activities	(134,370)
CASH FLOWS FROM INVESTING ACTIVITIES	
Investment Income	153,782
Net Cash Provided by Investing Activities	153,782
NET CHANGE IN CASH AND CASH EQUIVALENTS	17,554,671
Cash and Cash Equivalents - Beginning of Year	17,898,271
CASH AND CASH EQUIVALENTS - END OF YEAR	$ 35,452,942
RECONCILIATION OF OPERATING INCOME TO NET CASH FROM OPERATING ACTIVITIES	
Operating Income	$ 13,880,790
Adjustments to Reconcile Operating Income to Net Cash Provided by Operating Activities:	
Depreciation and Amortization	98,613
Effect of Changes in Assets, Liabilities, Deferred Outflows, and Inflows not Requiring Current Cash Flows:	
Total OPEB Liability	(750,898)
Deferred Outflows Related to OPEB	22,926
Deferred Inflows Related to OPEB	794,607
Net Pension Liability	(772,653)
Deferred Outflows Related to Pension	(28,493)
Deferred Inflows Related to Pension	530,972
Effect of Changes in Operating Assets and Liabilities:	
Accounts Receivable	(1,588,661)
Prepaid Expenses	(8,453)
Accounts Payable and Accrued Expenses	(832,920)
Accrued Payroll	(1,910)
Compensated Absences	(36,500)
Total Adjustments	(2,573,370)
Net Cash Provided by Operating Activities	$ 11,307,420

NOTE 1 REPORTING ENTITY

The Cape Light Compact (the Compact) is a joint powers entity (JPE) pursuant to G.L. c. 40, §4A ½. The Compact was created for the purpose of providing competitive electric supply, green power options, energy efficiency programs, and consumer advocacy for the residents and businesses of Cape Cod and Martha's Vineyard.

The Compact's current membership consists of 21 towns and Dukes County and is governed by a 22-member board of directors appointed by each of the member towns and county.

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The basic financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP). The Governmental Accounting Standards Board (GASB) is the standard-setting body for establishing governmental accounting and financial reporting principles. The Compact accounts for its operations as an enterprise fund. The significant accounting policies are described herein.

A. Measurement Focus, Basis of Accounting, and Basis of Presentation

The Compact's financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Under this method, revenues are recorded when earned and expenses are recorded when the liabilities are incurred, regardless of the timing of related cash flows.

The Compact distinguishes operating revenues and expenses from nonoperating items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with the principal ongoing operations. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

B. Implementation of New Accounting Principles

In June 2017, the GASB issued GASB Statement No. 87, *Leases*. This standard requires the recognition of certain lease assets and liabilities for leases that previously were classified as operating leases and as inflows of resources or outflows of resources recognized based on the payment provisions of the contract. It establishes a single model for lease accounting based on the foundational principle that leases are financings of the right to use an underlying asset. Under this standard, a lessee is required to recognize a lease liability and an intangible right-to-use lease asset, and a lessor is required to recognize a lease receivable and a deferred inflow of resources.

The Compact adopted the requirements of the guidance effective January 1, 2022, and has applied the provisions of this standard to the beginning of the period of adoption.

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

C. Deposits and Investments

Cash and cash equivalents are considered to be cash on hand, demand deposits and short-term investments with an original maturity of three months or less from the date of acquisition. Investments are carried at fair value.

D. Accounts Receivable

Accounts receivable are recorded at the time of the underlying event. The allowance for uncollectible amounts is estimated based on historical trends and specific account analysis. At December 31, 2022, all amounts are considered 100% collectible.

E. Prepaid Expenses

Payments related to Solar Renewable Energy Credits (SREC) and Solar Massachusetts Renewable Target (SMART) programs reflect costs applicable to future accounting periods and are recorded as prepaid items.

F. Capital Assets

Capital assets are recorded at historical cost. All individual purchases and construction costs in excess of $5,000 are capitalized at the date of acquisition or construction, respectively, with expected useful lives of greater than one year.

Capital assets and right-to-use lease assets are depreciated/amortized on a straight-line basis. The estimated useful lives of capital assets are as follows:

Asset Type	Estimated Useful Life (in Years)
Right-to-use Lease Building Asset	Shorter of 20 years or lease term
Software*	6

* Term of contract

The cost of normal maintenance and repairs that do not add to the value of the assets or materially extend asset lives are not capitalized and are treated as expenses when incurred. Improvements are capitalized.

G. Compensated Absences

Employees are granted vacation and sick leave. Vested or accumulated vacation and sick leave are reported as liabilities and expensed as incurred.

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

H. Revenue Recognition

Energy efficiency revenues are derived from the Massachusetts Department of Public Utilities (DPU) mandatory charge of 2.5 mills ($0.0025) per kilowatt hour to fund energy efficiency programs. These charges are initially collected by the electric distribution company and subsequently provided to the Compact. The Compact recognizes the energy efficiency charge as operating revenue on the accrual basis of accounting.

In addition to the mandatory charge, the Compact, and all Massachusetts energy efficiency program administrators, have an "Energy Efficiency Reconciliation Factor Charge" (EERF). The EERF is a fully reconciling funding mechanism designed to recover costs associated with energy efficiency programs by reconciling energy efficiency revenue amounts collected in electric rates with the total expense amounts incurred for energy efficiency programs, as approved by the DPU. These charges are initially collected by the electric distribution company and subsequently provided to the Compact. The Compact recognizes the EERF charge as operating revenue on the accrual basis of accounting.

Operational-adder revenues are derived from a 1 mil ($0.001) per kilowatt hour surcharge used to fund the Compact's nonenergy efficiency operational expenses as provided in the Compact's form of competitive electric supply agreement (CESA) approved by the Massachusetts Department of Telecommunications and Energy, now the Department of Public Utilities. These funds are collected by the Compact's contracted electric supply company on behalf of the Compact as part of the Compact's electric rates and are subsequently remitted to the Compact. The Compact's governing board appropriates these funds through the annual budget process; in addition, funds are disbursed by the Compact's administrator based on contractual and regulatory obligations. Operational-adder charges are recognized as operating revenue on the accrual basis of accounting.

Green Program revenues are derived from a $.013 and $.027 per kilowatt hour premiums to support efforts to encourage new renewable energy project development in New England. These funds are collected by the Compact's contracted electric supply company on behalf of the Compact as part of the Compact's electric rates and are subsequently remitted to the Compact. Green Program charges are recognized as operating revenue on the accrual basis of accounting.

Various other grants are applied for and received annually. For nonexpense driven grants, revenue is recognized as soon as all eligibility requirements imposed by the provider have been met. For expense driven grants, revenue is recognized when the qualifying expenses are incurred, and all other grant requirements are met.

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

I. Forward Capacity Market

The Compact participates in ISO New England's forward capacity market. The Compact recognizes proceeds from the forward capacity market as nonoperating revenue on the accrual basis. These funds are used for energy efficiency projects.

J. Deferred Outflows of Resources

In addition to assets, the statement of financial position reports a separate section for deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption of net position that applies to a future period(s) and so will not be recognized as an outflow of resources (expense) until that time.

Deferred outflows of resources related to pensions and OPEB are reported by the Compact.

K. Deferred Inflows of Resources

In addition to liabilities, the statement of financial position reports a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents an acquisition of net position that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time.

Deferred inflows of resources related to pensions and OPEB are reported by the Compact.

L. Pensions

For purposes of measuring the net pension liability, deferred outflows of resources and deferred inflows of resources related to pensions, and pension expense, information about the fiduciary net position of the Barnstable County Retirement Association (BCRA) and additions to/deductions from BCRA's fiduciary net position have been determined on the same basis as they are reported by BCRA. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms.

M. Other Postemployment Benefits

In addition to providing pension benefits, the Compact provides health and life insurance coverage for current and future retirees and their spouses as more fully described in Note 7.

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

N. Leases

The Compact determines if an arrangement is a lease at inception. Leases are included in right-to-use lease assets and lease liabilities in the statement of net position.

Lease assets represent the Compact's control of the right to use an underlying asset for the lease term, as specified in the contract, in an exchange or exchange-like transaction. Right-to-use lease assets are recognized at the commencement date based on the initial measurement of the lease liability. Right-to-Use Lease assets are amortized in a systematic and rational manner over the shorter of the lease term or useful life of the underlying asset.

Lease liabilities represent the Compact's obligation to make lease payments arising from the lease. Lease liabilities are recognized at the commencement date based on the present value of expected lease payments over the lease term, less any lease incentives. Interest expense is recognized ratably over the contract term.

The Compact recognizes payments for short-term leases with a lease term of 12 months or less, including options to extend, as expenses when incurred, and these leases are not included in lease liabilities or right-to-use assets in the statement of net position.

The individual lease contracts do not provide information about the discount rate implicit in the lease. Therefore, the Compact has elected to use their incremental borrowing rate to calculate the present value of expected lease payments.

O. Net Position

Net Position is reported in three categories: net investment in capital assets, restricted, and unrestricted. Restricted net position represents restrictions by parties outside of the Compact. The Compact reported restrictions of net position at December 31, 2022 of $76,257.

P. Use of Estimates

The preparation of basic financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure for contingent assets and liabilities at the date of the basic financial statements and the reported amounts of the revenues and expenses during the fiscal year. Actual results could vary from estimates that were used.

NOTE 3 DEPOSITS AND INVESTMENTS

Deposits are governed by the Massachusetts General Laws (MGL) and the Compact's bylaws.

Deposits – Custodial Credit Risk

Custodial credit risk for deposits is the risk that, in the event of a bank failure, the Compact's deposits may not be recovered. The Compact does not have a policy for custodial credit risk of deposits. As of December 31, 2022, none of the Compact's bank balance of $35,880,036 was exposed to custodial credit risk.

Investments Summary

The Compact's investments at December 31, 2022, consisted of a mutual funds with a maturity of less than one year in the amount of $76,257.

Investments – Interest Rate Risk of Debt Securities

Interest rate risk for debt securities is the risk that changes in interest rates of debt securities will adversely affect the fair value of an investment. The Compact does not have a policy for interest rate risk of debt securities.

Investments – Custodial Credit Risk

Custodial credit risk for investments is the risk that, in the event of the failure of the counterparty, the Compact will not be able to recover the value of its investments or collateral securities that are in the possession of an outside party. The Compact does not have a policy for custodial credit risk of investments. As of December 31, 2022, the Compact was not exposed to custodial credit risk.

Investments – Fair Value Measurements

The Compact categorizes its fair value measurements within the fair value hierarchy established by GAAP. The hierarchy is based on the valuation inputs used to measure the fair value of the asset. Level 1 inputs are quoted prices in active markets for identical assets; Level 2 inputs are significant other observable inputs; Level 3 inputs are significant unobservable inputs.

As of December 31, 2022, the investment in mutual funds was measured at Level 1 under the fair value hierarchy.

NOTE 4 CAPITAL ASSETS

Capital asset activity for the year ended December 31, 2022 was as follows:

	Beginning Balance	Increases	Decreases	Ending Balance
Capital Assets Being Depreciated and Amortized:				
Software	$ 812,281	$ 37,370	$ -	$ 849,651
Right-to-Use Lease Asset Building	-	565,039	-	565,039
Total Capital Assets Being Depreciated and Amortized	812,281	602,409	-	1,414,690
Accumulated Depreciation and Amortization:				
Software	(812,281)	(3,114)	-	(815,395)
Right-to-Use Lease Asset Building	-	(95,499)	-	(95,499)
Total Accumulated Depreciation and Amortization	(812,281)	(98,613)	-	(910,894)
Total Capital Assets Being Depreciated, Net	-	503,796	-	503,796
Total Capital Assets	$ -	$ 503,796	$ -	$ 503,796

NOTE 5 LONG-TERM OBLIGATIONS

The following represents a summary of changes that occurred in long-term obligations during the year ended December 31, 2022:

	Beginning Balance	Increases	Decreases	Ending Balance	Current Portion
Compensated Absences	$ 56,660	$ -	$ (36,500)	$ 20,160	$ 2,016
Lease Liabilities	-	556,414	(78,075)	478,339	89,561
Total	$ 56,660	$ 556,414	$ (114,575)	$ 498,499	$ 91,577

NOTE 6 PENSION PLAN

Plan Description

Effective January 1, 2018, the Compact became a member of the Barnstable County Contributory Retirement Association (BCRA), a cost-sharing multiemployer defined benefit pension plan covering eligible employees of the 59 member units.

The BCRA is administered by five board members on behalf of all current employees and retirees. Chapter 32 of the MGL assigns authority to establish and amend benefit provisions of the plan. The audited financial report may be obtained by visiting http://www.barnstablecounty.org/retirement/association/.

The Compact has established a reserve fund for the advance accumulation of funding for pension benefits. However, this is not considered a qualifying trust for reporting purposes under GASB No. 67 and 68 and therefore is not reported as a reduction of the liability. The reserve balance at December 31, 2022, amounted to $3,365,566 and is reported in the Compact's net position at December 31, 2022.

