

# **Cape Light Compact Governing Board Meeting**

**DATE:** Wednesday, October 14, 2015

**LOCATION:** Rooms 11&12, Superior Courthouse, Barnstable

**TIME:** 1:30 – 4:00 p.m.

## **AGENDA**

- 1:30** Chairman's Report
- 1. Habitat for Humanity**
  - 2. Proposed Board Meeting Protocols, discussion and potential vote**
- 1:45** Public Comment
- 2:00** Approval of Minutes
- 2:10** Treasurer's Report, Peter Cocolis
- 2:20** 2016 -2018 Energy Efficiency Plan  
Discussion and potential vote on Plan
- 3:30** Administrator's Report
- 1. Review Proposed Response to Eric Bibler September 28, 2015 OML Complaint**
  - 2. Board Schedule, other administrative updates**
- 3:45** CVEC Update

## Cape Light Compact Public Meeting Protocols

(Adopted by Board October 14, 2015)

Thank you for attending the Cape Light Compact Governing Board (Board) meeting. The following protocols have been established to assist the public in effective participation at Cape Light Compact meetings.

1. No person shall address a public meeting of the Board without permission of the Compact Chair or other designated presiding officer.
2. All speakers must identify themselves.
3. Each public speaker is limited to three (3) minutes speaking time.
4. All comments must be directed to the Chair.
5. Public comment is not an opportunity to engage in a debate with Board members, Compact staff or members of the audience, and will not be allowed
6. Public comment must be respectful, courteous, and presented in a dignified manner. All remarks must also be free of personal attacks. Behavior disruptive to the meeting will not be tolerated.
7. Members of the public may record the meeting in the following manner: recording equipment shall be placed next to the conference call equipment used for Board members. If there is no such conference call equipment in use, the recording device will be placed where such conference call equipment would normally be located.
8. Copies of the Board meeting packet shall be made available to members of the public at the Board meeting when possible. The meeting packet shall be available on the Compact's web site at [www.capelightcompact.org](http://www.capelightcompact.org) after the meeting. Documents exempt from disclosure pursuant the Public Records Law or protected by the attorney-client privilege shall not be included.

**Cape Light Compact Governing Board  
Open Session Meeting Minutes  
Wednesday, September 16, 2015**

The Governing Board of the Cape Light Compact convened on Wednesday, September 16, 2015 at 1:00 p.m. in the Innovation Room, Open Cape Building, 3195 Main Street, Barnstable, MA 02630.

**PRESENT WERE:**

1. Dr. Joyce Flynn, Chairwoman, Yarmouth
2. Robert Schofield, Vice-Chair, Bourne
3. Peter Cocolis, Treasurer, Chatham
4. Barry Worth, Secretary, Harwich
5. Sheila Lyons, Barnstable County
6. David Anthony, Barnstable @ 1:42 p.m.
7. Deane Keuch, Brewster
8. Timothy Carroll, Chilmark – remotely by phone
9. Brad Crowell, Dennis
10. Frederick Fenlon, Eastham
11. Thomas Mayo, Mashpee
12. Richard Toole, Oak Bluffs – remotely by phone
13. Raymond Castillo, Orleans
14. Thomas Donegan, Provincetown
15. Joshua Peters, Sandwich
16. Joseph Buteau, Truro
17. Richard Elkin, Wellfleet
18. Jennifer Rand for Sue Hruby, W. Tisbury – remotely by phone

**ABSENT WERE:**

19. Michael Hebert, Aquinnah
20. Dukes County - vacant
21. Paul Pimentel, Edgartown
22. Ronald Zweig, Falmouth
23. Tisbury - vacant

Members Physically present: 15

Members Participating by phone: 3

**LEGAL COUNSEL:**

Jeffrey Bernstein, Esq., BCK Law, PC

**OTHERS:**

Richard Andre, Vineyard Power  
Erik N. Peckar, Vineyard Power

**STAFF PRESENT:**

Margaret Downey, Administrator  
Margaret Song, Residential Program Manager  
Meredith Miller, C&I Program Manager  
Philip Moffitt, EM&V Manager  
Lindsay Henderson, Marketing Coordinator & Data Analyst  
Karen Loura, Administrative Assistant

**PUBLIC PRESENT**

James Rogers, Sandwich  
Kathleen Sherman, Brewster  
Conor Powers-Smith, Register Newspaper  
Eric Bibler, Weston CT

**CALL TO ORDER**

Chr. Flynn called the meeting to order at 1:00 p.m. The meeting notice/agenda was posted pursuant to the Open Meeting Laws on Monday, September 14, 2015 at 10:45 a.m.

**CONSIDERATION OF MEETING MINUTES**

B. Worth presented the July 8, 2015 Meeting Minutes. R. Castillo asked about the Streetlight Monitoring discussion on Page 3. M. Downey said this is a pilot program proposed for 2016-18 and details have yet to be worked out. She encourage Town's with questions to contact staff. He said the proposal included possibly expanding the program to include parking lot lighting and he wondered if it could also be expanded. M. Downey said it may be possible but all measures must pass the Benefit/Cost Ratio (BCR) test. It was agreed to correct Item 2 on Page 4 to remove redundancy. B. Schofield moved the Board vote to accept the minutes as corrected, seconded by P. Cocolis and voted by roll call as follows:

- |                                |     |                              |     |
|--------------------------------|-----|------------------------------|-----|
| 1. S. Lyons, Barnstable County | Yes | 10. R. Toole, Oak Bluffs     | Yes |
| 2. R. Schofield, Bourne        | Yes | 11. R. Castillo, Orleans     | Yes |
| 3. D. Keuch, Brewster          | Yes | 12. T. Donegan, Provincetown | Yes |
| 4. P. Cocolis, Chatham         | Yes | 13. J. Peters, Sandwich      | Yes |
| 5. T. Carroll, Chilmark        | Yes | 14. J. Buteau, Truro         | Yes |
| 6. B. Crowell, Dennis          | Yes | 15. R. Elkin, Wellfleet      | Yes |
| 7. F. Fenlon, Eastham          | Yes | 16. J. Rand, W. Tisbury      | Abs |
| 8. B. Worth, Harwich           | Yes | 17. J. Flynn, Yarmouth       | Yes |
| 9. T. Mayo, Mashpee            | Yes |                              |     |

Motion carried in the affirmative (16-0-1)

**2014 INDEPENDENTLY AUDITED FINANCIAL STATEMENTS**

Chris Rogers, Clifton Larson Allen provided a Power Point Presentation entitled Cape Light Compact 2014 Exit Audit Conference Date: September 16, 2015. S Lyons asked about the income based on the Power Supply mill adder. This amount is based on usage. F. Fenlon asked about the net worth of CLC. C. Rogers said 90% of funding is for the energy efficiency program. He said it could be calculated but he is not sure what it would mean. T. Donegan asked if anything on Slide 11 is extraordinary or malfeasant. C. Rogers said this is not uncommon but that it is most important to report and disclose properly. He believes it has been properly disclosed. In his opinion there is nothing for the Board to be concerned about. T. Mayo asked about a management letter. He said there is no management letter. M Downey said the first audit included a management and all recommendations were adopted. C. Rogers said Slide #15 contains the most important information in report, "No Findings."

P. Cocolis asked about the new aspect/feature available now with the joining with Clifton, Larson Allen (CLA) and what it means to the Cape Light Compact's Audits. C. Rogers said that Rogers & Sullivan merged with CLA, a national firm with 40% of their business working in Government Sector on 1/1/14. This merger offers much more resources from which to draw. A completely independent group/pool of auditors is assembled who tries to poke a hole in the review.

**TREASURER'S REPORT**

P. Cocolis reviewed the 2013-2015 Energy Efficiency Budget. The report shows spending is at 53.3%. He noted that there are quite a few invoices still in process. R. Elkin asked if there is a spending plan. Vendors/Contractors submit information on the number of jobs & cost/job and then those numbers are built into the budget. Vendors are held to contracts and budgeted amounts. P. Cocolis explained he reviews contracts looking at the total amounts to ensure the amount is within the budget. M. Song said we have never been turned down for additional funding on a Mid-Term Modification. She also noted there is an Acronym list at the end of the plan.

He reviewed the 9/16/15 Operating Budget Expenditure Totals Report. This is a Fiscal Year Budget which started on July 1, 2015. He said there are encumbrances that still need to be paid in the amount of \$2038.82 which amount is included. He said the Compact was under budget last year by \$48,000 which is put into the reserve fund.

*At 1:42 p.m. D. Anthony arrived to the meeting*

#### **TREASURER'S APPROVAL OF CONTRACTS**

P. Cocolis reviewed the updated contract summary sheet. These are contracts reviewed before submitted to the Commissioners for signature. M. Downey said contract review occurs as they are received signed by the Vendor and contracts are received throughout the year. The current process has been in place since March, 2015. B. Crowell asked about services provided by KEMA. P. Moffitt explained this contractor evaluates our energy efficiency programs throughout the year. Each time a new evaluation or study is identified, a contract amendment is triggered. Evaluations are not all defined at the beginning of the 3-year plan but are identified and scoped and reviewed. 2013-2014 estimated evaluations cost 4% of budget and they are constantly re-calculated. Direct Apps is the vendor providing services for the new database. D. Elkin asked about Rise Engineering Home Energy Services (HES). This includes energy audits/assessments, and QC of installation vendors. Atty. Bernstein clarified that the Treasurer's role is to look at consistency with budget and terms. P. Cocolis described how the staff manage the process which is overseen by M. Downey. The current Rise Engineering Contract expires 12/31/15 and there will be a Request for Proposals issued for 2016 services. *B. Schofield moved the Board vote to ratify the actions of the Compact Treasurer relative to Compact contracts from April 4, 2015 through September 15, 2015. 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 B. Crowell and voted by roll call as follows:*

- |                                |     |                              |     |
|--------------------------------|-----|------------------------------|-----|
| 1. S. Lyons, Barnstable County | Yes | 11. R. Toole, Oak Bluffs     | Yes |
| 2. D. Anthony, Barnstable      | Yes | 12. R. Castillo, Orleans     | Yes |
| 3. R. Schofield, Bourne        | Yes | 13. T. Donegan, Provincetown | Yes |
| 4. D. Keuch, Brewster          | Yes | 14. J. Peters, Sandwich      | Yes |
| 5. P. Cocolis, Chatham         | Yes | 15. J. Buteau, Truro         | Yes |
| 6. T. Carroll, Chilmark        | Yes | 16. R. Elkin, Wellfleet      | Yes |
| 7. B. Crowell, Dennis          | Yes | 17. J. Rand, W. Tisbury      | Abs |
| 8. F. Fenlon, Eastham          | Yes | 18. J. Flynn, Yarmouth       | Yes |
| 9. B. Worth, Harwich           | Yes |                              |     |
| 10. T. Mayo, Mashpee           | Yes |                              |     |

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

#### **CHAIRMAN'S REPORT**

Chr. Flynn expressed appreciation to Joe Buteau for his work on the Acronym Dictionary/Glossary.

