

Cape Light Compact

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www.capelightcompact.org

POST OFFICE BOX 427 • BARNSTABLE SUPERIOR COURT HOUSE • BARNSTABLE, MASSACHUSETTS 02630

Cape Light Compact Governing Board Meeting

DATE: Wednesday, September 12, 2012
LOCATION: Rooms 11&12, Superior Courthouse, Barnstable
TIME: 2:00 – 4:30 p.m.

AGENDA

- | | |
|-------------|--|
| 2:00– 2:10 | Public Comment |
| 2:10 – 2:15 | Approval of Minutes |
| 2:15 – 2:25 | Treasurers Report, Peter Cocolis |
| 2:25– 2:45 | Continue Discussion on Engagement of Auditor for Expansion of Previous CLC Audits and Vote on Engagement and Supplemental Budget |
| 2:45 – 3:30 | Energy Efficiency Program Update <ol style="list-style-type: none">1. Annual Report on Energy Efficiency Program Funds and Savings, Phil Moffit2. Potential Vote on Request for Waiver of CLC Cap on Contribution for C&I projects, Meredith Miller3. Discussion and Potential Vote affirming CLC policy for residential energy audits for natural gas customers, Margaret Song4. CLC Fast Facts, Lindsay Henderson |
| 3:30 – 3:45 | Discussion and Potential Vote on Proposed Amendments to CLC Intergovernmental Agreement – Article XVI E, Reports, Maggie Downey |
| 3:45 – 4:00 | Discussion and Potential Vote on CVEC Grants from CLC

Update on Proposed CLC Assembly of Delegates Resolutions |
| 4:00 – 4:15 | Proposed Executive Session Pursuant to MGL Chapter 30A, Section 21(a) 3, pending regulatory litigation.– MA DPU 12-30, Joe Soares |
| | Review and Approval of Executive Session Minutes |
| 4:25 | Other Business from Board Members |

**Cape Light Compact Governing Board
Meeting Minutes
July 11, 2012**

The Governing Board of the Cape Light Compact met in regular session on Wednesday, July 11, 2012 in Rooms 11 & 12, Superior Court House, 3195 Main Street, Barnstable, Mass. 02630

Present were:

William Doherty, Chairman, Barnstable County
Robert Schofield, V. Chairman, Bourne
Peter Cocolis, Treasurer, Chatham
Peter Cabana, Member @ Large, Dukes County
Kenneth Rowell, Orleans
Richard Elkin, Alternate, Wellfleet
Fred Fenlon, Eastham
Barry Worth, Secretary, Harwich
Ronald Zweig, Falmouth
David Anthony, Barnstable
Brad Crowell, Dennis
Tom Mayo, Mashpee
Deane Keuch, Brewster
Peter Fontecchio, Truro
Richard Toole, Oak Bluffs
Joyce Flynn, Yarmouth
Bill Straw, Tisbury
Everett Horn, Sandwich

Absent were:

Timothy Carroll, Chilmark
Michael Hebert, Aquinnah
Tim Twombly, W. Tisbury
Sharon Lynn, Provincetown
Vacant, Edgartown
Maggie Downey, Compact Administrator*

Counsel/Consultants/Media Present

Audrey Eidelman, Esq. Legal Counsel
David Still, Barnstable Patriot

Chris Rogers, Sullivan, Rogers & Company

Staff Present

*Margaret Song, Residential Program Manager
Meredith Miller, C&I Program Manager
Nicole Price, C&I Program Planner
Philip Moffitt, EM&V Analyst
Joseph Soares, Sr. Power Supply Planner
Karen Loura, Administrative Assistant

Briana Kane, Sr. Res. Program Coordinator
Vicki Marchant, C&I Program Analyst
Sarah Miller, C&I Program Intern
Debbie Fitton, Energy Education Coordinator
Matt Dudley, Residential Program Coordinator

Public Present

James Rogers, Sandwich
Patricia & Richard Andres

Preston Ribnick, Wellfleet
Kathy Sherman, Brewster

At 2:00 p.m. Chr. Doherty called the meeting to order. There were no Martha's Vineyard Board Members present. Chairman Doherty read the policy pertaining to videotaping of public meetings and the remote participation policy. Preston Ribnick video-recorded the meeting.

PUBLIC COMMENT:

James Rogers, Sandwich resident, Preston Ribnick, Wellfleet resident and Kathy Sherman Brewster resident each made comments.

SULLIVAN, ROGERS & COMPANY, LLC – BARNSTABLE COUNTY AUDITORS

Chairman Doherty invited Chris Rogers of Sullivan, Rogers & Company LLC, Barnstable County Auditors to start his presentation, delaying consideration of meeting minutes until the arrival of Martha's Vineyard Representation.

C. Rogers, Partner & Co-founder provided his company history, background and experience specializing in government work and municipal utilities. He said Cape Light Compact funds are audited as part of the Barnstable County Audit. Cape Light Compact funds are agency funds which are funds held for the benefit of a 3rd party. Barnstable County is custodial. He provided a bound and printed power-point presentation to the Board. (Attachment A)

Audit Options:

1. Audits of all or certain CLC activities back to the beginning of Cape Light Compact through 12/31/11 and then move forward annually.
2. Audit the appropriateness of certain CLC expenses following specific procedures agreed upon by CLC & SRC.
3. A combination of the above.