Benefits Provided

The BCRA provides retirement, disability, survivor, and death benefits to plan members and beneficiaries. Massachusetts contributory retirement system benefits are, with certain minor exceptions, uniform from system to system. The systems provide retirement allowance benefits up to a maximum of 80% of a member's highest three-year average annual rate of regular compensation for those hired prior to April 2, 2012. For persons who became members on or after April 2, 2012, average salary is the average annual rate of regular compensation received during the five consecutive years that produce the highest average, or, if greater, during the last five years (whether or not consecutive) preceding retirement. Benefit payments are based upon a member's age, length of creditable service, level of compensation, and group classification. Members become vested after 10 years of creditable service.

Contributions

Chapter 32 of the MGL governs the contributions of plan members and member units. Active plan members are required to contribute to the System at rates ranging from 5% to 9% of gross regular compensation with an additional 2% contribution required for compensation exceeding $30,000. The percentage rate is keyed to the date upon which an employee's membership commences. The member units are required to pay into the BCRA a legislatively mandated actuarially determined contribution that is apportioned among the employers based on active current payroll. Contributions to the BCRA totaled $387,776 for the year ended December 31, 2022.

NOTE 6 PENSION PLAN (CONTINUED)

Net Pension Liability

At December 31, 2022, the Compact reported a liability of $2,462,840 for its proportionate share of the net pension liability. The net pension liability was measured as of December 31, 2021, and the total pension liability used to calculate the net pension liability was determined by an actuarial valuation as of January 1, 2022. The Compact's proportion of the net pension liability was based on a projection of the Compact's long-term share of contributions to the pension plan relative to the projected contributions of all participating members. At December 31, 2021, the measurement date, the Compact's proportion was 0.448%. At December 31, 2020, the Compact's proportion was 0.468%.

Pension Expense

For the year ended December 31, 2022, the Compact recognized pension expense of $117,602.

The balances of deferred outflows and inflows at December 31, 2022, consist of the following:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Net Difference Between Projected and Actual Earnings on Pension Plan Investments	$ -	$ 862,356
Changes in Assumptions	308,857	-
Differences Between Expected and Actual Experience	-	17,283
Changes in Proportion	150,503	265,989
Contributions Made Subsequent to the Measurement Date	387,776	-
Total	$ 847,136	$ 1,145,628

NOTE 6 PENSION PLAN (CONTINUED)

Deferred outflows of resources totaling $387,776 related to contributions made subsequent to the measurement date will be recognized as a reduction to the net pension liability in 2023. The remaining net deferred outflows and inflows of resources related to pensions will be recognized in pension expense as follows:

Year Ending December 31,	Amount
2023	$ (139,539)
2024	(255,870)
2025	(133,450)
2026	(162,109)
2027	4,700
Total	$ (686,268)

Actuarial Method and Assumptions

The total pension liability in the January 1, 2022, actuarial valuation was determined using the following actuarial assumptions, applied to all periods included in the measurement date of December 31, 2021:

Valuation Date	January 1, 2022
Actuarial Cost Method	Entry Age Normal Cost Method
Investment Rate of Return	6.90%, net of pension plan investment expense, including inflation
Projected Salary Increases	3.25%
Cost of Living Adjustments	3.0% of the first $18,000
Mortality Rates:	Pre-Retirement: The RP-2014 Blue Collar Mortality Table projected generationally with a Scale MP-2021
	Healthy Retiree: The RP-2014 Blue Collar Healthy Annuitant Mortality Table projected generationally with a Scale MP-2021
	Disabled Retiree: The RP-2014 Blue Collar Healthy Annuitant Mortality Table set forward one year projected generationally with a Scale MP-2021

NOTE 6 PENSION PLAN (CONTINUED)

The long-term expected rate of return on pension plan investments was determined using a building-block method in which best-estimate ranges of expected future real rates of return (expected returns, net of pension plan investment expense and inflation) are developed for each major asset class. These ranges are combined to produce the long-term expected rate of return by weighting the expected future real rates of return by the target asset allocation percentage and by adding expected inflation. Best estimates of arithmetic real rates of return for each major asset class included in the pension plan's target asset allocation are summarized in the following table:

Asset Class	Target Allocation	Long-Term Expected Real Rate of Return
Domestic Equity	22.0 %	6.11 %
International Developed Markets Equity	11.5	6.49
International Emerging Markets Equity	4.5	8.12
Core Fixed Income	15.0	0.38
High-Yield Fixed Income	8.0	2.48
Real Estate	10.0	3.72
Timberland	4.0	3.44
Hedge Fund, GTAA, Risk Parity	10.0	2.63
Private Equity	15.0	9.93
Total	100.0 %	

Discount Rate

The discount rate used to measure the total pension liability was 6.90%. The projection of cash flows used to determine the discount rate assumed plan member contributions will be made at the current contribution rate and that contributions will be made at rates equal to the actuarially determined contribution rate. Based on those assumptions, the pension plan's fiduciary net position was projected to be available to make all projected future benefit payments of current plan members. Therefore, the long-term expected rate of return on pension plan investments was applied to all periods of projected benefit payments to determine the total pension liability. The discount rate for the measurement date December 31, 2020 was 7.15%.

Sensitivity of the Net Pension Liability to Changes in the Discount Rate

The following presents the net pension liability, calculated using the discount rate of 6.90%, as well as what the net pension liability would be if it were calculated using a discount rate that is 1-percentage-point lower (5.90%) or 1-percentage-point higher (7.90%) than the current rate:

	1% Decrease (5.90%)	Current Discount Rate (6.90%)	1% Increase (7.90%)
Net Pension Liability	$ 3,621,802	$ 2,462,840	$ 1,487,965

NOTE 7 OTHER POSTEMPLOYMENT BENEFITS

Plan Description

The Compact's defined benefit OPEB plan provides health, dental, and life insurance coverage for its retirees and their survivors (hereinafter referred to as the Plan) as a single employer defined benefit Other Postemployment Benefit (OPEB) plan. Chapter 32B of the MGL assigns authority to establish and amend benefit provisions of the plan. Benefit provisions are negotiated between the Compact and the employees. The Plan does not have an established trust and does not accumulate assets to offset the liability. The Plan does not issue a publicly available financial report.

The Compact has established a reserve fund for the advance accumulation of funding for postemployment benefits. However, this is not considered a qualifying trust for reporting purposes under GASB No. 74 and 75 and therefore is not reported as a reduction of the liability. The reserve balance at December 31, 2022, amounted to $1,759,035 and is reported in the Compact's net position at December 31, 2022.

Benefits Provided

The Compact provides health, dental, and life insurance coverage for its retirees and their survivors. The Compact contributes 75% of the cost of current-year health, dental, and life insurance premiums for eligible retired plan members and their dependents. Plan members receiving benefits contribute the remaining 25% percent of their premium costs. The required contribution is based on a pay-as-you-go financing requirement. For 2022, the Compact paid benefits of $58,887 through the plan. The costs of administering the Plan are paid by the Compact.

Employees Covered by Benefit Terms

The number of covered participants in the Plan consisted of the following at June 30, 2022, the date of the latest actuarial valuation:

Active Employees	14
Retirees and Survivors	10
Total	24

Total OPEB Liability

The Compact's total OPEB liability of $2,076,959 was measured as of December 31, 2022, which was rolled forward from an actuarial valuation as of June 30, 2022.

NOTE 7 OTHER POSTEMPLOYMENT BENEFITS (CONTINUED)

Actuarial Assumptions

The total OPEB liability as of December 31, 2022, was measured by an actuarial valuation as of June 30, 2022, actuarial valuation (rolled forward to the measurement date) and other inputs, applied to all periods included in the measurement, unless otherwise specified:

Discount Rate	3.72% (20-Year Municipal Bond Index Rate), 2.06% as of December 31, 2021.
Health Care Trend Rates	Medicare: 7.00% decreasing by 0.25% each year to an ultimate level of 4.5% per year. Non-Medicare: 3.86% for one year, then 6.75% decreased by 0.25% each year to an ultimate level of 4.5% per year.
Mortality Rates:	Pre-Retirement: The RP-2014 Blue Collar Employee Mortality Table projected generationally with Scale MP-2021 Postretirement: Healthy: RP-2014 Blue Collar Healthy Annuitant Mortality Table projected generationally with Scale MP-2021; Disabled: RP-2014 Blue Collar Healthy Annuitant Mortality Table set forward one year projected generationally with Scale MP-2021

Changes in Total OPEB Liability

	Total OPEB Liability
Balance at December 31, 2021	$ 2,827,857
Changes for the Year:	
Service Cost	114,144
Interest	60,002
Differences between expected and actual experience	105,495
Changes in Assumptions	(971,652)
Benefit Payments	(58,887)
Net Changes	(750,898)
Balance at December 31, 2022	$ 2,076,959

Sensitivity of the Total OPEB Liability to Changes in the Discount Rate

The following presents the total OPEB liability, calculated using the discount rate of 3.72%, as well as what the total OPEB liability would be if it were calculated using a discount rate that is 1-percentage-point lower (2.72%) or 1-percentage-point higher (4.72%) than the current rate:

	1% Decrease (2.72%)	Current Discount Rate (3.72%)	1% Increase (4.72%)
Total OPEB Liability	$ 2,438,735	$ 2,076,959	$ 1,786,690

NOTE 7 OTHER POSTEMPLOYMENT BENEFITS (CONTINUED)

Sensitivity of the Total OPEB Liability to Changes in the Healthcare Cost Trend Rates

The following presents the total OPEB liability, calculated using the healthcare cost trend rates, as well as what the total OPEB liability would be if it were calculated using a healthcare cost trend rate that is 1-percentage-point lower or 1-percentage-point higher than the current healthcare cost trend rate:

	1% Decrease	Current Trend Rate	1% Increase
Total OPEB Liability	$ 1,737,523	$ 2,076,959	$ 2,523,503

OPEB Expense and Deferred Outflows of Resources and Deferred Inflows of Resources Related to OPEB

For the year ended December 31, 2022, the Compact recognized OPEB expense of $125,522.

At December 31, 2022, the Compact reported deferred outflows and inflows of resources related to OPEB from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Changes in Assumptions	$ 479,781	$ 1,079,897
Differences Between Expected and Actual Experience	229,733	68,444
Total	$ 709,514	$ 1,148,341

Amounts reported as deferred outflows of resources and deferred inflows of resources related to OPEB will be recognized in OPEB expense as follows:

Year Ending December 31,	Amount
2023	$ (48,627)
2024	(48,627)
2025	(48,621)
2026	(46,958)
2027	(37,769)
Thereafter	(208,225)
Total	$ (438,827)

NOTE 8 RELATED PARTY TRANSACTIONS

Cape and Vineyard Electric Cooperative (CVEC)

The Compact is a Member of CVEC, whose purpose is to develop and/or own renewable electric generation facilities and procure and/or sell long-term electric supply or other energy-related goods or services at competitive prices to its Members and consumers within its Member communities.

Renewable Energy Certificates

RECs purchased by CVEC are sold to the Compact for an amount equal to CVEC's cost for the Compact's Green Power Supply Program. Purchases for the year ended December 31, 2022, totaled $46,305.

NOTE 9 LEASES

The Compact leases office space under a five-year, noncancelable lease agreement. The lease expires in December 31, 2027.

Total future principal and interest payments under lease agreements are as follows:

Fiscal Years Ending December 31,	Principal	Interest
2023	$ 89,561	$ 13,939
2024	92,515	10,985
2025	95,567	7,933
2026	98,720	4,780
2027	101,976	1,524
Total Minimum Lease Payments	$ 478,339	$ 39,161

Right-to-Use assets acquired through outstanding leases are shown below, by underlying asset class.

Buildings	$ 565,039
Less: Accumulated Amortization	(95,499)
Total	$ 469,540

NOTE 10 COMMITMENTS

The Compact participates in ISO New England's forward capacity market and has made commitments to deliver specified units of energy efficiency at a fixed price per unit. If the Compact fails to deliver its capacity supply obligation, it is subject to penalties determined by the rules of the forward capacity market. On December 17, 2021, the Compact entered into a security agreement to meet the financial assurance requirements of ISO New England (secured party), of which the secured party has continuing security interest in the investment collateral.

On November 20, 2018, the Compact entered into a Power Purchase Agreement (PPA) with Farmington Solar, LLC, to purchase 5 megawatts of energy and REC's generated by a photovoltaic solar electric energy generating facility to be constructed and owned by Farmington Solar, LLC.

The term of the PPA is 20 years following and including the commercial operation date (as defined in the PPA. All energy delivered to the Compact under the PPA will be at a fixed contract price. To support the Compact's obligations under the PPA, the Compact must provide a letter of credit (ranging from $4,978,000 in the first year of operation to $218,000 in the last year of operation) in accordance with the terms of the PPA.

On July 12, 2021, the Compact obtained a $5,000,000 letter of credit to meet the financial assurance requirements of Farmington Solar, LLC, which is secured by cash balances.