She reported on a meeting with the Mass. Attorney General (AG) on July 28, 2015 in Boston accompanied by R. Schofield, S. Lyons, M. Downey, T. Mayo, and Compact counsel, Jeff Bernstein. The Compact's relationship with AG's office was reviewed. Atty. Bernstein read into the record the entirety of a 9/15/15 email from Chris Barry-Smith, First Assistant Attorney General. Chr. Flynn stated that it was agreed that the Compact and AG office would work together and areas of common ground, etc. were identified. She said there was initially work to prepare and review a statement of principles and the AG's office decided to issue the statement to be read, distributed and made a part of today's meeting. Atty. Bernstein said the matter of the Compact's operational adder is closed. M. Downey to send an electronic version of the email to the board.

### **VINEYARD POWER PRESENTATION**

R. Andre, Vineyard Power (VP) provided a Power Point Presentation entitled Community Empowerment (Bill: H-2895): An Act to promote long-term renewable contracts for municipal aggregators and municipalities and distributed a summary of the House Bill 2895. He said Vineyard Power was successful at the auction and is partners in a lease holding 165,000 acres 14 miles south of Martha's Vineyard. They are working with Dong Electric, a Danish Company. He said a Hearing is scheduled for Oct 20<sup>th</sup> at the Statehouse on H-2895. He named a list of representatives who are in support of the legislation. He said once the Energy Omnibus legislation passes, the Compact will be able to enter into long-term contracts. M. Downey said there is an updated version of the legislation and there are some concerns with it. She said these are not contracts for retail electric supply. The legislation requires town meeting and selectmen to take action. J. Bernstein explained that the Compact's authority comes from town meeting votes and the Intergovernmental Agreement; Council vote and two Commissions. J. Bernstein said there is not authority within the legislation for the Compact to act with respect to these contracts nor within the existing Intergovernmental Agreement. M. Downey gave the example of Cambridge.

R. Elkin asked what if the town agrees to participate. If it chooses to do so all residents will still be buying their electricity from whomever they want or from Cape Light Compact. There was discussion about analysis within towns. And asking Town Meetings to buy what amounts to commodity futures. It was stated that this topic would be hard for town meetings. R. Andre is asking on behalf of VP for the Compact to endorse the Legislation and his purpose tonight was to bring the Compact up to date. M. Downey said it may be best for VP to start with Towns designated as Green Communities on the Cape and Vineyard.

Richard recommended additional information available at [www.communityempowerment.org](http://www.communityempowerment.org)

*J. Rand disconnected from the telephone at 3:15 pm.*

T. Mayo agreed this is the wrong venue for this discussion. He said Vineyard Power needs to speak to Selectmen.

R. Andre said VP will be sharing the legislation with the Towns. He said it is not about buying electricity. It is about a commodities hedge.

### **ENERGY EFFICIENCY PLAN UPDATE**

M. Downey reported that the Board will be reviewing recommendations for the next 3-year plan. (i.e., heat loan, non-profits, getting direction from state on costs and goals, etc.) at their next Board meeting. M. Downey has informed the State where we are headed so the numbers may change. The Compact is scheduling presentations to towns and counties on the 2016-2018 Energy Efficiency Plan. The Compact's next meeting is 10/14/15.

### **6<sup>TH</sup> AMENDMENT IGA**

The members were provided with the Draft 6<sup>th</sup> Amended and Restated Intergovernmental Agreement (IGA) of the Cape Light Compact. Draft amendments are to make the document consistent with the approved Aggregation Plan (AP) with the exception of item K which describes the role of the Compact Administrator and which spells out the role and responsibilities. This is the one part of the CLC operations that is not completely described in the IGA but is in AP and is consistent with past practice. D. Anthony agrees with the content but sees this as a level 2 job description in a level 1 place. Atty. Bernstein said there is no other document available

in which to spell out the Administrator's authority. The section is worded to provide balance and the Governing Board can add or remove tasks delegated to the Compact Administrator without having to amend the IGA each time. The Department of Public Utilities, Attorney General and Department of Energy Resources did indicate the desire for the IGA to conform to our practices.

T. Mayo suggested a reference to a Job Description be included so as to alleviate D. Anthony's concerns. There was discussion that each Governing Board Member should provide their Town Managers and/or Selectmen/Council with the draft proposed changes, obtain feedback and guidance to vote. The amendments will be voted on at the November meeting.

There was discussion about the Chief Executive Officer (CEO) status of the Chairperson and the reference to consultation with the Administrator. There was discussion about item F. Chairman on page 12. T. Mayo expressed concern that the State often requires the signature of a CEO on various grants, etc. and he caution that the Board maintain authority on the Board over Chief Administrative Officer (CAO). Atty. Bernstein will review and distribute a revised version. M. Downey said that the County, as fiscal agent, would sign for any grants as the Chief Financial Officer. It was suggested to strike the 1<sup>st</sup> sentence and add "where required to act as CEO." It was asked if the Chairperson should be responsible to issue meeting agendas.

*T. Carroll disconnected from the telephone @ 4:02 p.m.*

#### **CAPE LIGHT COMPACT GREEN**

S. Wollenburg described the process of purchasing Renewable Energy Certificates (RECS) in advance. The Compact will receive funds back once re-sold. The Green Program is an opt-in program where customers can pay a premium electric rate and we match their consumption with the purchase of RECS. There is \$200,000 in fund 8075. The proposal is to use the Green Fund to purchase SRECS and then sell the SRECS for compliance and then return \$ to CLC Green. Purchase the certificates up front and get back over time. He reviewed a mark-up showing the proposed updated terms & conditions. He said the expectation is that over the course of 10 years the Compact will have paid somewhat less than it would have in the open market. The Compact will sell the SRECS at cost to the Power Supply Program. He said this is an attempt to reduce upfront costs for homeowners on low-income housing (example Habitat for Humanity) to convert to solar and reduce the mortgage payments. It is reasonable to assume that over time the price of the SREC 2 will come pretty close to the floor. Letters would be sent out to participants. The homeowner receives the value of electricity for free. It would depend on the number of households participating. He said the offer does not have to be limited to new homes. He said it is possible the Compact would have a security interest in the systems themselves. He said the Compact's interest is very much protected, limited only by the amount available.

*T. Mayo left the meeting at 4:05 pm*

*R. Schofield moved the Board vote to approve the use of a portion of the premium collected from customers in the Cape Light Compact Green Program (Account 8075) for pre-purchasing renewable energy certificates (RECs) from projects on low-income housing and non-profits on the Cape and Vineyard. These RECs will be used for the Compact's power supply RPS compliance, and revenue from these RECs will be returned to Account 8075 and moved the Board vote to approve the updated Cape Light Compact Green <sup>SM</sup> Program Terms of Service, seconded by R. Elkin. Discussion followed concerning the sale price. S. Wollenburg said they would be sold at cost. R. Elkin suggested possibly considering increase to the price to grow the green fund and make more funding available.*

S. Wollenburg said the number of RECs is small but this is a way to help low income participate in renewable energy who may not otherwise be able to or otherwise afford. It will also benefit CLC Green Power Supply.

The letter will be sent to Cape Light Compact Green Program Customers to inform them the terms of service has changed to begin pre-purchasing RECs, and to inform them of the change to the program . The main benefit is to increase distribution across the population. There was discussion about alternative and the current market pricing.

- |                           |     |                              |     |
|---------------------------|-----|------------------------------|-----|
| 1. D. Anthony, Barnstable | Yes | 8. R. Toole, Oak Bluffs      | Yes |
| 2. R. Schofield, Bourne   | Yes | 9. R. Castillo, Orleans      | Yes |
| 3. D. Keuch, Brewster     | Yes | 10. T. Donegan, Provincetown | Yes |
| 4. P. Cocolis, Chatham    | Yes | 11. J. Peters, Sandwich      | Yes |
| 5. B. Crowell, Dennis     | Yes | 12. J. Buteau, Truro         | Yes |
| 6. F. Fenlon, Eastham     | Yes | 13. R. Elkin, Wellfleet      | Yes |
| 7. B. Worth, Harwich      | Yes | 14. J. Flynn, Yarmouth       | Yes |

*Motion carried in the affirmative (14-0-0)*

### **ADMINISTRATORS REPORT**

- **Grid Modernization Update**

M. Downey updated the board on the Grid Modernization. Eversource has filed its plan. S. Wollenburg & M. Downey are reviewing it. Their plan overlaps with the Compact's Energy Efficiency Demand Response Programs. M. Downey is also updating the Selectmen/Commissioners/Council as part of the 3-year plan presentation. That ratepayers only qualify to participate if they are on Eversource's basic service program is very disappointing, and inconsistent with the DPU directives. The plan is available on the Department of Public Utilities (DPU) website. S. Wollenburg is working on developing a comparison chart.

S. Wollenburg's last day with Cape Light Compact is October 9<sup>th</sup>. He will work with his replacement, Austin Brandt who is the Energy Manager for Provincetown.

- **Upcoming Meetings**

M. Downey provided the schedule of upcoming presentations taking place between now and Nov 19 to update on the Compact, review highlights of next 3-year plan and grid modernization update. The Power Point Presentation will be sent to Board member and corresponding town in advance.

A request has come from Delegate Killion, Assembly of Delegates, for a meeting with the Assembly's Telecommunications and Energy Committee. M. Downey responded the Compact will be happy to meet, suggested possible meeting dates and added it may be a good idea if members of the board could also attend. She thought the meeting would likely take place around 4 pm on a Wednesday. M. Downey will keep the Board posted.

The next Governing Board Meeting is scheduled for October 14<sup>th</sup> including an Open House at 12-12:30. The meeting will begin at 1 or 1:30 pm.

- **Contract Template amendment.**

Currently contracts are executed between the Vendor and Barnstable County acting as the fiscal agent to Cape Light Compact. No further action was taken on this issue at this time because it is part of the Intergovernmental Agreement discussion.

The 2014 Annual Report was distributed.

The Board acknowledged receipt of the 9/16/15 CVEC letter relative to the Round 1 PV Projects and Administrative Adder.

Draft Minutes subject to addition, correction and Board approval

*R. Toole disconnected from the phone at 4:37 pm.*

No member of the Vineyard was present. B. Schofield doubted the presence of a quorum.

The members disbanded at 4:39 p.m.