C. Rogers recommended audit of EE Funds and mil adder funds from 7/1/2003 – 12/31/2008 and perform procedures to look at the appropriateness of expenditures. Records prior to 2003 have been destroyed pursuant to the Secretary of State Records Retention Rules; followed by full audits of activities for 2009, 2010 & 2011; followed by yearly audits. . Cape Light Compact will only be billed for time incurred. If auditors see that there appears there will be an overage, they will notify CLC in advance.

There was discussion concerning the audits conducted annually by the County and DOER of CLC. C. Rogers explained gaps in DOER audits which do not include financial and statement audits for CLC. He said it would take 3-4 weeks to complete an annual audit. They could start annual audits for years 2009-11 in January 31, 2013 to be completed by June, 2013.

B. Crowell stated he would like it make it clear publically that he would like recommendations on how to do better to ease understanding on the part of the public. All audits include management recommendations and with regard to presentation & communications the Board can decide what and how to communicate for better understanding.

C. Rogers said a forensic audit costs 15 times more for an examination at that level. He said Barnstable County has always met or exceeded as the fiscal agent and done a good job.

P. Cocolis asked if CLC funding of CVEC would be part of the audit. C. Rogers said yes. P. Cocolis said Energy Efficiency Funds are all adjudicated through the State. Cape Light Compact does not decide; if Audit is already done, the state may have problem with Cape Light Compact spending the additional money. C. Rogers said his proposed audit is all encompassing.

The periods audited would follow the calendar years vs. fiscal years.

J. Flynn asked if expense of these audits would increase ratepayer costs. P. Cocolis responded there is enough funding in the Reserve Fund and the Energy Efficiency Funds could cover the costs. He said he thinks this is something that must be done.

B. Straw said should we then question all B. County audits. C. Rogers said Barnstable County audits include activities of CLC showing assets and liabilities but not profit & loss, cash flow, etc. P. Cocolis said if it provides better information, then he is in favor.

B. Doherty said he is looking to remove any negative perception; and members have a responsibility to their appointing authority of transparency and to demonstrate appropriate measures have been met as well as that a good faith effort has been made to look at where we have been and where we are going and to seek opportunities leading to improvements.

R. Zweig asked if this would set a precedent for all agencies within the County. Discussion concerning the Assembly's recommendations of future audits with county funding ensued.

B. Crowell said he does not think the Assembly is concerned except for a handful of people, some of who are present today. It is not a good use of funds and although it may be useful to members to get management suggestions, it is not a value from retrospective exam.

T. Mayo spoke about the perception of a vocal minority and questioned the necessity of an audit. He supports a thorough audit. If the Board is thinking of performing an historical audit, perhaps survey the ratepayers before spending \$150,000 of ratepayers' money. He said if the Board does not vote to audit, it will be open to criticism.

B. Crowell said he understands adding that an audit isn't going to solve the problems being articulated.

D. Anthony said there is a certain cost associated with doing business. An audit is a way to provide assurance to the public. There is a group of public who are not vocal who see the media and one way to address them is to make the audit equally public.

P. Cabana said CVEC was formed to be able to get into renewable energy. In all of his time with CLC no public attended or questioned it. He said there is unfortunately the need to have an audit and it is worth the expense.

J. Flynn agrees with Anthony & Cabana as she looks at it from a public relations viewpoint.

B. Crowell said he would like to bring the matter back to his Board of Selectmen and get their feedback. It is expensive and he would like to ensure their understanding.

R. Schofield said after the 2003-12/11 audit is done, the Board can consider whether or not to go forward.

P. Cocolis read the Assembly's recommendations pertaining to audits. He said CVEC was formed in 2009 and suggested doing both. He said the Chatham Selectmen support an audit.

F. Fenlon said he believes an audit will improve the way CLC operates and will help CLC do better.

P. Fontecchio said that if the public's intent was to distract, it has been successful to that point. Audits are a good thing. It is paying to improve self.

P. Cocolis said despite misrepresentation, often perception becomes the reality and CLC has to respond. An audit will benchmark where we have been; clarify the relationship between CVEC & CLC and provide an opportunity for process improvements. There is no reason to believe audits to date show any lack of diligence on anyone's part. He suggests narrowly focused effort and will respond to questions raised.

P. Cocolis moved that the Board approve proceeding with an audit as provided in the presentation, seconded by J. Flynn. Discussion followed. B. Crowell requested his preference to wait to next meeting to provide members the opportunity to bring the matter back to their towns.

The two-part audit would provide #1 an audit with agreed upon procedures of years 2003-2008 and #2 Full blown audits for 2009, 2010 & 2011 (to begin January 2013).

D. Anthony agreed with Crowell. P. Cocolis indicated it makes sense to go back to Selectmen.

F. Fenlon said by not voting to move forward, it will be perceived as though the Board is stalling.

Agreed upon procedures is not an audit. Procedures are established to conduct an audit (Attestation Procedures).

E. Horn agreed with Crowell & Mayo.

Procedural discussion followed. The next Board meeting is September 12, 2012. R. Schofield moved the Board vote to amend the motion to table the vote to the September 12th meeting, seconded by B. Crowell and voted 13 in favor, 4 opposed and 1 abstention.