CAPE LIGHT COMPACT JPE
REQUIRED SUPPLEMENTARY INFORMATION
PENSION PLAN SCHEDULES
(SEE INDEPENDENT AUDITORS' REPORT)

SCHEDULE OF THE COMPACT'S PROPORTIONATE SHARE OF THE NET PENSION LIABILITY (1)(2)
Last Ten Measurement Periods

	2022	2021	2020	2019	2018	2017
Compact's Proportion of the Net Pension Liability	0.448%	0.468%	0.478%	0.434%	0.471%	0.493%
Compact's Proportionate Share of the Net Pension Liability	$ 2,462,840	$ 3,235,493	$ 3,587,855	$ 3,429,747	$ 3,202,074	$ 3,467,247
Compact's Employee Payroll	$ 1,446,565	$ 1,501,375	$ 1,468,732	$ 1,217,527	$ 1,423,681	$ 1,340,875
Compact's Proportionate Share of the Net Pension Liability as a Percentage of its Employee Payroll	58.74%	46.40%	40.94%	35.50%	44.46%	38.67%
Plan Fiduciary Net Position as a Percentage of the Total Pension Liability	75.07%	66.82%	62.34%	57.63%	61.86%	57.28%

(1) Data is being accumulated annually to present 10 years of the reported information.
(2) Measurement date is December 31 of the prior year.

Notes to Schedule:

Changes of assumptions:
December 31, 2022 – Discount rate decreased to 6.90% from 7.15%, mortality improvement scale was updated from Scale MP-2017 to Scale MP-2021.

December 31, 2020 – Discount rate decreased to 7.15% from 7.375%

SCHEDULE OF THE COMPACT'S CONTRIBUTIONS (1)
Last Ten Fiscal Years

	2022	2021	2020	2019	2018	2017	2016
Actuarially Required Contribution	$ 387,776	$ 329,882	$ 325,793	$ 315,737	$ 337,761	$ 277,827	$ 293,912
Contributions in Relation to the Actuarially Required Contribution	(387,776)	(329,882)	(325,793)	(315,737)	(337,761)	(277,827)	(293,912)
Contribution Deficiency (Excess)	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Compact's Covered Payroll	$ 1,446,565	$ 1,501,375	$ 1,468,732	$ 1,217,527	$ 1,423,681	$ 1,340,875	$ 1,340,875
Contributions as a Percentage of Covered Payroll	26.81%	21.97%	22.18%	25.93%	23.72%	20.72%	21.92%

(1) Data is being accumulated annually to present 10 years of the reported information.

CAPE LIGHT COMPACT JPE
REQUIRED SUPPLEMENTARY INFORMATION
OTHER POSTEMPLOYMENT BENEFIT SCHEDULE
(SEE INDEPENDENT AUDITORS' REPORT)

SCHEDULE OF CHANGES IN THE COMPACT'S TOTAL OPEB LIABILITY (1)(2)

Last Ten Measurement Periods

	2022	2021	2020	2019	2018
Total OPEB Liability					
Service Cost	$ 114,144	$ 144,745	$ 118,817	$ 80,400	$ 103,165
Interest	60,002	60,993	68,061	76,203	64,339
Differences Between Expected and Actual Experience	105,495	176,687	-	-	(176,002)
Changes in Assumptions	(971,652)	(256,662)	234,786	479,684	145,966
Benefit Payments	(58,887)	(60,083)	(48,930)	(49,611)	(29,366)
Change in Total OPEB Liability	(750,898)	65,680	372,734	586,676	108,102
Total OPEB Liability - Beginning	2,827,857	2,762,177	2,389,443	1,802,767	1,708,578
Total OPEB Liability - Ending	$ 2,076,959	$ 2,827,857	$ 2,762,177	$ 2,389,443	$ 1,816,680
Covered-Employee Payroll	$ 1,815,915	$ 1,854,932	$ 1,762,238	$ 1,217,527	$ 1,423,681
Total OPEB Liability as a percentage of covered-employee payroll	114.38%	152.45%	156.74%	196.25%	127.60%

(1) Data is being accumulated annually to present 10 years of the reported information.
(2) Measurement date is December 31, with the exception of 2018 which was a measurement date of June 30, 2018. It was not practical to restate the 2018 amounts as the rollforward was performed for 6 months to bring to the new measurement date.

Notes to Schedule:

Changes of assumptions:

December 31, 2022 – Discount rate increased to 3.72% from 2.06%, mortality assumptions were updated.

December 31, 2021 – Discount rate decreased to 2.06% from 2.12%

December 31, 2020 – Discount rate decreased to 2.12% from 2.74%

CAPE LIGHT COMPACT JPE
COMBINING STATEMENT OF NET POSITION BY PROGRAM
DECEMBER 31 2022
(SEE INDEPENDENT AUDITORS' REPORT)

	Energy Efficiency	Power Supply Reserve	OPEB/Pension Reserve Fund	Operating	Green/Solar Programs	Grant Funds	Contingency Reserve Fund	Eliminations	Total
ASSETS									
Current Assets:									
Cash and Cash Equivalents	$ 28,215,234	$ 1,685,324	$ 5,124,601	$ 4,311	$ 172,460	$ -	$ 251,012	$ -	$ 35,452,942
Restricted Investments	76,257	-	-	-	-	-	-	-	76,257
Receivables, Net of Allowance for Uncollectible Amounts:									
Energy Efficiency	617,590	-	-	-	-	-	-	-	617,590
Energy Efficiency Reconciliation Factor	6,715,546	-	-	-	-	-	-	-	6,715,546
Mil-Adder	-	79,215	-	-	-	-	-	-	79,215
Green Program	-	-	-	-	1,666	-	-	-	1,666
Forward Capacity Market	266,171	-	-	-	-	-	-	-	266,171
Other	60,217	-	-	-	-	72,887	-	-	133,104
Due from Other Funds	-	-	-	57,798	-	-	-	(57,798)	-
Prepaid Expenses	-	-	-	-	302,757	-	-	-	302,757
Total Current Assets	35,951,015	1,764,539	5,124,601	62,109	476,883	72,887	251,012	(57,798)	43,645,248
Noncurrent Assets:									
Capital Assets Not Being Depreciated	34,256	-	-	-	-	-	-	-	34,256
Right-of-Use Asset	441,368	-	-	28,172	-	-	-	-	469,540
Total Noncurrent Assets	475,624	-	-	28,172	-			-	503,796
Total Assets	36,426,639	1,764,539	5,124,601	90,281	476,883	72,887	251,012	(57,798)	44,149,044
DEFERRED OUTFLOWS									
Related to Pensions	796,308	-	-	50,828	-	-	-	-	847,136
Related to OPEB	666,942	-	-	42,572	-	-	-	-	709,514
Total Deferred Outflows	1,463,250	-	-	93,400	-	-	-	-	1,556,650
LIABILITIES									
Current Liabilities:									
Accounts Payable and Accrued Expenses	9,372,933	-	-	44,671	20,000	14,235	-	-	9,451,839
Due to Other Funds	-	-	-	-	-	57,798	-	(57,798)	-
Accrued Payroll	61,863	-	-	17,438	-	-	-	-	79,301
Compensated Absences, Current	1,895	-	-	121	-	-	-	-	2,016
Short-Term Lease Liability	84,187	-	-	5,374	-	-	-	-	89,561
Total Current Liabilities	9,520,878	-	-	67,604	20,000	72,033	-	(57,798)	9,622,717
Noncurrent Liabilities:									
Compensated Absences, Net of Current	17,055	-	-	1,089	-	-	-	-	18,144
Total OPEB Liability	1,952,339	-	-	124,620	-	-	-	-	2,076,959
Net Pension Liability	2,315,070	-	-	147,770	-	-	-	-	2,462,840
Long-Term Lease Liability	365,451	-	-	23,327	-	-	-	-	388,778
Total Noncurrent Liabilities	4,649,915	-	-	296,806	-	-	-	-	4,946,721
Total Liabilities	14,170,793	-	-	364,410	20,000	72,033	-	(57,798)	14,569,438
DEFERRED INFLOWS									
Related to Pensions	1,076,890	-	-	68,738	-	-	-	-	1,145,628
Related to OPEB	1,079,439	-	-	68,902	-	-	-	-	1,148,341
Total Deferred Inflows	2,156,329	-	-	137,640	-	-	-	-	2,293,969
NET POSITION									
Net Investment in Capital Assets	25,986	-	-	(529)	-	-	-	-	25,457
Restricted	76,257	-	-	-	-	-	-	-	76,257
Unrestricted	21,460,524	1,764,539	5,124,601	(317,840)	456,883	854	251,012	-	28,740,573
Total Net Position	$ 21,562,767	$ 1,764,539	$ 5,124,601	$ (318,369)	$ 456,883	$ 854	$ 251,012	$ -	$ 28,842,287

CAPE LIGHT COMPACT JPE
COMBINING STATEMENT OF REVENUES, EXPENSES, AND CHANGE IN NET POSITION BY PROGRAM
YEAR ENDED DECEMBER 31 2022
(SEE INDEPENDENT AUDITORS' REPORT)

	Energy Efficiency	Power Supply Reserve	OPEB/Pension Reserve Fund	Operating	Green/Solar Programs	Grants Funds	Contingency Reserve Fund	Eliminations	Total
OPERATING REVENUES									
Energy Efficiency	$ 4,936,762	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 4,936,762
Energy Efficiency Reconciliation Factor	57,702,504	-	-	-	-	-	-	-	57,702,504
Mil-Adder	-	1,017,468	-	-	-	-	-	-	1,017,468
Green Program	-	-	-	-	17,300	-	-	-	17,300
Intergovernmental	-	-	-	-	-	225,221	-	-	225,221
Intergovernmental (SMART)	-	-	-	-	14,632	-	-	-	14,632
Other	-	22,500	-	-	-	-	-	-	22,500
Total Operating Revenues	62,639,266	1,039,968	-	-	31,932	225,221	-	-	63,936,387
OPERATING EXPENSES									
Salaries and Benefits (Excluding Pension and OPEB)	2,328,431	-	-	146,622	-	10,727	-	-	2,487,780
Pension and OPEB Adjustments	(168,232)	-	-	(35,307)	-	-	-	-	(203,539
Energy Efficiency Programs:									
Residential Programs	26,868,125	-	-	-	-	-	-	-	26,868,125
Low Income Programs	9,962,380	-	-	-	-	-	-	-	9,962,380
Commercial and Industrial Programs	7,611,364	-	-	-	-	-	-	-	7,611,364
Other Programs	632,535	-	-	-	-	-	-	-	632,535
Legal and Related Consulting Services	754,590	-	-	396,289	-	-	-	-	1,150,879
Other Professional Services	75,736	-	-	4,834	-	-	-	-	80,570
Marketing	248,410	-	-	91,753	-	-	-	-	340,163
Other Operating	525,900	44,999	-	197,430	43,904	214,494	-	-	1,026,727
Depreciation and Amortization	92,883	-	-	5,730	-	-	-	-	98,613
Total Operating Expenses	48,932,122	44,999	-	809,351	43,904	225,221	-	-	50,055,597
OPERATING INCOME (LOSS)	13,707,144	994,969	-	(809,351)	(11,972)	-	-	-	13,880,790
NONOPERATING REVENUES (EXPENSES)									
Forward Capacity Market	5,972,911	-	-	-	-	-	-	-	5,972,911
Renewable Energy Certificates, Net	-	(17,235)	-	-	(9,010)	-	-	-	(26,245
Lease Interest Expense	(15,792)	-	-	(1,008)	-	-	-	-	(16,800
Investment Income	117,579	17,617	18,831	-	-	-	1,012	-	155,039
Total Nonoperating Revenues (Expenses), Net	6,074,698	382	18,831	(1,008)	(9,010)	-	1,012	-	6,084,905
INCOME (LOSS) BEFORE TRANSFERS	19,781,842	995,351	18,831	(810,359)	(20,982)	-	1,012	-	19,965,695
TRANSFERS									
Transfers In	-	31,786	566,965	946,344	-	-	65,000	(1,610,095)	-
Transfers Out	(564,733)	(946,344)	-	(99,018)	-	-	-	1,610,095	-
Total Transfers	(564,733)	(914,558)	566,965	847,326	-	-	65,000	-	-
CHANGE IN NET POSITION	19,217,109	80,793	585,796	36,967	(20,982)	-	66,012	-	19,965,695
Net Position - Beginning of Year	2,345,658	1,683,746	4,538,805	(355,336)	477,865	854	185,000	-	8,876,592
NET POSITION (DEFICIT) - END OF YEAR	$ 21,562,767	$ 1,764,539	$ 5,124,601	$ (318,369)	$ 456,883	$ 854	$ 251,012	$ -	$ 28,842,287

CAPE LIGHT COMPACT JPE
RECONCILIATION OF AUDITED ENERGY EFFICIENCY GAAP EXPENSES TO DEPARTMENT OF PUBLIC UTILITIES (DPU) REPORT
YEAR ENDED DECEMBER 31 2022
(SEE INDEPENDENT AUDITORS' REPORT)

Energy Efficiency Operating Fund Expenses Reported on 2022 Combining Statement of Revenues, Expenses and Change in Net Position by Program (Page 33)	$	48,932,122
Reconciling Items:		
To Record Net Change in Accrued Expenses		(10,660)
To Record Net Change in Accrued Payroll		14,869
To Record Net Pension Liability, Net of Deferred Outflows and Inflows		237,697
To Record Total OPEB Liability, Net of Deferred Outflows and Inflows		(69,465)
To Record Net Change in Accrued Compensated Absences		34,310
Transfers Made to the OPEB and Pension Reserve Fund		564,733
To Capitalize Software		37,370
To Record Lease Liability Activity		61,295
Depreciation of Capitalized Expenses		(92,883)
Total Reconciling Items		777,266
2022 Energy Efficiency Expenses Reported on the 2022 Term Report	$	49,709,388 (A)

(A) This amount is reported on the modified accrual basis of accounting and reviewed annually by the DPU.