Respectfully submitted,

Karen E. Loura  
Administrative Assistant

**LIST OF DOCUMENTS & EXHIBITS:**

- Meeting Notice/Agenda
- Draft July 8, 2015 Governing Board Open Session Meeting Minutes
- 2014 Audit Exit Conference Presentation dated 9/16/15 by C. Rogers, CPA, Principal, CliftonLarsonAllen
- 2015 Energy Efficiency Budget Comparison (Budget/Actuals January through August)
- Operating Fund Expenditure Totals report dated 9/16/15
- Contract Summary Sheet April – July, 2015
- Draft 6<sup>th</sup> Amendment to the Inter-governmental Agreement of the Cape Light Compact dated 10/14/15
- Copy of 9/15/15 email from Chris Barry-Smith, Mass. First Assistant Attorney General to Atty. J. Bernstein
- Vineyard Power – Power Point Presentation
- Copy of Community Empowerment (H.2895)
- Copy of draft letter to Green Program Participants and red-lined Terms of Services
- Copy of proposed pg. 16 Contract Template
- Schedule for Cape Light Compact Update/3-year Plan Presentations
- 9/16/15 Letter from CVEC re: Round 1 PV Projects and Administrative Operational Adder



ORIGINAL APPROP	TRANFRS/ADJSMTS	REVISED BUDGET	YTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	% USED
<b>120 CAPE LIGHT COMPACT</b>						
<b>8074 CAPE LIGHT COMPACT OPERTG FUND</b>						
8074_5100	CLC OPERTG FD-SALARIES					
8074_5213	194,586.00	194,586.00	51,761.24	0.00	142,824.76	26.6%
8074_5220	CLC OPERTG FD-TELEPHONES	3,000.00	0.00	0.00	3,000.00	.0%
8074_5233	CLC OPERTG FD-UTILITIES	4,500.00	0.00	0.00	4,500.00	.0%
8074_5235	CLC OPERTG FD-AUDIT/ACCTG SVCS	40,000.00	11,000.00	0.00	29,000.00	27.5%
8074_5238	CLC OPERTG FD-LEGAL SERVICES	317,575.00	46,244.03	0.00	271,330.97	14.6%
8074_5239	CLC OPERTG FD-IT COUNTY SUPPRT	8,750.00	0.00	0.00	8,750.00	.0%
8074_5270	CLC OPERATG FD-CONTRACTUAL	65,000.00	8,972.50	0.00	56,027.50	13.8%
8074_5281	CLC OPERTG FD-CUSTO/MAIN-CNTY	9,226.00	0.00	0.00	9,226.00	.0%
8074_5282	CLC OPERTG FD-OUTSTATE TRAVEL	6,000.00	0.00	0.00	6,000.00	.0%
8074_5291	CLC OPERTG FD-IN STATE TRAVEL	16,000.00	1,538.13	0.00	14,461.87	9.6%
8074_5293	CLC OPERTG FD-ADVERTISING	38,561.00	8,790.34	0.00	29,770.66	22.8%
8074_5294	CLC OPER-OUTRCH/MARKETG CONTRC	63,365.00	25,795.75	39,625.00	-2,055.75	103.2%
8074_5295	CLC OPERTG FD-FREIGHT/SHIPPG	250.00	0.00	0.00	250.00	.0%
8074_5298	CLC OPERTG FD-PRINTG/COPYG	10,627.30	2,243.48	3,108.28	5,275.54	50.4%
8074_5320	CLC OPERTG-LED ST LIGHTS-CONTR	15,000.00	0.00	0.00	15,000.00	.0%
8074_5361	CLC OPERTG FD-FOOD SUPPLIES	500.00	0.00	0.00	500.00	.0%
8074_5399	CLC OPERTG FD-POSTAGE	13,851.52	2,546.19	4,286.45	7,018.88	49.3%
8074_5421	CLC OPERTG FD-SUPPLIES	2,000.00	164.00	0.00	1,836.00	8.2%
8074_5421	CLC OPERTG FD-SPONSORSHIPS	20,000.00	10,000.00	0.00	10,000.00	50.0%



ORIGINAL APPROP	TRANFRS/ADJSMTS	REVISED BUDGET	YTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	% USED
8074 5429	CLC OPERTG FD-SUBSCRIPTIONS	2,500.00	0.00	0.00	2,500.00	.0%
8074 5433	CL OPERTG FD-PUBLIC OFFICL INS	10,000.00	7,651.96	0.00	2,348.04	76.5%*
8074 5462	CLC OPERTG FD-BUILDING RENTAL	17,500.00	0.00	0.00	17,500.00	.0%
8074 5463	CLC OPERTG FD-EQUIP RENTAL	10,000.00	0.00	0.00	10,000.00	.0%
8074 5981	CLC OPERTG FD-RETIREMENT	33,080.00	45,481.00	0.00	-12,401.00	137.5%*
8074 5983	CLC OPERTG FD-GRP INSUR	33,557.00	5,087.03	0.00	28,469.97	15.2%
8074 5984	CLC OPERTG FD-MEDICARE	3,217.00	717.65	0.00	2,499.35	22.3%
8074 5990	CLC OPERTG FD-FINANCE SUPPORT	4,000.00	0.00	0.00	4,000.00	.0%
GRAND TOTAL		942,645.82	227,993.30	47,019.73	667,632.79	29.2%

\*\* END OF REPORT - Generated by Maggie Downey \*\*

2015 Budgeted (Based on 2015 MTM)

2015 Actuals (January Through September)

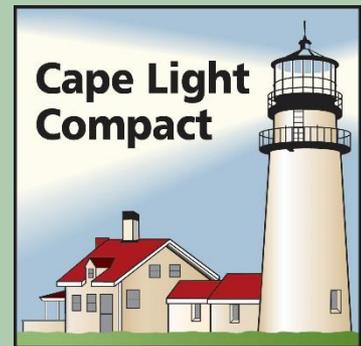
Program	PA Costs					
	PPA	Marketing	Incentives	STAT	EMV	Total PA Costs
<b>Residential (total)</b>	<b>\$1,446,784</b>	<b>\$636,206</b>	<b>\$17,110,126</b>	<b>\$2,829,311</b>	<b>\$685,502</b>	<b>\$22,707,927</b>
1. Residential Whole House	\$ 1,024,711	\$ 187,258	\$ 13,782,322	\$ 1,381,999	\$ 617,918	\$ 16,994,208
Residential New Construction	\$ 22,510	\$ 17,730	\$ 250,002	\$ 91,755	\$ 7,507	\$ 389,503
Residential Multi-Family Retrofit	\$ 32,633	\$ 18,957	\$ 507,822	\$ 39,793	\$ 15,453	\$ 614,658
Residential Home Energy Services	\$ 969,568	\$ 150,571	\$ 12,999,997	\$ 1,160,952	\$ 594,958	\$ 15,876,046
Residential Behavior/Feedback	\$ -	\$ -	\$ 24,501	\$ 89,500	\$ -	\$ 114,001
2. Residential Products	\$ 296,088	\$ 162,034	\$ 3,267,803	\$ 448,811	\$ 56,194	\$ 4,230,930
Residential Cooling & Heating Equipment	\$ 82,607	\$ 18,017	\$ 1,604,378	\$ 113,042	\$ 29,932	\$ 1,847,976
Residential Lighting	\$ 160,740	\$ 108,876	\$ 1,466,016	\$ 205,960	\$ 6,083	\$ 1,947,676
Residential Consumer Products	\$ 52,741	\$ 35,140	\$ 197,408	\$ 129,809	\$ 20,179	\$ 435,278
3. Residential Hard-to-Measure	\$ 125,985	\$ 286,914	\$ 60,000	\$ 998,500	\$ 11,389	\$ 1,482,789
Residential Statewide Marketing	\$ -	\$ 132,914	\$ -	\$ -	\$ -	\$ 132,914
Residential DOER Assessment	\$ 101,000	\$ -	\$ -	\$ -	\$ 11,389	\$ 112,389
Residential EEAC Consultants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Residential Sponsorship & Subscriptions	\$ 24,985	\$ -	\$ -	\$ -	\$ -	\$ 24,985
Residential HEAT Loan	\$ -	\$ -	\$ -	\$ 850,000	\$ -	\$ 850,000
Residential Workforce Development	\$ -	\$ -	\$ -	\$ 133,500	\$ -	\$ 133,500
Residential R&D and Demonstration	\$ -	\$ -	\$ 60,000	\$ 15,000	\$ -	\$ 75,000
Residential Education	\$ -	\$ 154,000	\$ -	\$ -	\$ -	\$ 154,000
<b>Low-Income (total)</b>	<b>\$446,099</b>	<b>\$110,113</b>	<b>\$2,646,056</b>	<b>\$1,039,566</b>	<b>\$83,468</b>	<b>\$4,325,302</b>
4. Low-Income Whole House	\$ 364,853	\$ 52,395	\$ 2,646,056	\$ 1,039,566	\$ 78,921	\$ 4,181,792
Low-Income New Construction	\$ 5,626	\$ 682	\$ 104,779	\$ 1,688	\$ 3,431	\$ 116,207
Low-Income Single Family Retrofit	\$ 302,503	\$ 44,834	\$ 2,169,721	\$ 807,914	\$ 62,841	\$ 3,387,813
Low-Income Multi-Family Retrofit	\$ 56,725	\$ 6,879	\$ 371,556	\$ 229,964	\$ 12,649	\$ 677,772
5. Low-Income Hard-to-Measure	\$ 81,246	\$ 57,718	\$ -	\$ -	\$ 4,547	\$ 143,510
Low-Income Statewide Marketing	\$ -	\$ 18,143	\$ -	\$ -	\$ -	\$ 18,143
Low-Income DOER Assessment	\$ 15,288	\$ -	\$ -	\$ -	\$ 4,547	\$ 19,835
Low-Income Energy Affordability Network	\$ 65,958	\$ 39,575	\$ -	\$ -	\$ -	\$ 105,533
<b>Commercial &amp; Industrial (total)</b>	<b>\$1,208,939</b>	<b>\$349,093</b>	<b>\$10,412,299</b>	<b>\$1,348,406</b>	<b>\$634,343</b>	<b>\$13,953,080</b>
6. C&I New Construction	\$ 243,903	\$ 79,373	\$ 1,833,699	\$ 203,302	\$ 158,179	\$ 2,518,456
C&I New Construction	\$ 243,903	\$ 79,373	\$ 1,833,699	\$ 203,302	\$ 158,179	\$ 2,518,456
7. C&I Retrofit	\$ 934,375	\$ 206,915	\$ 8,578,600	\$ 1,145,104	\$ 461,475	\$ 11,326,469
C&I Retrofit	\$ 436,054	\$ 102,828	\$ 4,500,127	\$ 501,140	\$ 134,292	\$ 5,674,441
C&I Direct Install	\$ 498,320	\$ 104,087	\$ 4,078,473	\$ 643,964	\$ 327,184	\$ 5,652,028
8. C&I Hard-to-Measure	\$ 30,661	\$ 62,805	\$ -	\$ -	\$ 14,689	\$ 108,155
C&I Statewide Marketing	\$ -	\$ 62,805	\$ -	\$ -	\$ -	\$ 62,805
C&I DOER Assessment	\$ 19,740	\$ -	\$ -	\$ -	\$ 14,689	\$ 34,429
C&I EEAC Consultants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
C&I Sponsorships & Subscriptions	\$ 10,921	\$ -	\$ -	\$ -	\$ -	\$ 10,921
<b>GRAND TOTAL</b>	<b>\$3,101,822</b>	<b>\$1,095,411</b>	<b>\$30,168,481</b>	<b>\$5,217,283</b>	<b>\$1,403,312</b>	<b>\$40,986,309</b>