CONSIDERATION OF 6/13/12 MEETING MINUTES

T. Mayo moved the Board vote to approve the 6/13/12 Regular Session Meeting Minutes as written, seconded by B. Crowell. The Board then unanimously voted in favor with E. Horn, R. Elkin, K. Rowell and B. Doherty abstaining because they were not present. J. Flynn abstained because she was not present for the entire meeting.

R. Schofield moved the Board vote to approve the 4/19/12 Executive Committee Meeting Minutes, seconded by P. Cabana and voted unanimously in favor.

ENERGY EFFICIENCY PROGRAM UPDATE

1. Energy Education Presentation – D. Fitton, Energy Education Coordinator

Debbie Fitton provided a Power-point presentation to the Board providing an update to the EE activities. Presentation included by reference hereto. D. Fitton also distributed copies of the National Energy Education Development 2012 Annual Report. (Attachment B) B. Crowell requested an electronic copy.

2. 2013-2015 Energy Efficiency Plan Update

- M. Song, Residential Program Manager distributed copies a screen-shot showing how to access the new 444 page 3-year Energy Efficiency Plan Update & the 50-page Supplemental Filing on the Cape Light Compact website available at the following link: <http://www.capelightcompact.org/report/energy-efficiency-plan/>

- **Town Audit Competition**

M. Song also distributed information to update the Board on the Audit Competition Program. (Attachment C)

- **How to Beat the Heat and be energy efficient**

M. Song distributed a colored flyer with energy efficient cooling tips. (Attachment D)

DISCUSSION ON CLC INTERGOVERNMENTAL AGREEMENT – ARTICLE VII, OFFICERS

Chr. Doherty read from the Cape Light Compact Intergovernmental Agreement - Article VII, Officers relative to his response on behalf of the Board to the Assembly of Delegates Special Subcommittee Recommendations.

D. Anthony recognized the challenges of the Chair to balance between personal beliefs and the group as a whole.

P. Cocolis said the Chair represents the CLS and provided a response to an issue which was previously discussed by the Board. At times the chair has to respond timely and the chair represents the board and he has no problem with that. The members represent the Towns and the ratepayers.

B. Crowell commented that unrelated to anything is the potential of the chairman to mistake the opinion of the board. He said we may want to try to short circuit that possibility by amendment within the Bylaws.

D. Anthony stated that with meetings every other month there is less opportunity to convene. He suggested a return to more frequent meetings or we must rely upon the Executive Board to act on our behalf. Frequent meetings make it difficult getting quorums.

R. Zweig agreed and asked about remote participation access. It was noted that a quorum is required within the room and there must be a director from Martha's Vineyard present.

Chr. Doherty invited the membership to express any issues they may have concerning the actions of the Chair on behalf of the Board and hearing none assumes all are comfortable with the actions of the chair and the wording of the bylaw.

Chr. Doherty suggested that meeting frequency be an agenda item.

EXECUTIVE SESSION

P. Cabana moved the Board vote to enter Executive Session pursuant to MGLA Ch30A §21 (a) 3 to discuss imminent litigation from a contractor terminated from the Energy Efficiency Program and to return to open session upon conclusion, seconded by R. Schofield and voted by roll-call unanimously in favor.

At 4:32 p.m. the Board returned to regular open session.

TREASURER'S REPORT

P. Cocolis, Treasurer provided an updated Cape Light Compact Special Revenue Funds and reviewed balances appearing on a report dated as of 6/30/12. (Attachment E).

OTHER BUSINESS

- D. Anthony reported that “Bud” Breault is no longer the Barnstable Alternate Director to Cape Light Compact.
- B. Doherty informed the Board that Briana Kane, Sr. Residential Program Coordinator was his guest on his County Chatter Radio show and was marvelous.

At 4:35 p.m. B. Worth moved the Board vote to adjourn, seconded by J. Flynn and voted unanimously in favor.

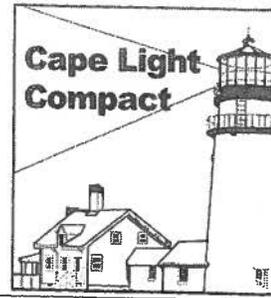
*Margaret Song sat in for Maggie Downey, Administrator.

DRAFT

Cape Light Compact
Special Revenue Funds
as of 8/31/12

Description	Fund 0027 Energy 2012	Fund 2006 Solarize Our Schools	Fund 2161 Energy Audit Grant	Fund 2162 Energy Effic Conserv Block	Fund 8038 Energy Efficiency Reserve Fund	Fund 8046 Power Supply Reserve Fund	Fund 8073 RPS RECs Fund	Fund 8074 CLC Operating Fund	Fund 8075 CLC Green Fund
Fund Balance as of 7/1/12	929,741.39	81,208.66	4,500.00	0.00	106,600.50	1,058,076.70	0.00	60,629.57	127,420.91
Revenues									
SBC Revenues	639,255.00								
RGI Revenues	154,439.56								
FCM Revenues	522,916.31								
EERF Revenues									
Other Income	98.19								
Bank Interest Income									
Energy Audit Grant-Application Fees									
Energy Audit Grant Revenue									
Energy Effic Conserv Block Grant Rev									
Mil Adder Revenue						184,771.28			
Power Supply Reserve Fund REC Revenue									14,614.88
RPS RECs Revenues									
CLC Green Fund Revenue									
CLC Green Fund REC Revenue									
TOTAL REVENUES	1,316,710.06	0.00	0.00	0.00	0.00	184,771.28	0.00	0.00	14,614.88
TOTAL TRANSFERS						(988,920.00)		988,920.00	
TOTAL EXPENDITURES	4,157,964.74	0.00	6,100.00		0.00	139,615.00	0.00	504,538.48	12,471.44
Fund Balance	(1,911,513.29)	81,208.66	(1,600.00)	0.00	106,600.50	114,312.98	0.00	545,011.09	129,564.35