Cape Light Compact JPE
Governing Board
Meeting Minutes
Wednesday, September 13, 2023

The Cape Light Compact JPE Board of Directors met on Wednesday, September 13, 2023, at 2:00 p.m. The meeting was held as a hybrid meeting (in-person and through remote participation) through a Zoom videoconference for members of the Board with audio call-in available for members of the public, pursuant to St. 2023, c. 2, which, among other things, extends the temporary provisions pertaining to remote meetings of public bodies under the Open Meeting Law to March 31, 2025..

Participating In-Person Were:

1. David Anthony, Secretary/Executive Committee, Barnstable
2. Robert Schofield, Executive Committee, Bourne
3. Bill Doherty, Bourne Alternate
4. Colin Odell, Executive Committee, Brewster
5. Brad Crowell, Dennis
6. Tom McNellis, Eastham
7. Gary Senecal, Eastham Alternate
8. Valerie Bell, Harwich
9. Martin Culik, Chair/Executive Committee, Orleans
10. David Jacobson, Orleans Alternate
11. Joyce Flynn, Vice Chair/Executive Committee, Yarmouth

Participating Remotely Were:

1. Timothy Carroll, Chilmark
2. Alan Strahler, Edgartown
3. Leanne Drake, Sandwich
4. Bob Higgins-Steele, Truro Alternate
5. Richard Elkin, Executive Committee, Wellfleet

Absent Were:

1. Forrest Filler, Aquinnah
2. Brian Miner, Chatham
3. Meghan Gombos, Dukes County
4. Matthew Patrick, Falmouth
5. Wayne Taylor, Mashpee
6. Peter Meleney, Oak Bluffs
7. Nathaniel Mayo, Provincetown
8. Russ Hartenstine, Tisbury
9. Jarrod Cabral, Truro
10. Nicola Blake, Executive Committee, West Tisbury

Legal Counsel Participating Remotely:

Audrey Eidelman Kiernan, Esq., KO Law, P.C.
Erin O'Toole, Esq., KO Law, P.C.

Staff Participation In-Person:
Maggie Downey, Administrator – arrived at 3:30 PM
Margaret Song, Energy Efficiency Strategy and Policy Manager

Staff Participating Remotely:
Briana Kane, Residential and Commercial & Industrial Program Manager
David Botelho, Data Analyst
Laura Selmer, Analyst
Mariel Marchand, Power Supply Planner
Melissa Allard, Senior Administrative Coordinator
Stephen McCloskey, Analyst - Home Energy Services

Public Participants:
Chris Powicki

Martin Culik called the meeting to order at 2:02 PM.

Public Comment:
Chris Powick stated that Tuesday, September 19th the Sierra Club is hosting a virtual talk which will be about community benefits from offshore wind power, stabilizing electric rates, and decarbonizing Cape Cod. The talk will feature Massachusetts Representative Dylan Fernandes who will talk about inactive and proposed legislation that is designed to assist the Compact, individual municipalities, and other entities in purchasing offshore wind power with backing from the State. He stated that Rep. Fernandes will also talk about the benefits that are accruing to Martha's Vineyard from the Vineyard Wind project. He stated that he hopes that some of the Compact Board members and staff will attend. He asked that his email be distributed to the Board and also encouraged the Compact to include an agenda item on offshore wind procurement at either next month's or November's meeting.

APPROVAL OF MINUTES:

The Board considered the July 12, 2023, Open Session and Executive Session Meeting Minutes.

Robert Schofield moved the Board to accept the minutes as amended and to release them as amended, seconded by Valerie Bell.

Melissa Allard stated that since there was an amendment made to the June 14, 2023 meeting minutes, that the vote should state "as amended".

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Tim	Carroll	Chilmark	Yes
Brad	Crowell	Dennis	Abstained
Tom	McNellis	Eastham	Yes
Valerie	Bell	Harwich	Yes
Martin	Culik	Orleans	Yes

Leanne	Drake	Sandwich	Yes
Bob	Higgins-Steele	Truro	Yes
Joyce	Flynn	Yarmouth	Yes

Motion carried in the affirmative (10-0-1)

CHAIRMAN'S REPORT:

1. **Town Interest in Pursuing a Request for Proposals (RFP) for Assessing and Maintaining Municipal Electric Vehicle Charging Stations**

Martin Culik stated that there was a request from a Board Member to look into a Request for Proposals (RFP) for assessing and maintaining municipal electric vehicle charging stations.

Tom McNellis stated that EV chargers were installed back in 2020-2021 by Eversource across Cape Cod and the terms and conditions essentially stated that the Town is in charge of maintenance. He stated that the systems are starting to fail, and residents have been raising questions. He stated that the thought was that rather than have one Town at a time put out a maintenance contract for only a couple of charging heads, it may be of interest to have a Cape wide RFP put out. He stated that he has had a preliminary discussion with Maggie Downey on the starting details for an RFP.

Martin Culik stated that the Compact needs the Board to talk to their Town person who is responsible for the EV chargers. He stated the Compact will provide the Board with the information that is needed from the Towns. He stated that if the Compact gets critical mass, then we can move forward with the RFP.

Brad Crowell stated that he would like to know if this is consistent with the Compact's charter. David Anthony, building on that point, asked would this be the Compact's mission or would this be better fit under the Barnstable County's procurement office. Valerie Bell stated that Harwich does not currently have any municipal EV chargers. She stated that she would love to see this happen but also wonders whether the Compact is who should be doing the RFP. Tim Carroll asked if we could have the Compact's counsel answer whether this is within our mission. Audrey Eidelman Kiernan stated that the Compact's joint powers agreement has a pretty broad list of goals and purposes, and one of them is to advance specific community goals. She stated that as long as the Board agrees that this is a specific community goal that you want to address, then the Compact can move forward.

David Anthony stated that he is willing to volunteer Barnstable staff to put out a survey of all the Cape Cod and Martha's Vineyard Towns to see what that they have and need when it comes to EV chargers. He stated then he can bring that data back to the Board and determine who should take it on. Joyce Flynn stated that she thinks that would be a wonderful idea. Martin Culik stated that we will accept the help.

2. **Upcoming Meeting with DPU Commissioner Van Nostrand**

Martin Culik stated that he, David Anthony, Tim Carroll, and Maggie Downey are meeting with the new Department of Public Utilities (DPU) Commission Chair, Jamie Van Nostrand. He stated that we have prepared a presentation for him to talk about what the Compact would like to see the DPU do to assist us with our mission.

DISCUSSION AND POTENTIAL VOTE ON ESTABLISHING AN OTHER POST EMPLOYMENT BENEFITS (OPEB) TRUST AND PENSION STABILIZATION FUND, ERIN O'TOOLE, ESQUIRE AND DAN SULLIVAN, CPA:

Erin O'Toole reviewed the OPEB Trust and Pension Stabilization Fund Overview PowerPoint.

Timothy Carroll left the meeting at 2:30 PM.

Erin O'Toole stated that she would go through her presentation, but no comments or questions were to be made until Mr. Carroll returned and there were no quorum issues.

Erin O'Toole stated the Compact is a public employer. G.L. c. 32 requires the Compact to provide a contributory retirement system for its employees. Compact retirees are also eligible for other post-employment benefits (OPEB), most significantly health insurance. The Compact, like most employers, had been paying these pensions and OPEB obligations on a pay-as-you-go basis. She stated that recent changes to the standards issued and applied by the Governmental Accounting Standards Board have led public employers to consider new options to control these OPEB and pension costs.

Erin O'Toole stated that the Compact is considering establishing an OPEB trust fund. She stated that the two major benefits to establishing an OPEB trust fund are that investing the funds would generate income and by using an irrevocable trust, if the Compact were to be terminated, dissolved, merged or to ceases to operate for any other reason, the employees' post-employment benefits would be protected. The trust funds are also protected from the Compact's creditors.

Dan Sullivan stated that the Compact has been setting aside funds through board designations for OPEB liabilities. The amount accumulated and designated for OPEB is $1,794,056 and the total liability is currently projected to be $2,076,959 as of December 31, 2022. Erin O'Toole stated that governmental units may establish OPEB trusts pursuant to G.L. c. 32B, Section 20 (the "OPEB Statute"). The assets of an OPEB trust are to be held solely to meet the current and future liabilities of the governmental unit for group health insurance benefits for retirees and their dependents. Once an OPEB trust is established, it is irrevocable.

Erin O'Toole stated that the statute provides that the Compact can appropriate amounts to be credited to the fund and the treasurer of the governmental unit may accept gifts, grants, and other contributions to the fund. All monies held in the fund shall be accounted for separately from other funds of the governmental unit and shall not be subject to the claims of any general creditor of the governmental unit. She stated that the Compact Board may designate a trustee or board of trustees, which has general supervision of the management, investment, and reinvestment of the OPEB fund. The Compact may designate its Treasurer to serve as the sole trustee to manage and invest the fund. She stated that this is what is recommended. This is the default designation under the OPEB Statute and is the simplest and most common management model. She stated that if the Compact hired an outside service provider, the Treasurer would be responsible for interfacing with the provider by contributing funds into the trust, submitting disbursement requests, and reviewing reports on account and investment activities. The OPEB Statute allows for the trustee or board of trustees to have investing authority, or for employment of "reputable and knowledgeable investment consultants to assist in determining appropriate investments and pay for those services from the fund, if authorized by the governing body of the governmental unit." The OPEB Statute also expressly permits investment of the OPEB fund through a fund operated by a public agency, specifically the State Retiree Benefit Trust Fund (SRBTF) established in Section 24 of Chapter 32A.

Erin O'Toole presented the steps to establish an OPEB trust. The Governing Board votes to accept the OPEB Statute, votes to establish a separate OPEB trust fund and designates a trustee or board of trustees. Also, a Declaration of Trust is adopted by the trustee or board which sets forth the duties and obligations of the trustee or board of trustees consistent with the OPEB Statute and it becomes effective 90 days after it is filed with the board and clerk of the governing body.

Erin O'Toole stated turning to the pension side, there is a statute that allows for the establishment of a stabilization fund for any lawful purpose. The purpose of a stabilization fund may be altered at a later time. The benefit of establishing a pension stabilization fund is that the monies designated in the fund will be used each year to reduce and/or stabilize the Compact's annual pension appropriations in both the Power Supply Fund and Energy Efficiency Fund over the next 17 years when it is projected that the Compact's portion of net unfunded pension liability will be fully funded.

Dan Sullivan stated that the Compact and its employees are members of the Barnstable County Retirement Association (BCRA). As of December 31, 2022, BCRA is approximately 64% funded and has a net pension liability of approximately $829,895,000. The BCRA plans on being fully funded by 2037. Each year BCRA assesses its members for both its current appropriation and an amount for the unfunded pension liability. The Compact has been designating amounts to assist with paying for its share of the funding of the BCRA's net pension liability. Currently, the Compact's share of the BCRA's net pension liability is .497666% or $4,130,106. The Compact has $3,432,551.28 set aside to help pay down its share over the next 15 years.

Erin O'Toole stated the Compact Administrator and Chief Financial Officer (CFO), along with counsel and the Compact's outside CPA researched service provider options and interviewed three candidates: Pension Reserves Investment Management (PRIM) Board, Public Agency Retirement Services (PARS), and Bartholomew & Company, Inc.

She stated that from a cost perspective, the three service providers offered very comparable services and costs/fee structures. However, PRIM offered a slightly better return. She stated that using PRIM means that there are no procurement issues as it is a governmental entity. The Compact could use PARS as an OPEB provider through a Plymouth County program, but on the pension side, an irrevocable trust is the only option PARS offers. Bartholomew is a private company, and the Compact cannot engage its services without using a procurement process.

Erin O'Toole stated that the recommendation is that the Compact should engage PRIM as both its OPEB trust and pension stabilization fund service provider. PRIM offers a single investment product with a high rate of return which makes it the easiest lift in terms of investment decision making and meeting the fiduciary duty standards required by law. She stated that having one provider for both services offers more efficiency. The Compact already uses PRIM's services indirectly as a member of the BCRA. The BCRA retirement contributions are invested in the Pension Reserves Investment Trust (PRIT) which is also generally supervised by PRIM. PRIM is not a private firm and has no incentive to profit from offering its services to governmental units.