Program	PA Costs					
	PPA	Marketing	Incentives	STAT	EMV	Total PA Costs
<b>Residential (total)</b>	<b>\$770,521</b>	<b>\$342,171</b>	<b>\$11,461,060</b>	<b>\$1,142,454</b>	<b>\$526,765</b>	<b>\$14,242,972</b>
1. Residential Whole House	\$ 515,304	\$ 112,933	\$ 9,280,223	\$ 406,042	\$ 327,330	\$ 10,641,831
Residential New Construction	\$ 11,320	\$ 3,256	\$ 201,988	\$ 46,118	\$ 4,575	\$ 267,256
Residential Multi-Family Retrofit	\$ 16,411	\$ 2,808	\$ 374,468	\$ 29,035	\$ 22,995	\$ 445,716
Residential Home Energy Services	\$ 487,574	\$ 106,869	\$ 8,679,767	\$ 268,722	\$ 299,760	\$ 9,842,692
Residential Behavior/Feedback	\$ -	\$ -	\$ 24,000	\$ 62,167	\$ -	\$ 86,167
2. Residential Products	\$ 148,896	\$ 84,565	\$ 2,180,838	\$ 254,051	\$ 196,397	\$ 2,864,747
Residential Cooling & Heating Equipment	\$ 41,541	\$ 12,869	\$ 645,294	\$ 69,767	\$ 57,619	\$ 827,091
Residential Lighting	\$ 80,832	\$ 52,250	\$ 1,425,124	\$ 111,497	\$ 128,437	\$ 1,798,140
Residential Consumer Products	\$ 26,522	\$ 19,445	\$ 110,419	\$ 72,787	\$ 10,342	\$ 239,516
3. Residential Hard-to-Measure	\$ 106,321	\$ 144,674	\$ -	\$ 482,361	\$ 3,038	\$ 736,394
Residential Statewide Marketing	\$ -	\$ 80,405	\$ -	\$ -	\$ -	\$ 80,405
Residential DOER Assessment	\$ 96,364	\$ -	\$ -	\$ -	\$ 3,038	\$ 99,402
Residential EEAC Consultants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Residential Sponsorship & Subscriptions	\$ 9,957	\$ -	\$ -	\$ -	\$ -	\$ 9,957
Residential HEAT Loan	\$ -	\$ -	\$ -	\$ 477,685	\$ -	\$ 477,685
Residential Workforce Development	\$ -	\$ -	\$ -	\$ 4,673	\$ -	\$ 4,673
Residential R&D and Demonstration	\$ -	\$ -	\$ -	\$ 3	\$ -	\$ 3
Residential Education	\$ -	\$ 64,269	\$ -	\$ -	\$ -	\$ 64,269
<b>Low-Income (total)</b>	<b>\$217,225</b>	<b>\$56,016</b>	<b>\$1,429,685</b>	<b>\$429,637</b>	<b>\$55,910</b>	<b>\$2,188,472</b>
4. Low-Income Whole House	\$ 183,477	\$ 35,282	\$ 1,429,685	\$ 429,637	\$ 55,473	\$ 2,133,554
Low-Income New Construction	\$ 2,829	\$ 484	\$ 102,065	\$ 1,037	\$ 1,366	\$ 107,781
Low-Income Single Family Retrofit	\$ 152,122	\$ 29,917	\$ 1,198,829	\$ 375,186	\$ 38,514	\$ 1,794,569
Low-Income Multi-Family Retrofit	\$ 28,526	\$ 4,881	\$ 128,790	\$ 53,414	\$ 15,593	\$ 231,204
5. Low-Income Hard-to-Measure	\$ 33,749	\$ 20,733	\$ -	\$ -	\$ 437	\$ 54,919
Low-Income Statewide Marketing	\$ -	\$ 15,575	\$ -	\$ -	\$ -	\$ 15,575
Low-Income DOER Assessment	\$ 25,152	\$ -	\$ -	\$ -	\$ 437	\$ 25,588
Low-Income Energy Affordability Network	\$ 8,597	\$ 5,158	\$ -	\$ -	\$ -	\$ 13,755
<b>Commercial &amp; Industrial (total)</b>	<b>\$674,779</b>	<b>\$169,977</b>	<b>\$5,830,557</b>	<b>\$644,256</b>	<b>\$597,226</b>	<b>\$7,916,796</b>
6. C&I New Construction	\$ 122,653	\$ 20,987	\$ 1,242,637	\$ 256,294	\$ 132,381	\$ 1,774,952
C&I New Construction	\$ 122,653	\$ 20,987	\$ 1,242,637	\$ 256,294	\$ 132,381	\$ 1,774,952
7. C&I Retrofit	\$ 469,876	\$ 81,113	\$ 4,587,920	\$ 387,962	\$ 464,797	\$ 5,991,669
C&I Retrofit	\$ 219,282	\$ 37,521	\$ 2,240,919	\$ 228,443	\$ 212,694	\$ 2,938,859
C&I Direct Install	\$ 250,594	\$ 43,592	\$ 2,347,001	\$ 159,519	\$ 252,103	\$ 3,052,809
8. C&I Hard-to-Measure	\$ 82,250	\$ 67,878	\$ -	\$ -	\$ 48	\$ 150,175
C&I Statewide Marketing	\$ -	\$ 67,878	\$ -	\$ -	\$ -	\$ 67,878
C&I DOER Assessment	\$ 73,345	\$ -	\$ -	\$ -	\$ 48	\$ 73,393
C&I EEAC Consultants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
C&I Sponsorships & Subscriptions	\$ 8,905	\$ -	\$ -	\$ -	\$ -	\$ 8,905
<b>GRAND TOTAL</b>	<b>\$1,662,526</b>	<b>\$568,164</b>	<b>\$18,721,302</b>	<b>\$2,216,347</b>	<b>\$1,179,901</b>	<b>\$24,348,241</b>

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001%20Compact%20Efficiency%202015/2015%20MTM/3.%20Cash%20Flow%20Model/2015%20MTM\_Cash%20Flow\_2015.04.22\_EEAC%20Approved%20Bud  
get.xlsm

# 2016-2018 ENERGY EFFICIENCY PLAN

PROPOSED OCTOBER 30<sup>TH</sup> FILING



# PURPOSE OF TODAY'S DISCUSSION

To obtain direction and approval from CLC Board relative to the  
**2016-2018 Energy Efficiency Plan**

- Background on CLC Energy Efficiency Plan
- Impacts of the Green Communities Act
- 2016-2018 Energy Efficiency Plan Term Sheet
- 2016-2018 Bill Impacts
- Residential and Low-Income Programs
  - Statewide Agreements, Existing and New
- Commercial & Industrial Programs
  - Existing and New Enhancements



# BACKGROUND

- MGL Chapter 164 allows municipal aggregators to administer rate payer funded energy efficiency plans instead of the local distribution company
- Compact began administering energy efficiency programs on Cape Cod and Martha's Vineyard in July 2001
- Energy Efficiency Plans were developed annually from 2001 up to 2010
- Submitted to MA Department of Public Utilities for review and approval
- Compact Board has voted unique energy efficiency program incentives that reflect the unique characteristics of Cape Cod and Martha's Vineyard customers



# 2008 GREEN COMMUNITIES ACT

**Electric and natural gas resource needs shall first be met through all available energy efficiency and demand reduction resources that are cost effective or less expensive than supply**

- Creates the Energy Efficiency Advisory Council – advisory role
- Requires DPU approval of Energy Efficiency Plan (adjudicated proceeding)
- Establishes a statewide three-year energy efficiency plan
  - Goal to create consistency in energy efficiency programs across the state
  - Compact's 2010-2012 and 2013-2015 Energy Efficiency Plans include unique program differences approved by the CLC Board and the DPU

# 2016 – 2018 ENERGY EFFICIENCY PLAN

- Staff prepared proposed energy efficiency budgets and savings goals and presented to Board in April 2015
- May-October discuss Compact program enhancements with Board and community members
  - Held 27 informational forums – more scheduled
  - Three public informational sessions scheduled for next week
- On-Line survey results
  - 35 customers completed on-line survey
  - Respondents supported continuation of existing and new enhancements
  - Note – despite respondents support of a PV incentive, staff did not recommend moving forward using energy efficiency funds for PV

# 2016 – 2018 ENERGY EFFICIENCY PLAN

- Compact submits Energy Efficiency Plan to EEAC
  - April 30 - Draft
  - September 25 - Draft
  - October 30 - FINAL



# TERM SHEET NUMBERS (2016 - 2018)

Sector	Budget	Annual Savings (MWh)	Percent of Sales	\$/kWh	Lifetime Savings (MWh)
Residential	\$68,108,080	58,518	1.84%	\$1.164	630,310
Low-Income	\$13,812,657	5,496	2.88%	\$2.513	61,249
C&I	\$44,252,057	101,873	3.87%	\$0.434	831,266
<i>Total</i>	<i>\$126,172,794</i>	<i>165,887</i>	<i>2.76%</i>	<i>\$0.761</i>	<i>1,522,825</i>

# BILL IMPACTS – INCLUDING ENHANCEMENTS

Sector	2016-2018 Avg. EERF	Energy Conservation Charge	Avg. Monthly Usage (kWH)	Total Cost (per Month)
Residential	\$0.01823	\$0.00250	584	\$12.11
Low-Income	\$0.00168	\$0.00250	483	\$2.02
C&I	\$0.01308	\$0.00250	2,396	\$37.33

## Formula:

*Total Cost per Month* = Avg. EERF + Energy Conservation Charge x Avg. Monthly Usage

# RESIDENTIAL AND LOW-INCOME

STATEWIDE AGREEMENTS, EXISTING, AND NEW

# STATEWIDE AGREEMENT – MULTI-FAMILY

Treat oil and propane facilities (regardless of type of meter)