**Agenda Action Request
Cape Light Compact
Meeting Date: 9/12/12**



- 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

Discussion on Engagement of Auditor

REQUESTED BY: *Peter Cocolis, Treasurer*

Proposed Motion(s)

- 1) Moved, that the Board vote to engage Sullivan, Rogers & Company, LLC to perform Agreed-Upon Procedures for the period of July 1, 2003 through December 31, 2008 to specifically test the appropriateness of expenses incurred related to the CLC Energy Efficiency funds and CLC Power Supply Reserve funds.
- 2) Moved that the Board vote to engage Sullivan, Rogers & Company, LLC to review the CLC RFP process for selecting its competitive electric supplier(s) for the period of 2005 through the present, including the decision for appropriateness.
- 3) Moved, that the Board vote to engage Sullivan, Rogers & Company, LLC to perform an Audit of all CLC funds for the years ending December 31, 2009, 2010, 2011.
- 4) Moved, that the Board vote to prepare an Annual Audit of all CLC funds for the year ending December 31, 2012 and thereafter.
- 5) Moved, that the Board vote to appropriate \$90,000 from CLC fund 8038 and \$30,000 from CLC fund 8046 to complete the audit tasks above (Motions 1-3 above).

Additional Information

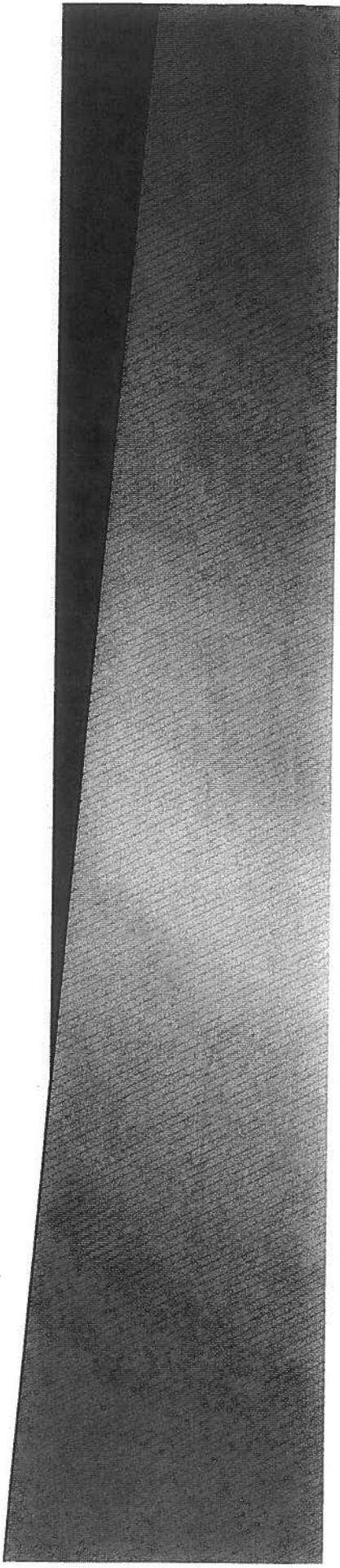
Please see the attached presentation, Cape Light Compact Audit and Attestation Service Options presented by Chris Rogers, CPA, Shareholder at the July 11, 2012 CLC Board meeting.

Record of Board Action

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

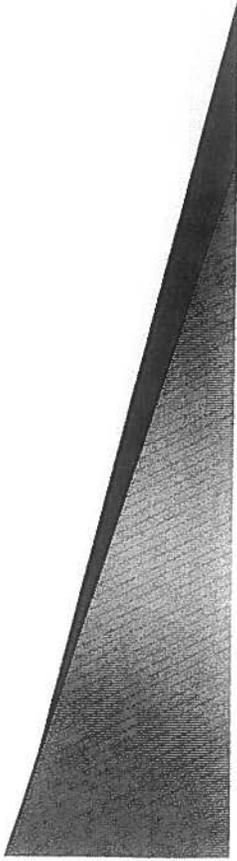
Cape Light Compact Audit and Attestation Service Options

**Presented by: Chris Rogers, CPA, Shareholder
Sullivan, Rogers & Company, LLC**



Agenda

- ▶ Background of Sullivan, Rogers & Company
- ▶ CLC audit and attestation options and recommendations
- ▶ Pricing
- ▶ Timing



Background of SRC

- ▶ Since inception, we have dedicated our practice to providing audit, attestation, compliance and consulting services to Massachusetts governments
- ▶ Some of our audit clients include:
 - Cities of Worcester, Newton, Chelsea and Gloucester
 - Towns of Natick, Winchester, Bourne, Mashpee, Dennis, Eastham and Truro
 - Boston Public Library