Timothy Carroll rejoined the meeting at 2:45 PM.

After the presentation, Erin O'Toole asked if the Board had any questions.
Bill Doherty asked if there would be a representative on the PRIM Board that would be a Compact staff member. Erin O'Toole answered no. She stated that there is an annual meeting where any of the participants are allowed to go and give their input in terms of management.

Martin Culik stated that that in the presentation there was mention that the investment would generate income, and asked where that income would go. Dan Sullivan stated that it would stay in the trust fund. Martin Culik asked if retirement needs diminish over time is there any way to get the funds out of the irrevocable trust. Erin O'Toole stated that on the pension side you can take the money out and to her understanding that is where the actuarial numbers have fluctuated the most. She stated on the OPEB side, which is irrevocable, the key is to keep an eye on those expenses so that you are not over funding.

Alan Strahler joined the meeting at 2:55PM.

Joyce Flynn moved the Board vote to authorize the Compact Administrator as Chief Procurement Officer to take necessary action to engage Pension Reserves Investment Management Board (PRIM) to perform OPEB trust fund and pension stabilization fund investment services.

The Compact Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by Robert Schofield.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Tim	Carroll	Chilmark	Yes
Alan	Stahler	Edgartown	Yes
Brad	Crowell	Dennis	Yes
Tom	McNellis	Eastham	Yes
Valerie	Bell	Harwich	Yes
Martin	Culik	Orleans	Yes
Leanne	Drake	Sandwich	Yes
Bob	Higgins-Steele	Truro	Yes
Joyce	Flynn	Yarmouth	Yes

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

Alan Strahler left the meeting at 3:08PM.

Maggie Downey joined the meeting at 3:30 pm

<u>Discussion and Potential Vote on Proposed Revised Mid-Term Modification, Margaret Song:</u>

Margaret Song reviewed the Mid-Term Modification PowerPoint.

Margaret Song stated that the Compact must notify the Department of Public Utilities (DPU) and the Energy Efficiency Advisory Council (EEAC) of changes to the approved the Plan. She stated that for the residential hard-to-measure program the Compact is seeking additional funding of $1,524,986 or 11% more than the approved spending. This increase is driven primarily by the use of the Mass Save HEAT Loan program. She stated that the income-eligible existing buildings program needs additional funding of $18,161,860 or 93%

more than the approved spending. This increase is driven primarily by higher-than-expected costs for heat pumps and other comprehensive projects. As for the income-eligible hard-to-measure program, additional funding of $84,568 or 8% more is needed than the approved spending. This increase is driven primarily by Evaluation and Market Research. Lastly, the commercial and industrial sector is seeking a reduction in funding of $13,592,418 or 24% less than the approved spending. This decrease is driven primarily by delays in installations. Electric savings are anticipated to be close to 100%.

Margaret Song reviewed the mid-term modification table. For the budget the Compact is at 103% of the goal and for total lifetime savings 98% of the total goal.

David Anthony stated that within the past 8 to 10 weeks there has been a lot of new housing proposed in Hyannis. He asked if we should be a little cautious about how we make these changes. He stated what he doesn't want the Compact to do is inadvertently move money that may be needed in 2024. Margaret Song reminded the Board that the DPU strongly recommended that we do our mid-term modifications in 2023 and not wait till 2024 because it was a little bit too late for them to review. She stated that she is not sure what will happen, but Tatsiana Nickinello is keeping track on all of these projects, multifamily as well as new construction. The DPU is only interested once these projects have been booked and as it looks right now a lot of those projects are looking like they might not be completed until 2025. She stated that if any Board members have other information, then they should share it with staff. Brad Crowell asked about bill impacts associated with these projects. Margaret Song noted that she did not have the numbers at hand. Briana Kane was able to answer Brad's question. Brad noted that he would support this MTM, but he grows increasingly concerned about bill impacts and customers' ability to add to the bills.

Robert Schofield moved the CLCJPE Board of Directors approve the proposed revised mid-term modifications to the Compact's 2022-2024 Three-Year Energy Efficiency Plan (Plan) as presented in the Board Meeting Packet, subject to any necessary final data and quality control revisions, and direct staff to work with legal counsel to prepare and submit the mid-term modification request to the Department of Public Utilities.

The Compact Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by David Anthony.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Tim	Carroll	Chilmark	Yes
Brad	Crowell	Dennis	Yes
Tom	McNellis	Eastham	Yes
Valerie	Bell	Harwich	Yes
Martin	Culik	Orleans	Yes
Leanne	Drake	Sandwich	Yes
Bob	Higgins-Steele	Truro	Yes
Joyce	Flynn	Yarmouth	Yes

Motion carried in the affirmative (11-0-0)

DISCUSSION AND POTENTIAL VOTE ON PARTICIPATION IN DPU 23-67, PROPOSED MUNICIPAL AGGREGATION GUIDELINES, MARIEL MARCHAND:

Mariel Marchand reviewed the Municipal Aggregation Investigation (DPU 23-67) PowerPoint.

Mariel Marchand stated that on August 15, 2023, the DPU issued an Order opening an investigation on its own Motion into Establishing Guidelines for Municipal Aggregation Proceedings. The DPU is seeking to establish guidelines governing the filing requirements and the process by which the DPU reviews and evaluates municipal aggregation plans, as well as the rules governing operation of a municipal aggregation program and set forth a template plan. She stated that according to the Order, the purpose of the Guidelines and Template Plan is to provide guidance to prospective and existing municipal aggregations, establish a uniform set of rules and requirements for municipal aggregation plans filed before the DPU that are consolidated into two documents, and help expedite DPU review of municipal aggregation plans.

Mariel Marchand stated that there are some key concerns for the Compact. The guidelines equate municipal aggregation supply with competitive supply. Also, the DPU ignores the differences between a municipally procured aggregation product and a competitive supply product. Therefore, DPU is stating that municipal aggregations must adhere to competitive supply rules with limited exceptions of broker license and customer authorization to enroll. She stated that the Compact's main concerns are that this was not the intent of the municipal aggregation statute and is inconsistent with prior DPU practice regulating municipal aggregation. Also, it undermines municipal authority and Home Rule.

Mariel Marchand stated that the other concern is that there is language that the plan will be revoked/program terminated if a Municipality operates in a manner inconsistent with its DPU approved plan. The concern is that as currently written, the plan revocation and program termination provisions do not appear to contain any due process rights for the Municipality.

Mariel Marchand stated that the last concern has to do with the customer mailing requirements. Customers must be notified via direct mail 30 days prior to a change in price, charges or adders, renewable energy content, Competitive supplier, or at the start of a new contract. She stated that the concerns are that the price change notice does not align with current Compact pricing strategy, and it would also cost approximately $500,000 per year to comply. She stated that Basic Service doesn't have the same exact requirement. Basic Service providers can add an insert to the bills they are already sending out. There should be flexibility in the Guidelines to account for customer notification for pricing strategy approaches like the Compact's.

Mariel Marchand stated that the DPU approved stakeholder requests for extending the comment period. Initial written comments are now due October 6, 2023, and reply comments are due November 6, 2023. She stated that for next steps the Compact needs a Board vote for submitting both Compact specific comments and joint stakeholder comments on the proposed Guidelines.

Colin Odell asked if this was part of the previous legal budget. Maggie Downey answered no. This is something we will be keeping track of monthly. Audrey Eidelman Kiernan stated that right now the only thing on the procedural schedule is the initial and reply comments. She stated that it is possible that there could be additional sets of questions and comments, or procedures. She reminded the Board that the Compact has for years asked the DPU to stop creating rules in individual aggregation plan dockets with no notice to the Compact or opportunity for comment so there is some benefit to finally having these all-in-one place. Now the Compact can go on the record in this docket to try and address some of its concerns with the Department's rules.

Martin Culik asked who is filing the comments - the Compact, or the law firm for all energy efficiency Program Administrators. Audrey Eidelman Kiernan stated that since this is not energy efficiency related, K.O. Law will be sending a letter on the Compact's behalf for the individual comment from the Compact. She stated that the Compact will also work with a group of stakeholders to see how many might be interested in filing joint initial comments, and at the bottom of that letter there would be a signature block from K.O. Law on behalf of the Compact.

Robert Schofield moved the Board vote to authorize the Compact's participation in D.P.U. 23-67 and to jointly participate in the docket with other stakeholders.

The Compact Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by Brad Crowell.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Tim	Carroll	Chilmark	Yes
Brad	Crowell	Dennis	Yes
Tom	McNellis	Eastham	Yes
Valerie	Bell	Harwich	Yes
Martin	Culik	Orleans	Yes
Leanne	Drake	Sandwich	Yes
Bob	Higgins-Steele	Truro	Yes
Joyce	Flynn	Yarmouth	Yes

Motion carried in the affirmative (11-0-0)

Richard Elkin joined the meeting at 3:48PM.

<u>ADMINISTRATOR'S REPORT:</u>

1. **Update on Proposed Municipal Aggregation Legislation**

Maggie Downey stated that there is a draft letter of support for H. 3852 in the Board packet and two hearings on the proposed legislation will be held over the next month. She stated there is a copy of the legislation in the Board packet. She stated that Mariel Marchand will be attending the next hearing and testifying on the Compact's behalf as well as submitting the comments.

2. **CLC Awarded an Additional $337,000 from MA Clean Energy Center for E-Bike Grant**

Maggie Downey stated that the Compact was awarded an additional $337,000 from the Massachusetts Clean Energy Center to continue the Compact's E-Bike program. She stated that there were some slight modifications made. The program is no longer just for income eligible customers. The income limit has been extended to allow more customers to apply. She stated that the Compact still doesn't have a bike store on Martha's Vineyard that is participating in the program, and staff will continue to work to engage a Vineyard bike shop.

3. Update on USDA Rural Energy Savings Program (RESP) Application for Solar Loan Program

Maggie Downey stated that the Compact is advancing in the application process for the solar loan program. She stated that the next step is for USDA to send the loan documents. She stated that there will likely be some back and forth before she can bring the final documents to the Board to approve. It is anticipated that this process may take several months.

4. Vineyard Power Donation Agreement

Maggie Downey stated that the Vineyard Power Donation Agreement is in the Board Packet. Vineyard Power is a community partner with Vineyard Wind. She stated that their project will benefit income eligible customers who are enrolled in the Eversource Income Eligible discounted electric rate on Martha's Vineyard. She stated that the way Vineyard Power elected to provide the benefit is to give the money to the Compact and then the Compact would issue checks to the income eligible customers.

Martin Culik asked how many customers there were. Mariel Marchand answered it is about 380.

5. Massachusetts Solar for All Application to US Environmental Protection Agency (EPA)

Maggie Downey stated that the Compact has submitted comments on the Massachusetts Solar for All application. She stated that she also wrote a letter of support. She stated that based on what she has heard, they are going to put the majority of the funds into a green bank so that they can run a robust 0% loan for solar for income eligible customers.

ADJOURNMENT:

Motion to adjourn made at 4:21 PM moved by Colin Odell, seconded by Robert Schofield.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Tim	Carroll	Chilmark	Yes
Brad	Crowell	Dennis	Yes
Tom	McNellis	Eastham	Yes
Valerie	Bell	Harwich	Yes
Martin	Culik	Orleans	Yes
Leanne	Drake	Sandwich	Absent
Bob	Higgins-Steele	Truro	Yes
Richard	Elkin	Wellfleet	Yes
Joyce	Flynn	Yarmouth	Yes

Motion carried in the affirmative (11-0-0)

Respectfully submitted,

Melissa Allard

List of Documents and Exhibits:

- Meeting Notice/Agenda
- July 12, 2023, Draft Open Session Meeting Minutes
- OPEB Trust and Pension Stabilization Fund Overview PowerPoint
- Municipal Aggregation Investigation (DPU 23-67) PowerPoint
- Mid-Term Modification PowerPoint
- D.P. U. 23-67 (Investigation Establishing Guidelines for Municipal Aggregation)
- Draft Letter of Support for H. 3852
- Cape Light Compact Comments on Concepts for Massachusetts Solar for All Application
- Support for the Commonwealth of Massachusetts' Solar for All Application
- USDA Letter Rural Energy Savings Program (RESP) Application Status

Agenda Action Request
Cape Light Compact
Meeting Date: 10/11/2023

Aquinnah
Barnstable
Bourne
Brewster
Chatham
Chilmark
Dennis
Dukes County
Eastham
Edgartown
Falmouth
Harwich
Mashpee
Oak Bluffs
Orleans
Provincetown
Sandwich
Tisbury
Truro
Wellfleet
West Tisbury
Yarmouth

Vote to Establish a Pension Stabilization Fund

REQUESTED BY: *Maggie Downey*

Proposed Motion(s)

I move that the CLCJPE Board of Directors vote to establish a stabilization fund pursuant to G.L. c. 40, Section 5B for the purpose of paying for anticipated future pension costs of retired Compact employees.

