

**Cape Light Compact JPE  
Governing Board  
Executive Session Meeting Minutes  
Wednesday, September 14, 2022**

Pursuant to Massachusetts Governor Charles D. Baker's Order Suspending Certain Provisions of the Open Meeting Law on March 12, 2020, the Cape Light Compact JPE Board of Directors met on Wednesday, September 14, 2022, at 2:00 p.m. The meeting was held through a Zoom videoconference for members of the Board with audio call-in available for members of the public.

**Participating Remotely Were:**

1. David Anthony, Secretary/Executive Committee, Barnstable
2. Robert Schofield, Executive Committee, Bourne
3. Colin Odell, Executive Committee, Brewster
4. Peter Cocolis, Chatham
5. Timothy Carroll, Chilmark
6. Meghan Gombos, Dukes County
7. Alan Strahler, Edgartown
8. Valerie Bell, Harwich
9. Wayne Taylor, Mashpee
10. Martin Culik, Chair/Executive Committee, Orleans
11. Leanne Drake, Sandwich
12. Richard Elkin, Executive Committee, Wellfleet
13. Erik Peckar, Executive Committee, West Tisbury
14. Joyce Flynn, Vice Chair/Executive Committee, Yarmouth

**Absent Were:**

1. Forrest Filler, Aquinnah
2. Brad Crowell, Dennis
3. Matthew Patrick, Falmouth
4. Dion Alley, , Oak Bluffs
5. Nathaniel Mayo, Provincetown
6. Kirk Metell, Tisbury
7. Jarrod Cabral, Truro

**Legal Counsel Participating Remotely:**

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

**Staff Present:**

Izzi Caplan, Communication Coordinator  
Maggie Downey, Administrator  
Mariel Marchand, Power Supply Planner  
Melissa Allard, Senior Administrative Coordinator  
Phil Moffitt, Chief Financial Officer

**OPEN SESSION VOTE ON ENTRY INTO EXECUTIVE SESSION PURSUANT TO M.G.L. C. 30A §§21(A)(3) AND (10)  
TO DISCUSS MATTERS BELOW, TO NOT RETURN TO OPEN SESSION:**

*Martin Culik at 4:17 PM moved to enter into Executive Session pursuant to M.G.L. c. 30A §21(a)(3) to: (1) consider strategy and potential vote regarding pending litigation related to the Eversource Rate Case, Department of Public Utilities (D.P.U). 22-22; and (2) consider strategy and potential vote on pending or imminent regulatory litigation, including D.P.U. 20-40, Cape & Vineyard Electrification Offering (CVEO) and CVEO as proposed in the 2022-2024 Energy Efficiency Plan, D.P.U. 21-126, not to return to open session thereafter. Seconded by Robert Schofield.*

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Peter	Cocolis	Chatham	Yes
Timothy	Carroll	Chilmark	Yes
Alan	Strahler	Edgartown	Yes
Valerie	Bell	Harwich	Yes
Wayne	Taylor	Mashpee	Yes
Martin	Culik	Orleans	Yes
Leanne	Drake	Sandwich	Yes
Richard	Elkin	Wellfleet	Yes
Erik	Peckar	West Tisbury	Yes
Joyce	Flynn	Yarmouth	Yes

*Motion carried in the affirmative (13-0-0)*

**KO PRESENT**

Rebecca Zachas reviewed D.P.U. 22-22 Eversource Rate Case Update PowerPoint.

Rebecca Zachas stated that the last time the Board discussed the Eversource Rate Case Eversource had just filed it with the DPU She reviewed the original estimated budget for legal services and expert consultants of \$117,075 to \$147,075, presented to the Board. She stated that we are approaching the end phase of the Rate Case. The Compact has filed eight rounds of discovery. She stated that the Compact also had two expert witnesses file written testimony. Kevin Galligan from Galligan Energy Consulting issued direct and surrebuttal testimony, and John Wilson from Resource Insight issued direct, surrebuttal, and supplemental. She stated that the supplemental testimony from Mr. Wilson was an addition that was unexpected and therefore, one of the primary reasons for a budget overrun. She stated that John Wilson also appeared at the evidentiary hearings and the Department of Public Utilities (DPU) cross examined him and the Compact cross examined Eversource’s witnesses on relevant topics and issued seven record requests to Eversource. She stated that the Compact filed an initial brief on August 19<sup>th</sup> and a reply brief is due on September 19<sup>th</sup>.