Background of SRC

- Barnstable County
- Worcester Redevelopment Authority
- Massachusetts Convention Center Authority
- ▶ Many of our city and town audits include utilities, such as electric, water and/or sewer services
- ▶ Our experience is diversified and well respected in the governmental industry

CLC Audit and Attestation Options

- ▶ Perform audits of all or certain CLC activities from inception and moving forward
- ▶ Perform specific procedures agreed upon by CLC and SRC regarding the appropriateness of certain CLC expenses
- ▶ Perform a combination of the two options identified above

CLC Audit and Attestation Recommendations

- ▶ Agreed-Upon Procedures
 - For the period July 1, 2003 through December 31, 2008, perform procedures to specifically test the appropriateness of expenses incurred related to the following funds
 - Energy Efficiency
 - Power Supply Reserve (Mil-adder)
 - Power Supply Reserve
 - Review the RFP process, including the decision, for appropriateness

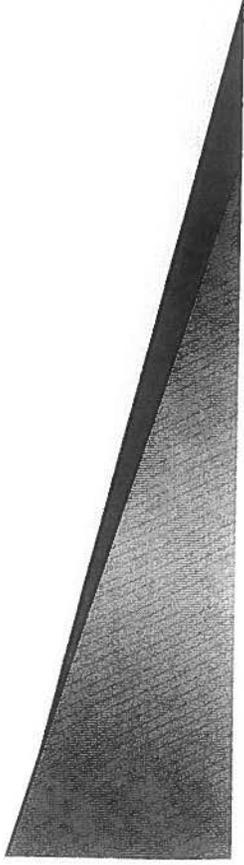
CLC Audit and Attestation Recommendations

- ▶ Audits
 - As of and for the years ending December 31, 2009, 2010, 2011 and thereafter
 - Each year will be issued as a separate audit report

Pricing

- ▶ Agreed-upon procedures
 - 250 – 300 estimated hours (based on preliminary transactional data obtained)
 - Estimated cost \$30,000
 - We will only bill you for actual hours incurred

- ▶ Audits
 - Estimated hours per audit year 250 – 300 hours
 - Estimated cost \$30,000



Timing

- ▶ Agreed-Upon Procedures
 - As soon as possible
- ▶ Audits
 - Begin January 2013
 - All fiscal years' audit reports to be issued by June 30, 2013

**Agenda Action Request
Cape Light Compact
Meeting Date: 09/12/12**



- 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*

WAIVER OF INCENTIVE CAP – CAPE COD HOSPITAL

REQUESTED BY: *Meredith Miller*

Proposed Motion(s)

1) *Moved, that the Board vote to approve the waiver of the \$150k incentive cap for Cape Cod Hospital's Custom Chiller and VSD Project, thereby allowing a total project incentive of \$376,285.*

Additional Information

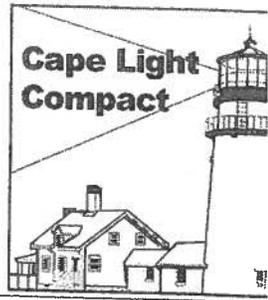
The Cape Light Compact caps its incentive for individual C&I projects at \$150k, with the proviso that the CLC Board may waive that cap as it deems appropriate. The proposed motion is to approve a waiver for one such project for Cape Cod Hospital. The Project facts are summarized as follows:

- *Efficiency Measures: Replacement of 2 existing chillers with energy efficient chillers; installation of VSDs on both new chillers and other remaining chillers.*
- *Total Project Cost: \$967,760*
- *Total Annual kWh savings: 890,388kWh*
- *Total Summer kW Demand savings: 192.3kW*
- *Measure Life: 20 years*
- *Cost Effectiveness: BCR value of 2.58*
- *Total Proposed Incentive: \$376,285*
- *Cost of Savings in \$/kWh: \$0.42*

Record of Board Action

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

**Agenda Action Request
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- Wellfleet*
- West Tisbury*
- Yarmouth*

WAIVER OF INCENTIVE CAP - FALMOUTH HOSPITAL
REQUESTED BY: *Meredith Miller*

Proposed Motion(s)

1) *Moved, that the Board vote to approve exceeding the \$150k incentive cap by \$18,038 for the Falmouth Hospital Custom Chiller New Construction Project, for a total incentive c \$168,038.*

Additional Information

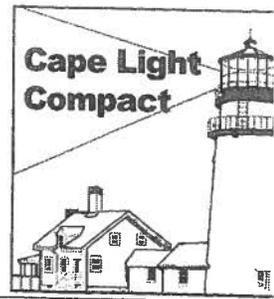
The Cape Light Compact caps its incentive for individual C&I projects at \$150k, with the proviso that the CLC Board may waive that cap as it deems appropriate. The proposed motion is to approve a waiver for one such New Construction project for Falmouth Hospital. The Project facts are summarized as follows:

- *Energy Efficiency Measure: Installation of High Efficiency Chiller*
- *Total Incremental Project Cost to go to high efficiency: \$224,050*
- *Total Annual kWh savings 434,073*
- *Measure Life: 23 years*
- *Cost Effectiveness: BCR of 4.12*
- *Total Proposed Incentive: 75% of incremental cost OR \$168,038*
- *Overall Cost of Savings in \$/kWh: \$0.39*

Record of Board Action

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

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Home Energy Services Availability to all fuels
REQUESTED BY: *Margaret Song*

Proposed Motion(s)