I further move that the CLCJPE Board of Directors vote to appropriate the sum of $3,444,417.90 into the pension stabilization fund, and authorize the Compact's Treasurer to deposit and invest the pension stabilization fund in the Pension Reserves Investment Trust (PRIT) Fund.

The Compact Administrator and Treasurer are authorized and directed to take all actions necessary or appropriate to implement these votes, and to execute and deliver all documents as may be necessary or appropriate to implement these votes.

Additional Information

Next step in the establishment of a Pension Stabilization Fund at the September 13, 2023 CLCJPE Board Meeting

Record of Board Action

Motion by:	Second by:	# Aye	# Nay	# Abstain	Disposition

Agenda Action Request
Cape Light Compact
Meeting Date: 10/11/2023

Cape Light Compact

Aquinnah
Barnstable
Bourne
Brewster
Chatham
Chilmark
Dennis
Dukes County
Eastham
Edgartown
Falmouth
Harwich
Mashpee
Oak Bluffs
Orleans
Provincetown
Sandwich
Tisbury
Truro
Wellfleet
West Tisbury
Yarmouth

Resolution Accepting Chapter 32B, Section 20 Other Post Employment Benefit (OPEB) Trust Fund and Related Matters

REQUESTED BY: *Maggie Downey*

Proposed Motion(s)

I move the CLCJPE Board of Directors vote to adopt the following resolutions:

RESOLVED: That the Cape Light Compact JPE hereby accepts the provisions of Chapter 32B, Section 20 of the Massachusetts General Laws, as amended by Chapter 218, Section 15 of the Acts of 2016 (the "Act"), and establishes an Other Post-Employment Benefits Liability Trust Fund (the "OPEB Fund");

RESOLVED: That, in accordance with the Act, the Compact hereby designates the Compact's Treasurer of to serve as Custodian of the OPEB Fund (the "Custodian");

RESOLVED: That the sum of $2,131,738.58 be appropriated as the initial investment into the OPEB Fund;

RESOLVED: That the following person(s) be designated as Trustee(s) of the OPEB Fund: The Custodian of the OPEB Fund;

RESOLVED: That the Compact's Treasurer, as Custodian of the OPEB Fund, be, and hereby is, authorized to execute and deliver the Investment Agreement with the State Retiree Benefits Trust Fund board of trustees on behalf of the Compact for the purpose of making the representations and warranties, acknowledgements and agreements on the part of the Compact to be made and performed thereunder.

The Compact Administrator and Treasurer are authorized and directed to take all actions, and to execute and deliver all document necessary or appropriate to implement this vote.

Additional Information

Next step in the establishment of an OPEB Trust authorized at the September 13, 2023 CLCJPE Board Meeting

Record of Board Action

Motion by:	Second by:	# Aye	# Nay	# Abstain	Disposition

Cape Light Compact

Your Trusted, Local Energy Resource

Sierra Cape Cod, September 19th Offshore Wind 3rd Tuesday Talk

Cape Light Compact Governing Board
October 11, 2023

Background

- Request from Sierra Cape Cod for Cape Light Compact to attend Offshore Wind talk and to discuss at future Board meeting
- The Compact is interested in including offshore wind in its power supply product
- In October 2022, the Compact signed a Memorandum of Understanding (MOU) with Commonwealth to work in good faith to negotiate a power purchase agreement (PPA) for energy and renewable energy certificates (RECs)

Cape Light Compact

Overview of H. 3161

- With regards to municipal aggregators, the bill:
  - Asks the Massachusetts Clean Energy Center (Mass CEC) to issue guidance on how to enter into long-term contracts to purchase offshore wind
  - Amends Section 83C to give preference to offshore wind proposals that include commitments to enter into long-term contracts with municipal aggregators (among a long list of other potential benefits)
- Representative Fernandes discussed the Offshore Wind Industry Investment Fund
  - Appropriated $15 million in the FY 2024 state budget
  - One of several uses is to provide funding to enable municipal aggregators to enter into PPAs for offshore wind

Cape Light Compact

Further Assistance Required

- Unlike the Electric Distribution Companies, municipal aggregators cannot backstop PPAs with rate base
- Municipal aggregators need a financial backstop (e.g., letter of credit or pledge of Town's full faith and credit) in order to enter into PPAs
- Guidelines on how Offshore Wind Fund will be allocated/how to access fund are needed
- $15 million in Offshore Wind Fund is a start but additional funding, specific to municipal aggregators, will be needed to make an impact

Cape Light Compact

Next Steps

- Representative Fernandes requested language to amend his bill
- Staff and counsel working on proposed amendments

Cape Light Compact

KO
LAW, P.C.

ATTORNEYS AT LAW

The Firm has attorneys also admitted to practice in District of Columbia, Idaho and New Hampshire

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Box 301
Arlington, MA 02476

617-644-7681

www.kolawpc.com

October 6, 2023

VIA ELECTRONIC MAIL ONLY (dpu.efiling@mass.gov)

Secretary Mark D. Marini
Department of Public Utilities
One South Station, 5th Floor
Boston, MA 02110

Re: *D.P.U. 23-67; Investigation Establishing Guidelines for Municipal Aggregation Proceedings*

Dear Secretary Marini:

On behalf of the Cape Light Compact JPE ("Compact"), enclosed for filing please find the Compact's initial comments in the above-referenced proceeding.

Please contact me if you have any questions. Thank you for your attention to this matter.

Sincerely,

Audrey Eidelman Kiernan

Audrey Eidelman Kiernan

AEK/drb
Enclosure

cc: Stephanie Mealey, Esq., DPU Hearing Officer (via email only)
Lauren Morris, Esq., DPU Hearing Officer (via email only)
Margaret T. Downey, Compact Administrator (via email only)

THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC UTILITIES

Investigation by the Department of Public Utilities on its own Motion into Establishing Guidelines for Municipal Aggregation Proceedings	)	D.P.U. 23-67

INITIAL COMMENTS OF THE CAPE LIGHT COMPACT JPE

I. INTRODUCTION AND BACKGROUND

The towns of Aquinnah, Barnstable, Bourne, Brewster, Chatham, Chilmark, Dennis, Edgartown, Eastham, Falmouth, Harwich, Mashpee, Oak Bluffs, Orleans, Provincetown, Sandwich, Tisbury, Truro, West Tisbury, Wellfleet, and Yarmouth, as well as Dukes county, organized pursuant to G.L. c. 164, §134 and G.L. c. 40, §40A ½ and acting collectively together as the Cape Light Compact JPE (the "Compact") hereby respectfully submit the following comments pursuant to the August 15, 2023 Vote and Order Opening Investigation ("Order") issued by the Department of Public Utilities ("Department") in D.P.U. 23-67 and the September 6, 2023 Hearing Officer Ruling on Motion to Amend Procedural Schedule. The Department issued Draft Guidelines for Municipal Aggregation ("Draft Guidelines") and a Template Municipal Aggregation Plan ("Template Plan") together with the Order.[1]

The Compact's comments herein are submitted generally with respect to the Draft Guidelines and address concerns specific to the Compact, informed by its decades long experience as a municipal aggregator in the Commonwealth. The Compact presently operates a

[1] The Compact is also submitting joint initial comments under separate cover with several other municipalities ("Joint Initial Comments of Municipal Aggregators"), to propose a set of overarching principles that the municipalities believe should govern the Department's consideration of the Draft Guidelines and the Template Plan. The Compact incorporates by reference herein the Joint Initial Comments of Municipal Aggregators.

municipal aggregation competitive supply program that offers electric power supply on an opt-out basis to all customer classes who are located within the Compact's service territory and would otherwise be served as basic service customers. The Department first approved the Compact's aggregation plan in D.P.U. 00-47 (2000), then approved updated plans in D.P.U. 14-69 (2015) and D.P.U. 14-69-B (2023). Administrative updates to the Compact's aggregation plan are pending before the Department in *Cape Light Compact*, D.P.U. 17-95. The DPU approved the Compact's current form of universal service competitive electric supply agreement in *Cape Light Compact*, D.T.E. 04-32 (2004), pursuant to which the Compact has entered into supply agreements with Consolidated Edison Solutions, Inc. and NextEra Energy Services Massachusetts, LLC ("NextEra"). The Compact currently provides all-requirements power supply to approximately 145,000 customers under an agreement with NextEra.

Over the decades since the Department's approval of the Compact's aggregation plan the regulation of municipal aggregation has been on a case-by-case basis in each of the individual aggregation plan approval dockets. Notably, and of concern, with the more recent growth of municipal aggregation in the Commonwealth, the Department has undertaken a fundamental shift in its regulatory approach. Aggregation plan approval orders in 2023 contain significantly more conditions, directives and "micro-management" of plan operations than those from the 2000s. Unfortunately, this regulatory approach has overburdened the Department and resulted in significant delays in the aggregation plan and plan amendment review and approval. *See* Order at 1-2 (acknowledging an unacceptable backlog from the lengthy review process in light of evolving requirements). Moreover, this ad hoc approach has raised genuine concerns of due process, leaving municipalities with approved aggregation plans with no notice of when new rules will be issued and no ability to inform the record in individual plan dockets when the

Department does end up establishing new rules.[2] The Department's regulatory approach frustrates the Compact's ability to continue designing and offering programs to best meet the needs of its customers.

Given this past history, the Compact sincerely thanks the Department for issuing the Draft Guidelines as a central repository of rules and affording interested stakeholders the opportunity to comment and participate in the finalization of such rules. While the Compact's comments herein offer constructive criticism of the Department's regulatory approach, these comments are submitted respectfully and in the spirit of informing final guidelines that strike a reasonable balance between municipal discretion and regulatory oversight.

II. EXECUTIVE SUMMARY

In these comments, the Compact strongly urges the Department to reconsider its practice of requiring the aggregation plan to serve as a living document. The Compact believes that the Department's regulatory approach (even with its proposal to streamline review timelines set forth in the Draft Guidelines) is too burdensome for the Department to maintain this level of oversight. Delays will continue to the detriment of the Department, municipalities, and their customers. The Department's approach is also too rigid – municipalities need to be nimble, responsive to changing market conditions and responsive to their customers. They cannot do so if they must wait for Department review and approval of each and every program offering. The Compact submits that the aggregation plan should contain the basic framework of the aggregation operations and inform customers where specific and detailed current program information is

[2] According to the Department, since approving the Compact's plan in 2000, there have been 177 additional programs approved. Order at 1. Municipalities do not have the resources to review and participate in every single municipal aggregation docket in order to monitor whether the docket will be one where new rules are put in place. Nor is it clear that the Department would even authorize such participation. See *Hearing Officer Ruling on Late-Filed Petition to Intervene of Colonial Power Group*, D.P.U. 20-117 at n.6 (May 17, 2022).

available. If the Department adopts this regulatory approach, then Department review and approval of future plan offerings is not necessary if the offering is consistent with the operational framework outlined in the aggregation plan and customers have timely access to program information to make an informed choice regarding the offering.

The Compact also urges the Department not to conflate treatment of customers on retail competitive supply with treatment of municipal aggregation customers participating in the competitive supply market. The Legislature purposely intended to distinguish municipal aggregation from retail competitive supply in several ways. The Department's regulatory approach to the Draft Guidelines erodes these fundamental distinctions and limits the ability of municipalities to design and operate municipal aggregation programs as the Legislature intended.

In addition, the Compact requests that the Department continue to provide municipalities and other aggregation stakeholders with due process in any future updates to the final guidelines. Moreover, the Compact requests that the Department's enforcement of the final guidelines ensure municipalities adequate due process.

Finally, the Compact respectfully requests that the Department allow for certain flexibility in aggregation plan administration, providing alternative authorization for the timing and method of certain customer notifications for municipal aggregations that competitively procure pricing strategies timed with basic service rather than a fixed price product.

III. DISCUSSION

A. <u>The Aggregation Plan Should Not Be a Living Document</u>.

The Department states that the purpose of the investigation is to, in part, "help expedite Department review of municipal aggregation plans." Order at 2. However, the Draft Guidelines reflect the Department's current regulatory approach to require an aggregation plan to contain specific and current details as the main body of information for customers regarding the aggregation's operations. This approach will not support the purpose of expediting Department review, as the Department simply does not have the capacity to regulate aggregations in this manner. There are over 160 active aggregation programs in the Commonwealth, and several more pending approval before the Department. The Department's approach creates unnecessary delay and backlog both in the Department's review of initial plans as well as its need to consider plan amendments each time a new offering not fully described in the aggregation plan is contemplated.

The Compact submits that the aggregation plan should contain the general framework of the program (the statutorily required plan elements) and inform customers about the program options available to them, and how the municipality will undertake program design for future programs. The aggregation plan should also provide customers with ways to obtain information about current program offerings. The aggregation plan should not be required to include each and every specific detail of each and every current program offering – municipalities need to be free to adopt new programming consistent with the program framework outlined in their aggregation plan without the need for Department approval. Should the Department desire to be notified of new programming, the final guidelines could require municipalities to provide such notification.