Rebecca Zachas reviewed the issues of concern. She stated that the cost allocation issues are a main source of new issues because it took months to receive the information the Compact needed from Eversource. She stated that Energy Efficiency Surcharge Tariff Implementation was another issue that arose during discovery and was an additional focus of the Compact because there is a significant effect to low-income customers.

Rebecca Zachas reviewed the reasons for budget overruns. She stated that Eversource was a main cause as it was difficult to obtain the information needed so that the Compact’s witness could conduct his independent analysis. She stated that because of this, issues were found late in the proceeding. Then the Compact had to file

extra testimony and review a lot more documents than the Compact should have had to. The Compact ultimately had its review, filed complete testimony, and conducted effective cross examination, but it was far less efficient because of Eversource's late and incomplete filings, leading to more expense.

Rebecca Zachas stated that there are some good things that have come out of the case already. She stated that based on testimony from the Compact, Eversource made corrections to primary/secondary voltage designations and other factors for voltage cost allocations. This should carry forward to future rate cases as well. She stated that Eversource admitted cost allocation mistakes identified by the Compact's witness during cross examination and the Attorney General Office (AGO) joined in and pointed out that Eversource had strayed from DPU precedent.

Rebecca Zachas stated that the intervenor reply briefs are due on September 19<sup>th</sup> and the Eversource reply brief is due on September 27<sup>th</sup>. She stated that then the DPU has until the end of November to issue rate case order.

Rebecca Zachas reviewed the original estimated budget versus the current billing. On April 13, 2022, the Board approved appropriation of \$130,000. She stated that the staff recommendation is for the Board to vote to appropriate an additional \$74,091 for the Eversource Rate Case.

Valerie Bell asked that since Eversource was primarily responsible for the budget overruns, is there any recourse? Maggie Downey stated that we cannot ask them to reimburse the Compact's intervenor costs. Peter Cocolis asked if this would be coming out of operating budget. Maggie Downey stated that was correct. David Anthony stated that there is a contingency line built in the operating budget that is \$65,000. He asked if the Board needed to vote the entire \$74,091 or can some of that contingency money be used so that the Board does not have to vote as much. Maggie Downey stated that that is a Board decision. She stated that if the Board does choose to do that it would be that the Board does not put any money into the contingency fund this fiscal year unless it is voted on as part of cleanup at the end of the year.

Valerie Bell asked what the pros and cons were for doing it one way over the other. Maggie Downey stated that either way it comes out of the same revenue stream. She stated that in order to expend funds the Board has to appropriate the funds. It can be taken out of the power supply reserve fund and appropriated to the operating budget. The contingency fund dollars would go into the contingency fund. It would not be spent, just moved and set aside as a reserve. She stated that would fully fund the contingency fund which was the goal. She stated that at the end of the year the Board can choose whether to fund the contingency fund. Colin Odell stated that this is legal spending therefore it should show up in the legal budget for transparency. Martin Culik asked if he was suggesting that we take it from the mil adder power supply reserve fund. Colin Odell answered yes, that we should increase the legal budget and that we should be continuing to build the contingency fund. Martin Culik stated that he feels the contingency fund is targeted for a specific purpose whereas the mil adder funds are reserved. David Anthony stated that he supports seeing the legal effort through. He stated that it is just a question of taking out another \$74,091 out of the reserve fund and making sure we stay financially viable into the next year as this is the second time this year we will have added to the legal fund. Maggie Downey stated that the reserve fund currently stands at \$1.2 million and that we have four more months to collect this year.

**Wayne Taylor left meeting at 4:30PM.**

**Erik Peckar left meeting at 4:39PM.**

**Leanne Drake left meeting at 4:44PM.**

*At 4:44 PM the Board lost its quorum and continued deliberations as the Executive Committee. Colin Odell moved the Executive Committee vote to increase the legal line item in the Operating Budget by \$74,091. Seconded by Robert Schofield.*

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Martin	Culik	Orleans	Yes
Richard	Elkin	Wellfleet	Yes
Joyce	Flynn	Yarmouth	Yes

*Motion carried in the affirmative (6-0-0)*

**ADJOURNMENT:**

*Motion to adjourn made at 4:47 PM moved by Colin Odell, seconded by Robert Schofield.*

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Martin	Culik	Orleans	Yes
Richard	Elkin	Wellfleet	Yes
Joyce	Flynn	Yarmouth	Yes

*Motion carried in the affirmative (6-0-0)*

Respectfully submitted,

Melissa Allard

**LIST OF DOCUMENTS AND EXHIBITS:**

- Meeting Notice/Agenda
- July 13, 2022 Executive Session Meeting Minutes
- D.P.U. 22-22 Eversource Rate Case Update PowerPoint