1) *Moved, that the Board vote to offer home energy assessments with their related incentives to all customers regardless of fuel type.*

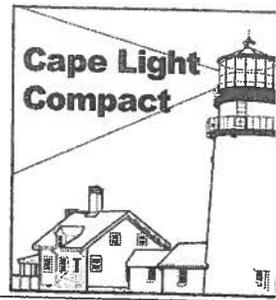
Additional Information

The Cape Light Compact has historically served all residential customers including natural gas customers through the home energy assessment (energy audits) from the Cape Light Compact. Due to the enhanced incentives that the Compact provides as opposed to the rest of the state, the Compact would like the board to affirm that they would like to continue to provide to all customers regardless of fuel type. If the Board wishes to cease providing home energy assessment to natural gas customers, these customers would be served by National Grid and would potentially receive lower incentives than CLC electric customers.

Record of Board Action

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

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**Amendment to Intergovernmental Agreement
REQUESTED BY: Maggie Downey**

Proposed Motion(s)

1) Moved, that the Board vote to amend the existing language in Article XVI, Section E, Reports of the Intergovernmental Agreement such that it reads, as amended:

The Compact shall keep accurate and comprehensive records of services performed, costs incurred, and reimbursements and contributions received. The Compact agrees that it will perform regular audits of such records separate and apart from audits conducted by the Compact's fiscal agent. Periodic financial statements shall be issued to all members. Compact officers responsible for this Agreement, or County officials to the extent treasury or other functions are delegated to them pursuant to Article VII(H) hereof, are to give appropriate performance bonds. To the extent applicable, if at all, any reimbursement for or contribution toward the cost of any work related to this Agreement shall be made at such intervals as provided in the Administrative Services Agreement or other applicable agreements. The Compact will comply with all other applicable provisions of G.L. c. 40, §4A.

The Compact shall also prepare a written annual report, in the format required by the Massachusetts Department of Public Utilities ("DPU") regarding the expenditure of energy efficiency funds for the previous calendar year. Such reports shall be filed with the DPU no later than August 1, unless filing or reporting requirements established by the DPU necessitate a different date, and posted to the Compact's web site within thirty days of submission to the DPU. In addition, the Compact shall periodically prepare written overviews of the Compact's program activities for each member for inclusion in its individual town annual reports.

Additional Information

Please see the attached redlined IGA, Article XVI, Section E and clean version of complete IGA.

Record of Board Action

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

E. Reports; Compliance with G.L. c. 40, §4A.

[NOTE TO READERS: This is the applicable provision of G.L. c. 40, §4A:

All agreements put into effect under this section shall provide sufficient financial safeguards for all participants, including, but not limited to: accurate and comprehensive records of services performed, costs incurred, and reimbursements and contributions received; the performance of regular audits of such records; and provisions for officers responsible for the agreement to give appropriate performance bonds. The agreement shall also require that periodic financial statements be issued to all participants.

The Compact shall prepare an annual report which shall be provided, without charge, to each of its members no later than sixty days after the close of its fiscal year.—The Compact shall keep accurate and comprehensive records of services performed, costs incurred, and reimbursements and contributions received. The Compact agrees that it will perform regular audits of such records separate and apart from audits conducted by the Compact's fiscal agent. - Periodic financial statements shall be issued to all members. Compact officers responsible for this Agreement, or County officials to the extent treasury or other functions are delegated to them pursuant to Article VII(H) hereof, are to give appropriate performance bonds.- To the extent applicable, if at all, any reimbursement for or contribution toward the cost of any work related to this Agreement shall be made at such intervals as provided in the Administrative Services Agreement or other applicable agreements. The Compact will comply with all other applicable provisions of G.L. c. 40, §4A.

The Compact shall also prepare a written annual report, in the format required by the Massachusetts Department of Public Utilities ("DPU") regarding the expenditure of energy efficiency funds for the previous calendar year. Such reports shall be filed with the DPU no later than August 1, unless filing or reporting requirements established by the DPU necessitate a different date, and posted to the Compact's web site within thirty days of submission to the DPU. In addition, the Compact shall periodically prepare written overviews of the Compact's program activities for each member for inclusion in its individual town annual reports.

**FIFTH AMENDED AND RESTATED
INTER-GOVERNMENTAL AGREEMENT
OF THE
CAPE LIGHT COMPACT
(September 12, 2012)**

This Fifth Amended and Restated Inter-Governmental Agreement (“Agreement”) is dated as of September xx, 2012 and is entered into by and between the County of Barnstable, County of Dukes County and the municipalities legally joining therein, pursuant to the authority of Massachusetts General Laws Chapter 40, §4A.