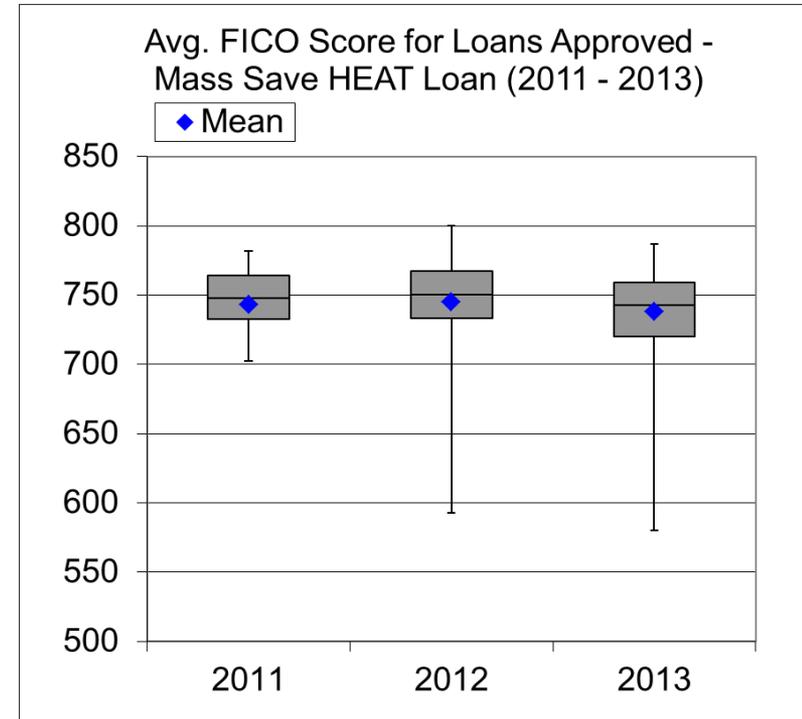
- Offer insulation and air sealing for multi-family buildings (including condo owners)

2016-2018 Avg. EERF	Avg. Monthly Usage (kWh)	Total Cost (per Month)
\$0.00008	584	\$0.05



# STATEWIDE AGREEMENT – HEAT LOAN

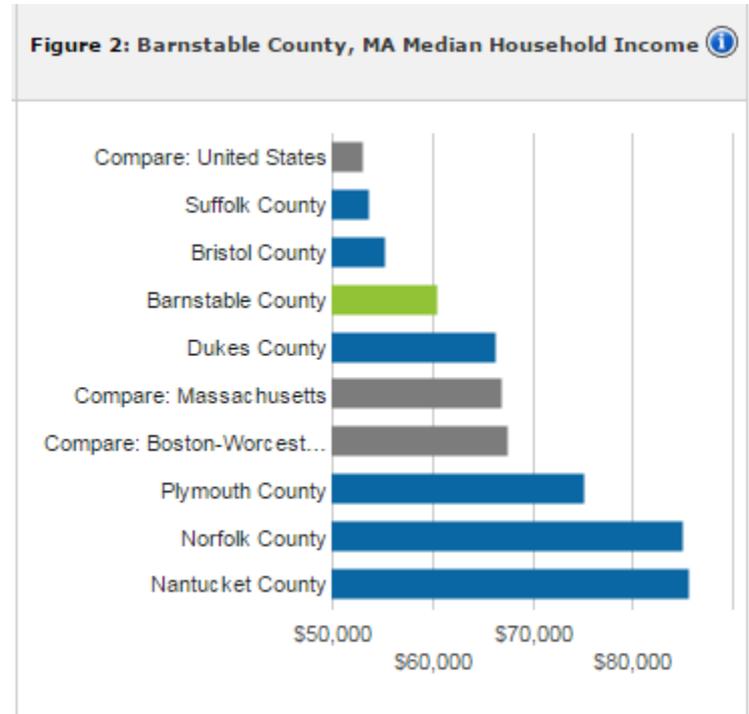
April Proposal	October Proposal
Potential expansion to include PV	Do not duplicate loan from MA CEC
Maintain at 0% or have sliding scale based upon income	Maintain at 0%
Create product for customers not eligible for traditional financing	Concern for customer and putting them further in debt. Will review but not included in this version of the Plan.



# STATEWIDE AGREEMENT- MODERATE INCOME

Provide an enhanced incentive for customers between 61-80% - more information on next slide

Declined to provide enhanced incentives for customers between 81-120% at this time. This will be under review, but there was a desire to learn from impact of 61-80% before expanding.



# CURRENT ENHANCEMENTS – SINGLE FAMILY WEATHERIZATION

	CLC Enhancement	Statewide Proposal
Standard insulation incentive	75%, up to \$4,000	75%, up to \$2,000
Year-round renters	100%, up to \$4,000	75%, up to \$2,000
Customers between 61-80% of SMI	100%, up to \$4,000	90%, up to \$3,000
Municipal/government-owned and operated homes	100%, up to \$4,000	75%, up to \$2,000



# CURRENT ENHANCEMENTS – SINGLE FAMILY

## Continue to serve natural gas customers

- Because we have enhanced incentives, natural gas customers would be allowed to benefit (along with all other customers)

2016-2018 Avg. EERF	Avg. Monthly Usage (kWh)	Total Cost (per Month)
\$0.00319	584	\$1.86



# NEW ENHANCEMENTS

## Consider incentives for demand response

- Includes Wi-Fi thermostats and room ACs (focus on summer peak with larger loads)

## LED Give-aways at Town Meeting (1 Year with 1 per person)

## Electric Vehicle Charging Stations

- This is a small effort with small incentives to begin the efforts



Enhancement	2016-2018 Avg. EERF	Avg. Monthly (kWh)	Total Cost (per Month)
Demand Response	\$0.00001	584	\$0.01
Give-Away	\$0.00001	584	\$0.01
EV	\$0.00002	584	\$0.01

# BILL IMPACTS

Enhancement	2016-2018 Avg. EERF	Avg. Monthly Usage (kWh)	Total Cost (per Month)
Natural Gas	\$0.00319	584	\$1.86
MF Oil & Propane	\$0.00008	584	\$0.05
Demand Response	\$0.00001	584	\$0.01
Give-Aways	\$0.00001	584	\$0.01
Electric Vehicle	\$0.00002	584	\$0.01

# **COMMERCIAL & INDUSTRIAL**

EXISTING ENHANCEMENTS AND NEW ENHANCEMENTS

# EXISTING ENHANCEMENTS TO STATEWIDE

## *Municipal Customers*

- 100% Incentive for cost-effective municipal retrofit projects
- 100% cost coverage of TA studies/Ancillary services

## *Small C&I Customers*

- Higher baseline incentive for Direct Install – 80% vs. 70%
- Special incentive for certain tenants – 95% vs. 70%
- 12 Month On Bill Financing through DI vendor
- 100% cost coverage of TA studies/Ancillary services



## *Oil and Propane Customers*

- Fuel Blind offerings – weatherization, heating/water heating rebates

# MUNICIPAL PROPOSAL/CLARIFICATION

## Approach on incentives for gas savings measures

- Measures that are exclusively gas savings measures will be referred to NGRID for handling
- On Mixed fuel measures (electric and gas), CLC will incent that proportion of costs that corresponds to the proportion of benefits that are electric
- For example, an EMS system costing \$100,000 that is calculated to have 60% electric benefits and 40% gas benefits, would receive an incentive on the \$60,000 electric allocation cost

## Approach on incentives for deliverable fuels measures

- CLC will continue with fuel blind approach for oil and propane or dual fuel (electric and deliverable) measures, incentivizing at 100% for cost-effective measures with the exception of when Green Communities monies are available to the town
- Green Community towns will be asked to utilize Green Communities funds toward the cost of any proposed deliverable fuels measures before Compact funds
- Towns that have used Green Communities funds, will be strongly encouraged to apply for grant funding for deliverable fuels measures

**All projects must be cost effective and all associated equipment in functional order**

**Town may be required to commit to operator training and/or operator certification and/or equipment maintenance contract in order to facilitate measure persistence**

# ENHANCEMENT – SERVING BY CUSTOMER SIZE

Sub Sector	Annual kWh	% Accounts	% C&I Load	Improved Service Approach
Small	< 100,000	94%	32%	With BEA modeled on HES
Medium	> 100,000 & < 1MM	5%	38%	Via Industry Segment
Large	> 1 million	<1%	30%	Account Liaison & Strategic Plans



# ADDITIONAL ENHANCEMENTS

## Non-Profit Organizations - Zero Copay

- Organization must be a 501(c)(3), bylaws/articles of incorporation state that the organization promotes economic, social and cultural development for low income customers
- Up to 100% incentive as determined by program cap/building type. (Rate code, Res or C/I will determine where charged to, C&I meter=C&I budget)
- Annual operating budgets below \$15M

## Oil and Propane in C&I Multi-Family

- Offer insulation and air sealing measures

## Streetlight Control Demonstration

- 200 units over 3 years
- Goal: measure savings impact and id customer needs/issues



# BILL IMPACTS

Enhancement	2016-2018 Avg. EERF	Avg. Monthly Usage (kWh)	Total Cost (per Month)
Municipal	\$0.00066	2,396	\$1.58
Non-Profits	\$0.00030	2,396	\$0.73
MF Oil & Propane	\$0.00010	2,396	\$0.25
Streetlight Controls	\$0.00003	2,396	\$0.08



## Bill Impact Analysis for CLC Board Presentation

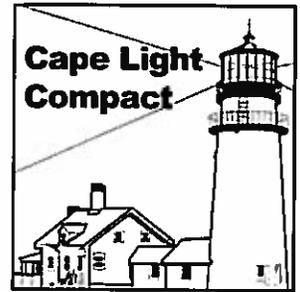
October 12, 2015

Year	EERF Rates (c/kWh)			Average \$/Month (\$)			Average % of Monthly Bill (%)			Annual Change		
	R-1	R-2	G-1	R-1	R-2	G-1	R-1	R-2	G-1	R-1	R-2	G-1
2013	1.813	0.270	1.534	10.59	1.30	36.75	9.0%	1.9%	8.2%			
2014	1.542	0.140	0.952	9.01	0.68	22.81	7.4%	0.9%	5.1%	-14.9%	-48.1%	-37.9%
2015	1.997	0.136	1.127	11.66	0.66	27.00	7.7%	0.7%	4.9%	29.5%	-2.9%	18.4%
2016	2.041	0.149	1.040	11.92	0.72	24.92	9.7%	1.0%	5.5%	2.2%	9.6%	-7.7%
2017	1.729	0.168	1.374	10.10	0.81	32.92	8.4%	1.1%	7.2%	-15.3%	12.8%	32.1%
2018	1.700	0.186	1.511	9.93	0.90	36.20	8.2%	1.2%	7.8%	-1.7%	10.7%	10.0%
2013-2015 Average	1.784	0.182	1.204	10.42	0.88	28.85	8.0%	1.2%	6.1%	7.3%	-25.5%	-9.8%
2016-2018 Average	1.823	0.168	1.308	10.65	0.81	31.35	8.8%	1.1%	6.8%	-4.9%	11.0%	11.5%
2013-2018 Average	1.804	0.175	1.256	10.53	0.84	30.10	8.4%	1.1%	6.4%	0.0%	-3.6%	3.0%

\*Note that 2013 and 2015 are the average EERF rates for those years (the rates changed part way through the year in both 2013 and 2015).