Importantly, providing municipalities with the discretion to adopt new programs and offerings without formally amending their aggregation plan does not mean that customers will not have access to information on current programming. In the Compact's decades long experience, the vast majority of customers access information about the Compact's programs through the Compact's website, social media and newsletters, public information sessions, and by calling the Compact directly. They *do not* attempt to find current program descriptions by looking at the Compact's aggregation plan.

Municipalities should be free to adapt their aggregation plan offerings to changing market conditions, climate goals, and other opportunities that may arise.[3] This ability to innovate and be responsive to customer needs is stifled by the Department's proposed Guidelines. More balance is necessary to ensure that municipalities can undertake and offer the programming that their customers desire without the need for a lengthy regulatory review process each time they implement a new offering.[4]

B. The Draft Guidelines Erode Important Distinctions Between Customers on Competitive Supply and Municipal Aggregation Customers Participating in the Competitive Market.

The Draft Guidelines incorporate several rules for municipal aggregation that were established by the Department as part of *Investigation by the Department of Public Utilities on its own Motion into Initiatives to Promote and Protect Consumer Interests in the Retail Electric Competitive Supply Market*, D.P.U. 19-07 (2020). These rules generally relate to customer notification requirements applicable to competitive suppliers serving individual retail electric customers. Despite that, the Department now seeks to extend these rules to municipal aggregations because the Department believes such rules are safeguards necessary to protect customers participating in municipal aggregation.

Yet, the rules for individual customers contracting directly with a competitive supplier do not always clearly apply to municipal aggregations. For example, the Draft Guidelines contain

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[3] New offerings should not affect a municipal aggregator's compliance with the core statutory criteria for an aggregation plan outlined in G.L. c. 164, §134.

[4] Indeed, municipalities should be able to build upon the successes of existing aggregation programs. See *Joint Initial Comments of Municipal Aggregators*, D.P.U. 23-67 at 2-3 (October 6, 2023) (highlighting the benefits of municipal aggregation).

competitive supply terminology such as "Automatic Renewal Notice," "Contract Summary Form," "Non-automatic Renewal Notice" and "Renewal Notice." *See* Draft Guidelines, Section II (Definitions). The Department's use of such terminology and its application of customer notification requirements that were developed for competitive suppliers in D.P.U. 19-07 to municipal aggregations for the first time in 2022[5] arbitrarily conflates a product offered by municipalities to their residents and businesses on an opt-out basis, with private, for-profit entities participating in the retail competitive electric supply market.

In addition, the Draft Guidelines obligate compliance by municipal aggregators with, "all requirements established by law and the Department regarding municipal aggregation and competitive electric supply." *See, e.g.*, Draft Guidelines Section IV.A.4, Draft Guidelines Section IV.D.1.3. However, this is not the regulatory construct the Legislature set out in G.L. c. 164, §134. Rather, the Legislature declared that, "The provision *of aggregated electric power and energy services* as authorized by this section shall be regulated by any applicable laws or regulations which govern *aggregated electric power and energy services in competitive markets*." G.L. c. 164, §134 (emphasis added). The statute *does not state* that the provision of aggregated power and energy services shall be regulated by any applicable laws or regulations which govern competitive electric supply; instead, this is a construct created by the Department.[6]

While the Compact joins in the Department's desire for increased consumer protection and education, requiring municipal aggregators to comply with a set of rules prepared for retail competitive suppliers removes any distinction between customers on competitive supply and

[5] See *City of Fitchburg*, D.P.U. 20-117 (2022).
[6] The Department's application of all requirements regarding competitive electric supply to municipal aggregators is not reasonable in consideration of the full context of G.L. c. 164, §134.

municipal aggregation customers participating in the competitive market, a distinction that is clearly present in the Massachusetts Electric Restructuring Act of 1997.

Firstly, G.L. c. 164, §134 requires a Town Meeting, Town Council or City Council vote to establish a municipal aggregation plan. This requirement is a safeguard to ensure that the automatic enrollment of customers in the municipal aggregation is undertaken through democratic governing processes. Secondly, G.L. c. 164, §134 also establishes the authority for municipalities to group retail electric customers together to solicit bids and contract for electric power and energy services on behalf of these customers. Aggregating the electric load provides municipalities with the negotiating power to ensure reasonable contracts for their customers. Thirdly, the statute establishes an auto-enrollment mechanism whereby all customers are enrolled in the product offered by the municipality and have the opportunity to "opt-out," within a certain window associated with the initial automatic enrollment and otherwise at any time. *Id.* No customer is locked into a municipal aggregation supply contract.[7]

With these municipal processes in place, the Legislature did not require customers taking opt-out supply from a municipal aggregator to affirmatively consent to receiving service from a municipal aggregator. G.L. c. 164, §1F(8)(a). Nor did the Legislature require public aggregators to be licensed by the Department when it required generation companies, aggregators, suppliers, energy marketers, and energy brokers to do so. G.L. c. 164, §1F. In fact, the Legislature was intentionally silent and elected not to identify any specific consumer protection rules applicable

[7] Further, if a majority of customers within the municipality do not support the way that municipal officials are running the municipal aggregation program, those officials may be voted out of office.

to municipal aggregation operations. G.L. c. 164, §134.[8] Notably, the Department's own rules governing restructuring of the electric industry separately define "Public Aggregator" from "Competitive Supplier," indicating an intention to distinguish between the two regulated entities. 220 C.M.R. §11.00 *et. seq*. Nor do these rules contain any material reference to regulating municipal aggregation operations. *Id*.

The Compact fully supports customer education, communication, and transparency of municipal aggregation operations. The Compact submits that municipalities are able to effectively communicate with and educate their customers in various ways that both enable program flexibility and still afford customer protection. The final guidelines should remove the D.P.U. 19-07 retail competitive supplier rubric (e.g., auto-renewal notices and contract summary forms, etc.) and provide municipalities the discretion to determine the most effective method and manner of communication with their customers.

C. The Department Should Ensure Continued Due Process for Municipal Aggregators.

The Draft Guidelines, Section V.C. state that, "[t]he Guidelines may be updated from time to time through a general investigation. In the event that the Guidelines are updated, after notice and an opportunity for comment, all Municipalities with approved Programs must follow the updated rules established in the Guidelines." The Compact appreciates this procedure

[8] In addition, the regulations governing retail marketing and the sale of electricity promulgated by the Office of the Attorney General ("AGO") are not applicable to municipal aggregators. 940 CMR 19.00. In considering the consumer protection problems facing individual residential customers in the retail electric supply market, the AGO has consistently *excluded* municipal aggregations from its analysis. *See, e.g., Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts*, (Massachusetts Attorney General's Office, Commonwealth of Massachusetts), March 2018; *Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts*, Update (Massachusetts Attorney General's Office, Commonwealth of Massachusetts), August 2019; Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts: 2021 Update, (Massachusetts Attorney General's Office, Commonwealth of Massachusetts), 2021 Update. These publications are available online at https://www.mass.gov/competitive-electric-supply.

established by the Department. The Department does use this process for other rules it elects to update from time to time. *See, e.g., Investigation by the Department of Public Utilities on its own Motion into Updating its Energy Efficiency Guidelines*, D.P.U. 20-150 (2021). The Compact respectfully requests that in the future, the Department refrain from issuing new rules in individual aggregation plan dockets.

In addition, the Draft Guidelines, Section IV.A.4 state that in the event a municipal aggregator does not operate in a manner consistent with its approved aggregation plan, the Department will revoke its approval of the plan and order termination of the program. The Compact submits that prior to any such revocation or termination, the municipal aggregator be given notice and the opportunity to be heard on the matter. It is unclear from the Draft Guidelines whether that was the Department's intent – the Compact recommends that the Draft Guidelines be revised to afford municipalities due process regarding the Department's plan revocation or termination.

D. The Draft Guidelines Should Allow for Alternative Approaches to Certain Customer Notifications for Municipal Aggregators Procuring a Pricing Strategy Timed with Basic Service.

Unlike all other municipal aggregations in the Commonwealth, the Compact competitively procures a pricing strategy rather than a fixed price for a term of years. The pricing strategy was informed by customer feedback and a desire for the Compact to keep pricing comparable to and/or competitive with the basic service product offered by the local electric distribution company. Each supplier responding to the Compact's solicitation proposes an energy procurement and pricing strategy that is unique to that company and responsive to the Compact's solicitation. The Compact and its chosen supplier then work together to set the energy price, typically for a six-month period (or three months for large commercial and industrial customers) to closely align pricing with basic service. Customers are notified of the Compact's approach to pricing in this manner in the Compact's opt-out notice. The Compact also provides its customers with notice of its price in advance of each pricing period (through notices published in local newspapers, a press release, on its website, and via social media, in accordance with its approved aggregation plan) and this price remains fixed for the entirety of the pricing period. Through this process, the Compact has successfully maintained a stable customer base of approximately 145,000 customers and kept its pricing generally comparable to and often times competitive with basic service.

The Draft Guidelines, Section IV.C.3.3, would require the Compact to notify customers by direct mail 30 days in advance of a price change. The Compact is unable to comply with this rule under the pricing strategy that it procured from NextEra for its current competitive electric supply agreement. While the Compact does inform customers in advance of a price change, it does not always know that price a full 30-days in advance. Requiring the Compact to notify customers 30-days in advance of a price change would undermine the Compact's pricing strategy of aligning with basic service and ultimately could result in customers facing higher prices when compared to basic service.

Also, if the Compact were required to notify customers by direct mail every time its price changes, the cost would be approximately $500,000 a year, and would require a significant amount of paper that may ultimately be discarded. Unlike electric distribution companies, municipal aggregators do not send customers monthly bills and therefore cannot include this price change notice as a bill stuffer. In addition, to the best of the Compact's knowledge, basic service customers with electronic billing do not receive a specific notice informing them of a price change.

Moreover, unlike electric distribution companies, municipal aggregators are not authorized to recover such administrative costs from all distribution customers. Passing along the administrative costs of the direct mailer to customers would further contribute to the already present competitive advantage given to basic service. Further, the Compact does not have the ability to pass this cost on to customers under its existing agreement with NextEra.

For these reasons, the Compact respectfully requests that the Department: (1) authorize an alternative timing for customer notification in municipalities that procure a pricing strategy timed in accordance with basic service (e.g., impose an obligation to inform customers when the price is known rather than 30 days in advance); and (2) authorize alternative vehicles for customer notification of changes in pricing within a contracted for supply term in municipalities that procure a pricing strategy timed in accordance with basic service (e.g., impose an obligation to inform customers via website, press release, newspaper publication, social media, etc.). Department precedent certainly exists for authorizing municipal aggregators to utilize alternative disclosure requirements. For example, the Department has a long-standing practice of granting municipal aggregators alternative information disclosure processes for compliance with 220 C.M.R. §11.06.

To be clear, the Compact is not requesting a waiver or grant of an alternative approach to compliance with Draft Guidelines Section IV.C.3.3 for changes in price at the beginning of a new competitive electric supply agreement; rather, it is seeking authorization to utilize alternative timing and an alternative notification vehicle for the changes in pricing that customers are aware will routinely occur during the Compact's contracted supply term.

E. **<u>The Draft Guidelines Should Include a Waiver Provision</u>.**

The Compact recommends that the Department include a waiver provision in the final guidelines. Utilizing a waiver provision (e.g., allowing a regulated entity to seek an exception to the general rule upon a showing of good cause or upon the Department's election) would provide the Department and municipalities the ability to consider alternative approaches to the general rule outlined in the final guidelines if and when necessary. Such provisions are routinely included in the Department's regulations. *See, e.g.*, 220 C.M.R. §11.08; 220 C.M.R. §18.09(7).

F. **<u>Miscellaneous</u>.**

1. Energy Switch Website Municipal Aggregation Listing

The Draft Guidelines, Section IV.C.1.2.2.3.2 state that if a municipal aggregator advertises a program price for a customer class (this includes a listing on the Energy Switch Website ("Website")), the municipal aggregator must honor the advertised price to all customers seeking to enroll in the program, regardless of whether the municipality's aggregation plan provides an alternative pricing option. This rule effectively prohibits a municipal aggregator from informing customers of its product on the Website, as to be able to post on the Website, the municipal aggregation must identify the price in place for customers during the term of supply listed on the Website.[9] As the Department's approved aggregation plan allows, a municipal aggregator may offer a market rate price to customers seeking to enroll in the opt-out product during the term of a supply agreement. However, if municipal aggregators (through their suppliers) are obligated to offer new enrollees during the supply term the same price as that listed

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[9] Moreover, given the Department's focus on consumer protection associated with individual retail competitive supply, it does not seem appropriate to provide competitive suppliers a forum for marketing opportunities on a Department-sanctioned website without also providing such customers information regarding the municipal aggregation product available to them that was competitively procured by municipal officials and is offered under a Department-approved form of supply agreement.

on the Website, the risk premium paid by customers on the aggregated supply would be too high and send improper price signals.[10]

The Compact requests that the Department reconsider this rule and allow municipal aggregators to continue posting information about their product on the Website in a manner consistent with their approved aggregation plan. The Department could accomplish this through additional information added to the Website (e.g., in a pop up informational text box similar to those already existing on the Website) to explain that customers joining during a supply term may be put on a market rate.