WHEREAS, the Massachusetts Restructuring Act of 1997 (the “Act”) was enacted during a period where Federal Law allowed for the restructuring of existing electric utilities into separate generation, transmission and distribution companies and, accordingly, the Act set forth a framework for the competitive supply of electric generation service to Massachusetts electric customers and allowed electric customers to choose their electric power supplier; and

WHEREAS, the Cape Light Compact (“Compact”) was entered into with the County of Barnstable, County of Dukes County and the municipalities legally joining therein, pursuant to the authority of Massachusetts General Laws Chapter 40, §4A, through an original Inter-Governmental Agreement effective as of October, 1997; and

WHEREAS, the County of Barnstable, County of Dukes County and the municipalities legally joining therein, amended the original Inter-Governmental Agreement in June, 1999, September, 2006, November, 2010, February, 2011 and April 11, 2012; and

WHEREAS, the Compact recognizes that local governments have a substantial stake in the restructuring of the Massachusetts electric industry and that local governments represent community interests and provide a “natural aggregator” function through which consumers may gain greater benefits and terms in contracts; and

WHEREAS, under the authority of G.L. c. 164, §134, G.L. c. 25A, §6 and pursuant to the original Inter-Governmental Agreement, adopted October, 1997 and amended June, 1999 and again in September, 2006, the Compact developed a Municipal Aggregation Plan, setting forth the structure, operations, services, funding and policies of the Compact in order to negotiate the best rates for the supply and distribution of electricity and to advance consumer protection and interests for the residents of Cape Cod and Martha’s Vineyard; and

WHEREAS, the Compact currently operates a municipal aggregation competitive supply program which provides electric power supply on an opt-out basis to customers across all customer classes located on Cape Cod and Martha’s Vineyard and the Compact also provides

comprehensive energy efficiency services to Cape Cod and Martha's Vineyard through the Cape Light Compact Energy Efficiency Plan; and

WHEREAS, the Green Communities Act, St. 2008, c. 169, provided expanded authority to municipalities and other governmental entities to pursue energy efficiency, renewable energy development and other related activities; and

WHEREAS, the Compact continues to explore all available options for providing its customers with the best electrical supply and distribution rates and demand side management and renewable programs.

NOW THEREFORE, in consideration of the foregoing, and in order to reflect the current policies and purposes of the Compact, the County of Barnstable, the County of Dukes County and the municipalities legally joining therein hereby enter into this Agreement.

ARTICLE I: POLICY AND PURPOSE

The Compact's goals include, without limitation, the following:

- ∅ To provide the basis for aggregation of all consumers on a non-discriminatory basis;
- ∅ To negotiate the best terms and conditions for electricity supply and transparent pricing;
- ∅ To explore all available options for negotiating the best terms and conditions for electricity supply and the development of renewable energy resources, including, without limitation, the formation of and/or membership in a co-operative organization to purchase or produce energy or renewable energy certificates ("RECs") or both on a long-term, basis;
- ∅ To provide equal sharing of economic savings based on current electric rates and/or cost-of-service ratemaking approved by the Department of Public Utilities, or its successor;
- ∅ To provide and enhance consumer protection and options for service under contract provisions and to allow those consumers who choose not to participate to opt-out;
- ∅ To improve quality of service and reliability;
- ∅ To encourage environmental protection through contract provisions;
- ∅ To utilize and encourage renewable energy development to the extent practicable

through contract provisions, demonstration projects and state mandated system benefit charges for renewable energy;

- ∅ To utilize and encourage demand side management and other forms of energy efficiency through contract provisions and state mandated system benefit charges for renewable energy and to use the funds from such charges to advance consumer awareness and adoption of a wide variety of energy efficiency measures through the implementation of an energy efficiency plan;
- ∅ To advance specific community goals that may be selected from time to time, such as placing utility wires underground;
- ∅ To provide full public accountability to consumers; and
- ∅ To utilize municipal and other powers and authorities that constitute basic consumer protection to achieve these goals.

ARTICLE II: POWERS OF THE COMPACT

The Compact shall have the following powers:

- a) to plan projects;
- b) to implement projects and/or conduct research;
- c) to negotiate contracts and other agreements, provided, however, that any contract for the purchase of electric power supplies, distribution, transmission or metering, billing and information services or related to any of the foregoing, shall not impose direct financial obligations on any member municipality or county (except for *de minimis* impacts by virtue of such member's participation in the Compact) until approved by such individual member municipality or county, as the case may be;
- d) to adopt an annual budget and to direct the expenditure of funds made available to the Compact by grant or contribution from public and private sector entities, or on account of any contract negotiated or administered by the Compact;
- e) to acquire property by gift, purchase or lease;
- f) to construct equipment and facilities;
- g) to apply for and receive grants, contributions and other such financial assistance from public and private sector entities or to receive amounts derived as a portion of the savings on, or as a surcharge, dedicated mills/kilowatt hour fee or other such charge as part of any electric energy purchase or similar contract negotiated and/or

administered by the Compact and, as required herein, agreed to by each member municipality or county to be financially bound thereby;

- h) to apply for and receive funds derived from the state mandated system benefit charges and to use such funds in accordance with state law;
- i) to employ staff, consultants, attorneys, technical advisors and independent contractors;
- j) to adopt bylaws to govern its internal affairs;
- k) to reimburse persons who have advanced funds;
- l) to enforce agreements or otherwise prosecute claims on behalf of member municipalities and counties and coordinate their defense in any claim made against them relating to any agreement or other matter related to the Compact;
- m) to invest funds;
- n) to procure insurance;
- o) to obtain project-related financing through any mechanism such as the federal Clean Renewable Energy Bond program, and other financing options;
- p) to contract with an agent, including, without limitation, a regional government, to manage or accomplish any of its functions or objectives;
- q) to enter into agreements with state, quasi-state, county and municipal agencies; cooperatives and private entities, all as is convenient or necessary to manage or accomplish any of the Compact's functions or objectives; and
- r) to perform generally all acts which are necessary or convenient to implement the powers which are expressly or by necessary implication conferred upon the Compact and are not otherwise prohibited under any other provision of law.