Represents just the EERF. Does not include SBC.

**Agenda Action Request  
Cape Light Compact  
Meeting Date: 10/14/2015**



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

**PROPOSED 2016-2018 ENERGY EFFICIENCY PLAN  
GOALS AND BUDGETS**

**REQUESTED BY:** Maggie Downey

**Proposed Motion(s)**

I move the Board vote to approve the proposed goals and budgets presented by staff for the 2016-2018 Energy Efficiency Plan, and authorize submission of the proposed Plan to the Massachusetts 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.

**Additional Information**

- See attached presentation for additional information

**Record of Board Action**

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

BY ELECTRONIC MAIL ONLY ([ebibler@gmail.com](mailto:ebibler@gmail.com))

October 16, 2015

Eric Bibler  
31 Old Hyde Road  
Weston, CT 06883

Re: *Cape Light Compact/Open Meeting Law Complaint*

Mr. Bibler:

This letter serves as a response to your Open Meeting Law (“OML”) complaint dated September 28, 2015 against the Cape Light Compact (the “Compact” or the “CLC”). A copy of your complaint is appended to this letter as Attachment A.

#### RESPONSE TO ALLEGED OML VIOLATIONS

**Unreasonable Interference by the Cape Light Compact Administrator, Chairman, “Shared Legal Counsel” and CLC Board Member, Fred Fenlon, with My Attempt to Make an Audio Recording of the Meeting**

The Board strongly disagrees with your recollection and description of the events that transpired at the September 16, 2015 Board meeting. The Board did not interfere or prevent you from recording the meeting, and there was no violation of the Massachusetts Open Meeting Law. You insisted on placing your recording device in a specific location on the table, in front of the Compact Administrator and Compact legal counsel, and were told to place the recording device in another location. Your insistence on the location of your recording device interfered with and was disruptive to the Compact’s meeting. The Open Meeting Law provides as follows:

*After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the chair shall inform other attendees of any recordings.*

MG.L. c. 30A, §§ 20(f). The Compact Chair has clear legal authority to impose reasonable requirements on the placement of recording equipment. Please review OML Determination 2012-57 on this subject as well.

**Unlawful Refusal to Provide Me with a Printed Copy of the Meeting Exhibits Provided to All Members of the Cape Light Compact and Used By the CLC Board as the Basis for Deliberations During the Meeting**

The OML does not require a public body to provide board packets to members of the public. The Board packet is generally posted to the Board web site within 24-48 hours after the meeting at [www.capelightcompact.org/meeting-center](http://www.capelightcompact.org/meeting-center). Documents exempt from disclosure pursuant to the Public Records Law or protected by the attorney-client privilege are not included.

**Unnecessarily Hostile Reaction of the Cape Light Compact to My Reasonable Attempts, During Scheduled "Public Comment," to Clarify Why the Compact was Withholding the Board Packet of Meeting Exhibits from Members of the Public, Including If and When the Exhibits Would Be Made Available, and To Clarify the Status of a Key Executive Position**

As you have been told many times, public comment is not an opportunity for you to cross-examine Compact Board members and staff. Your failure to acknowledge this fact, and conduct yourself appropriately under public comment has resulted in you having to be repeatedly reminded of public comment protocol. Your unabashed and repeated misuse of the public comment period is disruptive to the Compact Board.

#### REQUESTED REMEDIAL ACTIONS

Your complaint suggests numerous remedial actions be undertaken by the Compact. As the Compact has not violated the Open Meeting Law, it declines to adopt such actions.

However, the Compact has decided to adopt certain Public Meeting Protocols (copy enclosed) which address the placement of recording equipment, the availability of board packets, and public comment rules. For example, the Protocols state that "meeting attendees requesting to record the meeting will be directed to place their recording equipment next to the conference call equipment used for board members." This will enable attendees to capture a quality recording consistent with the Open Meeting Law remote participation requirement that equipment be used "that enables the remote participant and all persons present, emphasis added, at the meeting location to be clearly audible to one another." If there is no such conference call equipment in use, the recording device will be placed where such conference call equipment would normally be located.

It is the Compact's hope these Protocols will provide the public with a clear understanding of how these matters will be handled at public meetings and eliminate any confusion or concerns that you may have regarding these issues.

Sincerely,

Margaret T. Downey  
Compact Administrator

cc: Jonathan Sclarsic, AGO  
Compact Governing Board

List of Enclosures/Attachments

Bibler OML Complaint  
Public Meeting Protocols

## Cape Light Compact Public Meeting Protocols

(Adopted by Board October 14, 2015)

Thank you for attending the Cape Light Compact Governing Board (Board) meeting. The following protocols have been established to assist the public in effective participation at Cape Light Compact meetings.

1. No person shall address a public meeting of the Board without permission of the Compact Chair or other designated presiding officer.
2. All speakers must identify themselves.
3. Each public speaker is limited to three (3) minutes speaking time.
4. All comments must be directed to the Chair.
5. Public comment is not an opportunity to engage in a debate with Board members, Compact staff or members of the audience, and will not be allowed
6. Public comment must be respectful, courteous, and presented in a dignified manner. All remarks must also be free of personal attacks. Behavior disruptive to the meeting will not be tolerated.
7. Members of the public may record the meeting in the following manner: recording equipment shall be placed next to the conference call equipment used for Board members. If there is no such conference call equipment in use, the recording device will be placed where such conference call equipment would normally be located.
8. Copies of the Board meeting packet shall be made available to members of the public at the Board meeting when possible. The meeting packet shall be available on the Compact's web site at [www.capelightcompact.org](http://www.capelightcompact.org) within 24-48 hours after the meeting. Documents exempt from disclosure pursuant the Public Records Law or protected by the attorney-client privilege shall not be included.

**Maggie Downey**

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**From:** Eric Bibler <ebibler@gmail.com>  
**Sent:** Monday, September 28, 2015 12:50 PM  
**To:** Maggie Downey; Joyce Flynn; Fred Fenlon; Jeffrey Bernstein  
**Cc:** Jonathan Sclarsic; Forster, Nathan (AGO); Melissa Hoffer; Chris Barry-Smith; Paul Brennan  
**Subject:** OML COMPLAINT AGAINST THE CAPE LIGHT COMPACT CONCERNING UNLAWFUL CONDUCT DURING THE CLC ANNUAL MEETING SEPTEMBER 16, 2015  
**Attachments:** OML Complaint Form\_Bibler Complaint Regarding CLC Meeting of 2015.09.16.pdf; 2015.09.15\_Communications from AG's Office C. Smith to CLC's J. Bernstein .pdf; 2015.09.16\_CLC Agenda\_Annual Meeting.pdf; 2015.09.18\_Letter to CLC Re\_CLC Annual Meeting.pdf; 2015.09.28 OML Complaint Against CLC Misconduct During Public Meeting of September 16, 2015\_ATTACHMENT A.pdf

Dear Ms. Downey, et al,

Please see below and attached my signed Open Meeting Law Complaint against your recent conduct during the Cape Light Compact Annual Meeting on September 16, 2015.

Eric Bibler

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OML COMPLAINT AGAINST THE CAPE LIGHT COMPACT CONCERNING UNLAWFUL CONDUCT DURING  
THE CLC ANNUAL MEETING

SEPTEMBER 16, 2015

Dr. Joyce Flynn

Chairman

Ms. Maggie Downey

Compact Administrator

Records Custodian

Mr. Fred Fenlon

Director (Eastham)

Mr. Jeffrey Bernstein

Legal Counsel

Cape Light Compact

Barnstable, MA

September 28, 2015

Re: Open Meeting Law Complaint Against the Cape Light Compact's Concerning Inappropriate and Unlawful Conduct During the CLC Annual Meeting on September 16, 2015

Dear Dr. Flynn, Ms. Downey, Mr. Fenlon and Mr. Bernstein,

I am writing to provide you with a copy of my Open Meeting Law Complaint relating to your inappropriate and unlawful conduct during the public meeting of the Cape Light Compact Governing Board on Wednesday, September 16, 2015.

As you will recall, I attended this meeting – the Annual Meeting of the Cape Light Compact -- that all three of you attended.

As you know, I sent a letter to Chairman Flynn and Ms. Downey on September 18, 2015 to protest the hostile and unreasonable conduct of the Cape Light Compact Chairman, Compact Administrator, Board members and legal counsel in response to my attempts to observe and understand the deliberations of the Board and the operations of this public body (see copy of e-mail attached).

I protested the Compact's unreasonable interference with my thwarted attempt to make a reliable audio recording of the meeting and the unreasonable refusal by the Compact of my request for a copy of the meeting exhibits used during the deliberations of the Board on this date. As you know, over the past four and a half years, the Cape Light Compact has

consistently refused ALL requests by various members of the public for copies of the meeting exhibits during meetings that they have attended.

I also complained that although the Cape Light Compact Counsel, Mr. Jeffrey Bernstein, read into the record the text of an e-mail dated September 15, 2015, from the First Assistant Attorney General, Mr. Chris Barry-Smith to Mr. Bernstein, the Cape Light Compact had not included the text of this letter in the "Board Packet" of meeting exhibits that were posted to the CLC website the day after the meeting.

I did not receive any reply to my letter.

For that reason, since the Compact appears to be completely unmoved by any of these complaints, I am taking the trouble to refer these complaints to the Office of the Attorney General – Open Government Division in the form of an Open Meeting Law Complaint.

Here are my chief complaints:

**1. Unreasonable Interference by the Cape Light Compact Administrator, Chairman, "Shared Legal Counsel" and CLC Board Member, Fred Fenlon, with My Attempt to Make an Audio Recording of the Meeting**

As you will also recall, I made an audio recording of the meeting -- but not without some difficulty owing to unreasonable interference from the Compact Administrator and Records Custodian, Ms. Margaret Downey, the Compact Counsel, Mr. Jeffrey Bernstein, and a Member of the Cape Light Compact Board, Mr. Fred Fenlon with the acquiescence Chairman Flynn, who presided over the meeting and allowed the unreasonable interference to occur.

At the meeting – the Annual Meeting of the Compact -- all of the members of the Cape Light Compact Governing Board were arranged in a circle around a long conference table in the Innovation Room at the Open Cape Building in the Barnstable County Complex with chairs on one side for various CLC staff members, invited guests and members of the public.