2. Draft Guidelines Definitions

The Compact recommends that the Department carefully review Section II (Definitions) when finalizing the Draft Guidelines. As an example, Section II defines "Plan" to mean "a municipal aggregation plan filed by a Municipality as part of its filing submitted pursuant to G.L. c. 164, §134(a)." This definition does not account for any changes made to the aggregation plan (either as conditioned during the Department approval process or as part of a formal aggregation plan amendment). Presumably, the Department's use of the term "Plan" throughout the Draft Guidelines is intended to include the version of the aggregation plan that contains these changes.

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[10] The Department well knows that building in such high risk premiums may lead to problematic procurements – see Order at 6-7 discussing customer migration concerns for basic service.

IV. CONCLUSION

The Compact appreciates the opportunity to provide comments on the Draft Guidelines and respectfully requests that the Department consider and incorporate the Compact's proposals for changes to the Draft Guidelines outlined in these comments.

Respectfully submitted,

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Dated: October 6, 2023

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

Investigation by the Department of Public Utilities on its own Motion into Establishing Guidelines for Municipal Aggregation Proceedings	))))	D.P.U. 23-67

JOINT INITIAL COMMENTS OF MUNICIPAL AGGREGATORS

I. INTRODUCTION

The Cities of Attleboro, Beverly, Cambridge, Easthampton, Malden, Medford, Melrose, Newton, and Salem; the Towns of Acton, Andover, Arlington, Boxford, Brookline, Cohasset, Dracut, Lexington, Scituate, Stoneham, Uxbridge, Wayland, Weston, and Winchester; the Towns of Amherst and Pelham, organized and operating collectively as Valley Green Energy; the Towns of Aquinnah, Barnstable, Bourne, Brewster, Chatham, Chilmark, Dennis, Edgartown, Eastham, Falmouth, Harwich, Mashpee, Oak Bluffs, Orleans, Provincetown, Sandwich, Tisbury, Truro, West Tisbury, Wellfleet and Yarmouth, and Dukes County organized and operating collectively as the Cape Light Compact JPE; and the Town of Westford Clean Energy and Sustainability Committee ("Municipalities") submit these Joint Initial Comments ("Joint Aggregator Comments") in response to the Notice of Investigation and Request for Comments issued by the Department of Public Utilities ("Department") on August 15, 2023 in the above-captioned proceeding.

The Municipalities commend the Department for opening this investigation and issuing draft municipal aggregation guidelines ("Guidelines") and a template plan ("Template Plan"). The Municipalities appreciate the Department's recognition of the need to speed the process for approving new aggregation plans and clarify the rules for existing programs.

In these Joint Aggregator Comments, the Municipalities summarize the benefits of municipal aggregation and set out a series of principles that should guide the development of the Guidelines and Template Plan. Individual signatories may also submit their own, separate comments.

II. THE BENEFITS OF MUNICIPAL AGGREGATION

Cities and towns pursue municipal aggregation programs to offer a publicly-managed, locally-controlled electricity alternative for their residents and businesses. Such local control through municipal aggregation provides a host of benefits for both program participants and the Commonwealth as a whole.

First, aggregation programs encourage the development of New England based renewable resources and help Massachusetts to achieve its climate goals. For example, in 2022 aggregation programs purchased over 775,000 voluntary Class I Renewable Energy Certificates ("RECs") over and above the Renewable Portfolio Standard ("RPS") requirement. These purchases were equivalent to increasing the statewide RPS from 20% of total statewide load to 22%. Given that the RPS requirement increases by 2% per year, the voluntary actions of aggregation programs put the *entire state* one year ahead of schedule.

In addition, aggregation programs offer choices that are not otherwise available in the market. For example, in 2022 over 100 communities offered a voluntary product with additional Class I RECs. Based on the products listed on EnergySwitchMA.gov, not a single competitive supplier is offering a product with additional Class I RECs. The green products offered by competitive suppliers all rely on national wind, or similar, RECs, with limited additionality benefits.

Also, while *future* savings cannot be guaranteed, the fact is that aggregation programs have generally provided savings compared to Basic Service. For example, a study by the University of Massachusetts found that for the period from the start of the programs' most recent supply contract to October 2021:[1]

> 79% of municipalities achieved savings compared to utility's monthly basic service rates . . ., with an average amount of savings corresponding to 0.88 cents per kWh (about 93 USD per household, per year). The savings for these municipalities amount to about 70,000,000 USD per year in total. . .
>
> 86% of municipalities with standard CCE packages offering RPS Class I content that exceeds the MA requirement (i.e., 18% in 2021) achieved an average amount of savings corresponding to 0.77 cents per kWh. The savings for these municipalities amount to about 25,112,000 USD per year in total.[2]

As the report noted, "These results suggest that [aggregation] programs contribute to both sustainability (by allowing higher renewable energy levels) and equity (by reducing costs). . . [aggregation] programs are emerging as promising cost effective instruments to support the transition to sustainable energy and climate mitigation efforts."[3]

Finally, while dependent on the timing of the supply term, aggregation programs can provide price stability during times of volatile electricity prices. For example, in 2022 when the average residential Basic Service price skyrocketed to 16.5 ¢/kWh, the average aggregation residential price was just 11.7 ¢/kWh, a difference of nearly 5 ¢/kWh or $375 per year for an average residential customer.

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[1] The study period pre-dated the significant increases in Basic Service prices over the last two years, during which aggregation program savings relative to Basic Service have been substantially greater.

[2] Vicarelli, Marta, Ajay Dawani, Emily Laus, Nihal Warawdekar. 2023. "Community Choice Electricity Programs: a Survey of Massachusetts Municipalities." School of Public Policy, University of Massachusetts Amherst, MA, USA (March 28, 2023), at 39.

[3] Id, at 43.

III. PRINCIPLES

A. The Guidelines should recognize that regulating over 160 aggregation programs on a municipality-by-municipality basis is not feasible. Instead, the Guidelines should state general rules and allow municipal aggregators to operate within them.

As the Department is well aware, over the last several years the time period for aggregation plan review and approval has gone from three months to three years (or more). There are surely a number of factors that contributed to the delay, some of which will be addressed by the Guidelines. However, it is also important to recognize that a key factor is the growing number of aggregation programs. While there was once just a handful of programs, there are now 168 and counting. Even with the Guidelines in place, if the Department continues to regulate aggregations on a municipality-by-municipality basis, and to require Department approval of even modest program changes, it is inevitable that lengthy delays will continue, to the detriment of the Department, municipalities, and consumers.

It is time for a new approach. Rather than continuing to manage the nuances of every single aggregation program, the Department should use the Guidelines to set out general rules and allow municipalities to operate within them. New products, new REC percentages and types, and other innovations should all be allowed without the need for Department approval. This approach would be far less time consuming for the Department, give needed flexibility and appropriate respect to municipal officials, and benefit customers.

B. The Guidelines should facilitate customer choice.

Enhanced customer choice is one of the primary benefits of aggregation programs, and one of the primary goals of the competitive electric market. The Guidelines should facilitate the ability of municipalities to offer new options tailored to their residents and businesses.

For example, municipalities should not be precluded or unduly frustrated from offering new products without first going through a lengthy aggregation plan amendment and approval process. Take, for example, the case of a municipality that wishes to offer its residents a new, optional, 100% REC product. Scores of other municipalities offer such a product. A municipality that wishes to start doing so should not be required to delay for a year or more, waiting for the Department to give it permission. And, importantly, customers should not be required to wait a year or more to purchase a product that they want and their community has decided to offer.

Significantly, competitive suppliers are not required to obtain Department approval to offer new products. They are free to offer new products at will. Under the Guidelines, opt-in products offered by aggregation programs would be subject to all of the requirements governing products offered by competitive suppliers. Certainly, aggregations should also be given the same opportunities.

If the Department determines that it must be informed when an aggregation program offers a new product, it should be sufficient for a municipality to simply file a notice. As long as the product is optional, Department approval should not be required.

C. The Guidelines should facilitate innovation.

As the Department is well aware, increased electrification is a key element of the Commonwealth's climate strategy. Aggregation programs are poised to accelerate this effort. For example, with the upcoming deployment of advanced meters aggregation programs should be able to offer products and rates designed for electric vehicles, heat pumps, and other clean energy technologies. If given appropriate flexibility, municipalities will try new ideas, learn from each other, and quickly pick up best practices.

The Guidelines should foster this innovation, not stifle it by requiring lengthy reviews of every new idea. The Department should accelerate the clean energy transition, not slow it down.

D. The Guidelines should enable municipalities to respond to market conditions.

Municipalities operate programs in a dynamic market. Electricity and REC prices are highly volatile. The prices that the municipality receives when it goes out to bid are inevitably different from what they were when the aggregation plan was drafted. Prices are often different than they were a week or even the day before.

It is important to recognize that, when a municipality goes out to bid for electricity supply, it has only a few hours to commit to a supply price and REC percentage. There is no time to seek Department approval of a different REC package. The municipality needs to act.

In order to maximize value for program participants, municipalities need flexibility to make real-time decisions about the percentage and types of RECs. It only harms customers if the municipality is locked in ahead of the bid, and has to turn down a more advantageous offer. The Guidelines should allow municipalities to make the best decisions for their residents and businesses.

The key issue is the level of specificity required in the aggregation plan. Aggregation plans are drafted well over a year before the municipality goes out to bid for the first time (let alone the second, third, or fourth), and with no knowledge of what prices will be when it does. The Department should not require municipalities to lock in a REC percentage or type at the time they draft their aggregation plans. Instead, municipalities should be free to make these decisions once they see the actual prices.

E. The Guidelines should recognize that effective customer education, not restricting options, is the key to customer protection.

The Municipalities applaud the Department's increasing focus on customer education. We share your desire to ensure that our residents and businesses are fully informed.

Effective customer education is the key to ensuring customer protection while enabling program flexibility. Throughout these comments, we recommend more flexibility, for example, in products, pricing and REC percentages and types. We submit that flexibility is compatible with consumer protection, as long as consumers are fully informed.

Aggregation programs communicate with consumers through several vehicles. The first communication vehicle is the aggregation plan. The plan should articulate the broad outlines of the program, and what decisions will be made later, how, when, and by whom. This empowers the community to understand how decisions will be made in the future and therefore how to engage in those decisions. As discussed above, the plan should not lock in the number of products or the REC percentage and type. Doing so serves only to limit municipalities' ability to provide value to their communities.

The next communication vehicle is the opt-out notice provided to each eligible customer. At this point, final decisions will have been made for the products into which a customer may be enrolled, and the notice should specify 1) the key product features: price, term, REC percentage, REC type; 2) whether those features can change during the term, e.g., due to a change in law or because the price is variable; 3) whether those features may change at the end of the term and, if so, how the customer will be notified; and 4) where the customer can find current program and product information on-demand (e.g., the program website).

The next communication vehicle is the notification of new pricing at the end of a contract term. Such notification is issued after the final decisions have been made for the upcoming contract term, and the communication should provide similar information to the opt-out notice.

For all of these communications, municipalities have the benefit of leveraging channels to their residents and businesses not available to direct-to-consumer competitive suppliers, such as municipal press releases, websites and social media; local government meetings; local cable access TV; as well as the program website.

As long as these communications vehicles are in place, consumers can make informed decisions about whether to participate in the aggregation program. It is not necessary or appropriate, in the pursuit of consumer protection, for the Department to restrict the products that the program makes available by requiring those products to be rigidly fixed in the aggregation plan. Consumers will be able to make their own, informed decisions.

F. The Guidelines should recognize that municipal aggregation programs are run by municipal officials for the benefit of residents and businesses.

Municipal aggregators are fundamentally different from other entities regulated or licensed by the Department, such as utilities and competitive suppliers.

Utilities and competitive suppliers are for-profit companies. Their mission is to maximize benefits for shareholders. One element of the role of the Department, therefore, is to protect consumers from these for-profit entities.

By contrast, municipal aggregators are government entities, just like the Department. Our mission is to benefit our residents and businesses and we are fully and directly accountable to them. We are allies with the Department, not for-profit entities that need to be protected against.

It is of course true that municipalities implement aggregation programs with the assistance of private companies, including electricity suppliers and consulting firms. However, this is not unusual. Municipalities regularly hire private firms to support municipal initiatives, from building construction to road maintenance. Similarly, state government regularly hires private firms to support state initiatives. The involvement of private firms does not change the fact that the decisions are made by government officials for the benefit of residents and businesses.

We ask that the Department respect the role and judgment of municipal officials and our ability to operate programs that benefit our communities.

IV. CONCLUSION

The Municipalities recommend that the Department modify the Guidelines in accordance with the principles stated above. These modifications will result in a regulatory structure that is more efficient for the Department to manage and empower aggregation programs to more meaningfully benefit their communities and the Commonwealth, all while retaining appropriate consumer protections and Department rule-making authority.

Respectfully Submitted,

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