Prior to the meeting, I informed Chairman Flynn of my desire to record the meeting and placed a small recording device at the end of the conference table where the Chairman was seated alongside the Compact Administrator (Downey), the "shared legal counsel" (Bernstein), the Treasurer (Mr. Peter Cocolis) and the Secretary (Mr. Robert Schofield) of the Cape Light Compact.

My reason for placing the device in this location was, logically enough, because I knew that the Chairman would preside over the meeting and because the Chairman and because, according to the Agenda, the Compact Administrator, the Treasurer and the legal counsel were all scheduled to provide reports to the Board on this date.

More specifically, the Treasurer was expected to report on the Compact's finances and the Chairman, Compact Administrator and legal counsel were expected to discuss the following legal documents (see copy of Agenda attached):

- (1) "Statement of Principles Between the Compact and the Attorney General Regarding Power Supply Rate Setting and Related Power Supply Activities"; and
- (2) "Review and Discuss Amendments to the Compact's Intergovernmental Agreement (Vote on IGA will be at future meeting)"

Immediately after I placed the device on the table, Ms. Downey, without explanation, flung it down the table away from her.

Then CLC Board Member Mr. Fred Fenlon picked it up and flung it further down the table, away from the Chairman, Ms. Downey, Mr. Bernstein, et al.

A third Director, following orders from Ms. Downey, then placed the device on top of a conference speaker, some fifteen or more feet away from where I had originally placed it.

I retrieved the device and brought it back to its original position, stating that I wanted to place the device at the head of the table to make sure that I was able to record the comments of the Chairman and other key officers and personnel during the meeting.

Ms. Downey responded by flinging it away from her, down the table, again. Mr. Fenlon picked the device up, fiddled with it, and flung it even further away, to the evident shock of many people in the room.

When I began to protest, Ms. Downey loudly informed me that since I didn't like the position on the table where she and others insisted that I put the device (away from her), I would not be permitted to put it anywhere on the table.

In no uncertain terms, Ms. Downey prohibited me from placing the device anywhere on the conference table around which the Board members were arranged and told me that I would have to hold it in my hand.

Attorney Bernstein then loudly informed me that there is "no provision in the law that requires a public body to allow me to put the recording device on the table." The law only provided me with permission "to make an audio recording" but did not require anything further from the Cape Light Compact. The Compact was not legally obligated to allow me to put it on the table and they were now officially banning me from doing so. I was instructed to hold it in my hand.

Dumbfounded, I retrieved the audio device (or rather, it was handed to me) and observed that it had actually been *turned off* (presumably by Mr. Fenlon).

I did manage to record the portion of the meeting that I attended but the quality of the recording, though audible, is extremely poor since I was deprived of the opportunity to place it in a more central location.

*My first complaint against Chairman Flynn, Ms. Downey, CLC Board Member, Mr. Fenlon and the Compact Counsel, Mr. Bernstein, is that these four officials of the Compact, with the tacit approval of the entire Governing Board, interfered with my attempts to make a reliable audio recording of the public meeting.*

*No reason was ever given to justify the refusal of Ms. Downey, Mr. Bernstein, et al, to tolerate the placement of a small recording device on the table near the Chairman, key officers and the legal counsel, who were expected to present key reports during the meeting.*

*On the contrary, Ms. Downey and Mr. Bernstein made it clear that no justification was needed, other than their interpretation of the Open Meeting Law to mean that the Cape Light Compact was "not legally obligated" to provide even the most minimal cooperation with my attempt to record the meeting.*

*Equally as troubling is the fact that Mr. Fenlon, in addition to twice flinging the device violently down the table, actually turned the recorder off to prevent me from making an audio record. Had Ms. Downey and her counsel, Mr. Bernstein, not demanded that I take the device off the table, I would never have known that it had been turned off and I would have been prevented from making any recording of the meeting because of the actions of Mr. Fenlon.*

*The combined actions of all the above named parties to interfere with such a simple and reasonable attempt to record the meeting in the most reliable way -- by placing the microphone on the conference table near the Chairman, officers and legal counsel -- were unreasonable, arbitrary and blatantly hostile to the applicable provisions, and the clear intent, of the Open Meeting Law. These actions clearly violated the stipulation in the Open Meeting Law that any member of the public has a right to make an audio or video recording of a public meeting, after informing the Chairman of the fact. And, in fact, the unlawful actions of Downey, Bernstein, Fenlon and Flynn did prevent me from making a reliable audio record of the meeting.*

## **2. Unlawful Refusal to Provide Me with a Printed Copy of the Meeting Exhibits Provided to All Members of the Cape Light Compact and Used By the CLC Board as the Basis for Deliberations During the Meeting**

Prior to the start of the meeting, a Compact staff member handed out printed copies of the meeting exhibits to be used during the meeting to the CLC Board Members who wanted them and to some CLC staff members in attendance.

I asked for a copy of the Meeting Exhibits (which CLC refers to as the "Board Packet") but was refused by the staff member who was distributing them. She told me that she "*would have to check to make sure that there were enough copies*" and that she would get back to me. Of course, she never came back.

After the staff member finished distributing the documents, she deposited the extra copies – approximately 10 to 12 copies of the documents – in full view, on a table about 20 feet from me, where they remained for the duration of the meeting. I never received a copy.

I have attended numerous public meetings of the Cape Light Compact throughout the years, beginning with the meeting of January 12, 2011.

At every meeting that I have attended, I have asked for a printed copy of the meeting exhibits that have been distributed to the CLC Board.

*Without fail, in every single instance – totaling at least a dozen occasions – Ms. Downey, the former Chairman, Mr. William Doherty, or other officials of the Cape Light Compact have refused to provide me with a copy of the materials at the meeting.*

At one meeting, I was told by Ms. Downey that none of the undistributed copies could be provided to me because they *might* be needed for CLC Board members who were absent from the meeting.

At several other meetings, I was informed by Ms. Downey, or by the Chair, that the Cape Light Compact had "*no legal obligation*" to provide me with a copy of the meeting exhibits during the meeting and that if I wanted a copy I should "*file a public records request.*" In each instance, unused printed copies were clearly in evidence – but refused to me.

Many other members of the public have complained about this hostile treatment by the Cape Light Compact, including Mr. Preston Ribnick, as long ago as the summer of 2011, in public testimony to the Barnstable County Assembly of Delegates. Mr. Ribnick's outrage over having suffered such rough treatment, as well as numerous other arbitrary refusals of reasonable requests and other unnecessary indignities perpetrated by the Compact Administrator and the Compact Chairman, is recorded on the video record of various Assembly meetings.

I have personally complained about the refusal of Ms. Downey, et al, to provide members of the public who attend meetings with access to these meeting exhibits, in writing, on several past occasions – to no avail.

Ms. Downey's position, staunchly backed by Mr. Bernstein, has always been that the Cape Light Compact is "not legally obligated" to provide members of the public with copies of the documents used by the Board, during its deliberations. The only proper way to obtain a copy of any document from the Cape Light Compact that is not voluntarily posted to the CLC website, whenever the Compact may decide to post it, according to Ms. Downey, is to file a public records request.

In perhaps the most outrageous example of the naked hostility of Compact officials – especially Ms. Downey – to any such eminently reasonable requests for timely access to such basic public information, Ms. Downey denied my request for a copy of her printed presentation to the *Special Committee of Inquiry on the Cape Light Compact and Cape & Vineyard Electric Cooperative* of the Barnstable County Assembly of Delegates in September of 2011, saying that she did not have any extra copies.

When I asked the Clerk of the Assembly how I might obtain a copy, one of the subcommittee members offered to loan me his copy of the CLC presentation for a few hours so that I could reproduce it – whereupon Ms. Downey admonished this elected representative publicly saying:

*"Why did you give that to him? I would have made him pay for it!"*

Then, after I had received the documents and thanked the Delegate who loaned them to me, Ms. Downey announced to everyone at this public meeting:

*"That just goes to show that if you are willing to break the law, you can get something for nothing."*

Apparently, in Ms. Downey's perverse interpretation of the Open Meeting Law, I was guilty of "*breaking the law*" because I deprived her of an opportunity to whack me with some outrageous "good faith estimate" for the privilege of providing me with a copy of her presentation to a special subcommittee that was formed for the express purpose of investigating complaints of wrongdoing by the TWO agencies that she managed at that time: the Cape Light Compact and the Cape & Vineyard Electric Cooperative!

Ms. Downey was incensed at the idea that any member of the public – especially Mr. Bibler – could get "something for nothing" instead of paying through the nose. The perverse case of Ms. Downey's mind on these matters is fully revealed by the fact that Ms. Downey – the official "Records Custodian" for the Cape Light Compact (and also CVEC, for most of its existence), apparently managed to convince herself that it would be "illegal" for me, or anyone else, to obtain a public document for free!

I am well aware that the Office of the Attorney General – Open Government Division requires that any Open Meeting Law complaints be filed within 30 days of the meeting to be considered “timely” and that the AGO does not investigate, or issue determinations, based upon the fact that a public body has exhibited a pattern of unlawful behavior.

In fact, I now understand –by virtue of the e-mail correspondence from First Assistant Attorney General, Mr. Chris Barry-Smith, to the Compact Counsel, Mr. Jeffrey Bernstein, dated September 15, 2015 that when it comes to the Cape Light Compact, the current Attorney General has elected “not to pursue” various long-standing patterns of “unlawful activities” that have been painstakingly detailed by none other than the Office of the Attorney General!

In other words, so far as the AGO is concerned, the guilt or innocence of the Cape Light Compact in violating the law is apparently *irrelevant*; the only thing that is relevant is that the Attorney General has graciously informed the Cape Light Compact that she has no intention of “pursuing” the Compact for any manner of unlawful activity. See attached the “*Dear Jeff*” e-mail (assumed to be authentic even though there is not AGO letterhead) from Mr. Barry-Smith to Compact Counsel Bernstein dated 9/15/2015.

Nonetheless, I do believe that the context of this documented pattern of hostile and illegal behavior on the part of Compact officials and the CLC counsel should be considered by the AGO Open Government Division in evaluating the instant complaint.

It should be relevant to the Office of the Attorney General that, notwithstanding the Attorney General’s recent effusive declarations of the “common ground” and “mutual concerns” between the Compact and the Attorney General; and also notwithstanding the Cape Light Compact’s evergreen reassurances that it is always striving for “greater transparency”; the fact remains that key officers of the Compact, and their esteemed legal counsel, remain obdurately opposed to any transparency, accountability or constructive engagement with the public, other than on the harsh terms that they prescribe.

*My second Open Meeting Law Complaint is that according to the Open Meeting Law and past determinations by the Office of the Attorney General, it is my understanding that a public body cannot unreasonably deny to a member of the public the privilege of having access to the meeting exhibits that are used by the public body as the basis for its deliberations at the meeting.*

*More specifically, the public body cannot distribute printed meeting exhibits and other materials to the members of the public body for use in their deliberations, during the meeting in question, and then make repeated reference to these materials and also refuse to provide members of the public with access to these public documents.*

*As the AGO Open Government Division can readily appreciate, it is difficult for any member of the public in attendance to understand and follow the substance of the meeting if the members of the Compact Board are referring to specific pages, tables, columns of figures, photographs and so forth in their deliberations.*

*As the AGO Open Government Division can also appreciate, in this example – indeed, as with every single public meeting of the Cape Light Compact that I have ever attended over a period of nearly five years – the refusals of Ms. Downey and/or the Chairman, buttressed by the opinion of the counsel and the tacit agreement of the entire Board, to allow anyone to have access to these meeting exhibits -- even when there are a dozen extra copies sitting on a table in plain view – constitutes a willful, deliberate and nakedly hostile violation of the public transparency laws.*

*Since there is no conceivable justification for Ms. Downey, Chairman Flynn, the Cape Light Compact Counsel or any member of the Governing Board to deny access to this material, especially when it is readily available, this action is clearly a willful and deliberate violation of the spirit and the letter of the Open Meeting Law.*

### **3. Unnecessarily Hostile Reaction of the Cape Light Compact to My Reasonable Attempts, During Scheduled “Public Comment,” to Clarify Why the Compact was Withholding the Board Packet of Meeting Exhibits from Members of the Public, Including If and When the Exhibits Would Be Made Available, and To Clarify the Status of a Key Executive Position**

The first item on the CLC Agenda on this date was the time reserved for “Public Comment.” After Chairman Flynn convened the meeting and asked if there were any comments from members of the public, the Chairman recognized me.

Before I could speak, Mr. Fenlon shouted **“POINT OF ORDER!”** at the top of his lungs and was recognized by the Chair.

This was the same Mr. Fenlon who, moments earlier, had been violently flinging my recording device down the table, and turning it off.

Mr. Fenlon – still shouting – demanded that the public record show that *“Mr. Bibler is not a resident of Massachusetts and may not even own property in Massachusetts!”*

The Chair reassured Mr. Fenlon, saying, *“I think that we are all aware of Mr. Bibler's geography”* and asked me to continue. The Chair did not bother to remind Mr. Fenlon that no one can be excluded from attending a public meeting because of his or her primary address.

I stated that I did not have a public *comment*, per se, but wanted to ask the Chairman to clear up two administrative matters.

First, I said that I had *thought* that the Compact had committed to publishing the “Board Packet” (meeting exhibits) on the Compact’s website for every meeting but noted that the exhibits were had not been published.

Before the Chairman could speak, Ms. Downey loudly interjected that she wanted "to correct for the record" that it was never the custom of the Cape Light Compact to publish the materials *before* the meeting, but on the day *after* the meeting. She stated that the "Board Packet" would be published within 24 hours of the meeting, but not before.

Second, I asked the Chairman to clarify the status of the Compact's Chief Power Supply Planner, Mr. Stephan Wollenburg – a critical employee who spearheads the effort to procure all of the power contracted for the 150,000 to 200,000 ratepayers in the Compact – since: a) the Compact had been running public advertisements to fill his position; and b) since his e-mail address was no longer working.

I noted that it was my understanding that Mr. Wollenburg had been scheduled to terminate his employment at the end of August; and yet the Agenda for the Cape Light Compact indicated that Mr. Wollenburg would make a presentation to the CLC Board on this day and that the CVEC Meeting Agenda (where Mr. Wollenburg is a member of the CVEC Executive Committee) also indicated that he would make a presentation to the CVEC Board on the following day.

Chairman Flynn stated that my simple question went "beyond the scope of public comment" and then simply ignored it without further explanation, moving to the next Agenda item.

*My third complaint is that it was clearly inappropriate for Mr. Fenlon, the CLC Board Member, to treat any member of the public with such belligerence – even the despised Mr. Bibler From Connecticut – especially after the rough and unreasonable treatment that had already been meted out in connection with my simple attempt to make a video recording of the meeting.*

*There is no basis in the Open Meeting Law for making an issue out of the state of one's residence, especially since Cape Cod has an enormous population of seasonal visitors who do not make their primary residence on Cape Cod but who may be keenly interested in the activities of public institutions on Cape Cod, such as the Cape Light Compact.*

*As Mr. Fenlon knows very well, I do have family members on Cape Cod and my wife and her siblings own property there. But the fact of the matter is that this is none of his business, nor is it relevant in any way.*

*Chairman Flynn did not bother to reprimand, or correct, Mr. Fenlon but let his outburst stand.*

*Ms. Downey continued her habitual obstruction against allowing any member of the public to follow the deliberations of the CLC Board, during the conduct of the meeting, by continuing to erect and defend impediments against enabling members of the public to have access to the complicated meeting exhibits to which the Board's discussions often refer (as say, for example, "see page 13 of the packet, column four, line three of the table of figures").*

*According to Ms. Downey, the Cape Light Compact policy – which she enforces rigorously -- is effectively that under no circumstances may any member of the public ever have access to these documents until after the day after meeting.*

*As noted above, Ms. Downey made a point of answering my first question under "Public Comment" by aggressively asserting this inviolable principle.*

*As noted, Chairman Flynn also refused to answer the most basic of all questions concerning the status of a key employee, and a key job vacancy for which the Cape Light Compact had been running employment notices for weeks, if not months.*

*Why should Chairman Flynn peremptorily refuse to address this question – or even have the courtesy to offer a word of explanation as to why it was inappropriate to do so? Instead, Chairman Flynn simply asserted that she didn't have to address the question because it was not a "comment."*

*The responses of Fenlon, Downey and Flynn to my completely reasonable attempts, under the Agenda item of "Public Comment" – which is the portion of the Agenda specifically reserved for communication with members of the public – conveyed an implacable hostility to the very notion of any attempt to understand the basic operations of this "public entity."*

*There can be no question – especially in light of the belligerent obstructions of Downey, Fenlon, Bernstein and Flynn of my attempts to record the meeting; the refusal by CLC to provide access to meeting exhibits during the meeting, even though copies were clearly available; and Mr. Fenlon's outburst implying that my very presence at the meeting was somehow illegitimate -- that the overwhelming objective of all of these Compact officials, including their legal counsel, was to intimidate me, and by extension every member of the public, from taking too close an interest in the public deliberations, or the basic operations, of this so-called "public body."*

*Such tactics of intimidation of the public by the officials entrusted to manage a public body are unlawful and inexcusable.*

### **What Actions Do I Want the Cape Light Compact to Take In Response to this Complaint?**

**The Cape Light Compact should take the following actions in response to this complaint:**

- (1) Apologize to Mr. Bibler for the abusive and illegal actions of Ms. Downey, Mr. Fenlon, Mr. Bernstein and Dr. Flynn

(2) Write a letter to the Office of the Attorney General – Open Government Division assuring the AGO – again – that the management and board members of the Compact will “try to do better” in adhering to the Open Meeting Law.

(3) At all future public meetings of the Compact, provide copies of all meeting exhibits used in the deliberations of Compact officials and board members to any member of the public in attendance at the meeting who requests them, in accordance with the Open Meeting Law.

CLC should also publish copies of the Board Packet of meeting exhibits on the day that the meeting agenda is published (as do many, if not most, Boards of Selectmen on Cape Cod and Martha’s Vineyard).

(4) Adopt the practice of making a video recording of all future public meetings of the Cape Light Compact - - as do the Barnstable County Commissioners, the Barnstable County Assembly and most Boards of Selectmen on Cape Cod and Martha’s Vineyard -- and make this video record of the Compact’s public meetings accessible to members of the public *in real time*, through a live streaming capability, and *on demand* through a link on the Cape Light Compact website.

Please note that the Office of the Attorney General – Open Government Division has previously ruled, in connection with another Open Meeting Law Complaint against the Compact regarding the Compact’s prior refusal to post copies of the Meeting Agenda to the CLC website, that the Compact is a “Regional” public body.

As the CLC Administrator, Chairman, Board members and legal counsel are well aware, from numerous legal filings of the Cape Light Compact, the “Compact” is actually nothing more than a legal construct – an Agreement between 21 member municipalities (town and county governments) on Cape Cod & Martha’s Vineyard. The service area of the Compact thus extends from Falmouth to Provincetown on Cape Cod and to the island of Martha’s Vineyard.

Just as the Attorney General has ruled that it is unreasonable for the Cape Light Compact to expect residents of Provincetown, or Truro, or Aquinnah on Martha’s Vineyard, to make regular pilgrimages to view the bulletin board in the Superior Court House in Barnstable, MA to view the Cape Light Compact “Meeting Notices,” the Cape Light Compact should recognize that it is equally unreasonable to expect members of the public over this far flung territory to be capable of making a regular attendance at meetings of the Compact in Barnstable.

Provincetown is 50 miles from Barnstable. Aquinnah is 60 miles – and a long ferry ride away – from Barnstable. All other organs of Barnstable County (the County Commissioners, the Assembly) regularly provide live streaming video of their meetings, as do most local Boards of Selectmen. There is no excuse for the Compact’s failure to provide such access to all of the Compact’s municipal members and to all members of the public – including the 150,000 to 200,000 ratepayers served by the Compact – through this simple method.

Alternatively, the Cape Light Compact could do the following:

(1) Obtain a letter from the Office of the Attorney General – Open Government Division acknowledging that the Cape Light Compact has violated the Open Meeting Law and abused the interests of the public in all of the ways described by Mr. Bibler in this complaint.

(2) Obtain an additional e-mail communication from First Assistant Attorney General, Mr. Chris Barry-Smith, on behalf of Attorney General Healey, addressed to Compact Counsel Bernstein (a “Dear Jeff” letter), assuring the Cape Light Compact that, notwithstanding the fact that the Office of the Attorney General believes that Compact has broken the Open Meeting Law, the Attorney General has considered the “common

ground” and the “mutual interests” of the Compact and the Attorney General and has “elected not to pursue” the unlawful activity, now, or in the future.

I will go on record as stating that I prefer that the Cape Light Compact not request any additional blanket pardons from the Attorney General, through the First Assistant Attorney General, to allow the Compact to continue these unlawful violations of the Open Meeting Law.

I look forward to your response.

Sincerely,

Eric Bibler

Weston, CT

Cc: CLC Board Members

Cc: CLC Member Municipalities

Cc: Office of the Attorney General – Open Government Division

Cc: Office of the Attorney General – Selective Enforcement Division

Cc: Office of the Inspector General