ARTICLE III: GOVERNING BOARD

A. Powers of the Community Representatives.

The Compact shall have a board of community representatives (hereafter a "Representative" or the "Representatives," as the case may be and collectively the "Governing Board") who shall be responsible for the general management and supervision of the business and affairs of the Compact except with respect to those powers reserved to the member municipalities or counties of the Compact by law or this Agreement. The Governing Board may

from time to time, to the extent permitted by law, delegate any of its powers to committees, subject to such limitations as the Governing Board may impose. The Governing Board may delegate to the Executive Committee the powers to act for the Governing Board between regular, annual or special meetings of the board. The Governing Board may designate persons or groups of persons as sponsors, benefactors, contributors, advisors or friends of the Compact or such other title as they may deem appropriate and as is consistent with applicable law.

B. Number, Qualifications and Term of Office.

The Governing Board shall consist of one Representative for each member municipality and one County Commissioner appointed by the Barnstable County Board of Commissioners and one Representative appointed by the Dukes County Board of Commissioners, and alternates therefor, in case any such Representative shall be unable to attend a meeting or otherwise participate in any matter regarding the Compact. In the absence of a Representative, his/her alternate shall be entitled to vote and otherwise exercise all of the powers of such Representative. The Representatives, and alternates, shall be selected by the Selectmen or Town Manager, as the case may be, for each member municipality. In the case of the County Representatives, such Representatives and his/her alternates shall be selected by the Board of Commissioners. Except as hereinafter provided, the Representatives (and alternates) shall hold office until the next selection of Representatives (and alternates) by each such member municipality or county and until his/her successor is selected.

C. Executive Committee.

There shall be an Executive Committee composed of no less than five (5) Representatives, at least one of whom shall be a Representative from Dukes County or a member town of Dukes County. The Executive Committee shall be selected by majority vote of all of the Representatives.

D. Manner of Acting and Quorum.

Provided there is a quorum present at the meeting, and except as specified elsewhere herein, the Governing Board shall act by vote of a majority of the Representatives present at the time of the vote. Unless altered by the Governing Board in accordance with this Agreement, each member municipality and county shall be entitled to select one Representative whose vote shall be equal in weight to the Representative of any other member municipality and county, except as expressly set forth in the succeeding paragraphs. Representatives may participate in meetings remotely in accordance with the regulations of the Office of the Attorney General governing remote participation, 940 C.M.R. 29.10. A quorum shall be deemed present if the combined population of the towns whose Representatives are present at a meeting is at least equal to 50% of the combined population of all of the member municipalities of the Compact; and provided further, that at least one Representative from one of the Towns in Dukes County or Dukes County and at least two-thirds of the Representatives for Barnstable County and the member municipalities of Barnstable County are physically present or participating remotely in

accordance with 940 C.M.R. 29.10. In accordance with 940 C.M.R. 29.10 and the Open Meeting Law, M.G.L. c. 30A, §§ 18-25, a simple majority of the members of the public body must be physically present. While a quorum is present, unless another provision is made by law, this Agreement or by the Compact's own rules, all business shall be determined by a majority vote of all participating members.

Notwithstanding the foregoing, any vote involving a matter concerning issues which would or could bear in a direct and material fashion on the financial interests of the member municipalities shall be taken by a weighted vote in which the vote of each Representative shall be weighted in the same proportion as the population of the municipality such Representative represents bears to the whole population of the member municipalities of the Compact, such population as determined, in the case of Barnstable County, by the most recent federal census, or decennial census, and, in the case of Dukes County, by the most recent data available from the Martha's Vineyard Commission. In case of a dispute as to whether a vote shall be taken on a weighted basis as set forth in this paragraph or on a one town, one vote basis as set forth in the preceding paragraph of this subsection, the determination shall be made by weighted vote as set forth herein.

In taking any vote required to be taken by weighted vote hereunder, the votes of Barnstable County and Dukes County shall be tabulated last, with each county's Representative having one equal vote, and the vote of said counties may break a tie; otherwise the counties' votes shall not be accorded any percentage weight but shall be recorded nonetheless.

E. Rules and Minutes.

The Governing Board shall determine its own rules and order of business, unless otherwise provided by the Compact or statute or this Agreement. The Governing Board shall also provide for the keeping of minutes of its proceedings. All regular and Executive Committee meeting announcements shall be sent to all members of the Governing Board.

F. Voting.

If requested by any Representative, a vote of the body shall be taken by a roll call and the vote of each Representative shall be recorded in the minutes, provided, however, if any vote is unanimous only that fact need be recorded.

G. Resignation and Removal.

1. Resignation.

Any Representative (or alternate) may resign at any time upon written notice to the remaining Governing Board. A Representative may resign from the Executive Committee and still keep his or her position as a Representative. The resignation of any Representative (or

alternate) or resignation from the Executive Committee shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

2. Removal.

Any Representative (or alternate) may be removed at any time with or without cause by their appointing authority. The Governing Board may remove a Representative from the Executive Committee or the Governing Board only with good cause.

H. Vacancies.

1. Vacancies on the Governing Board.

Continuing Representatives may act despite a vacancy in the Governing Board and shall for this purpose be deemed to constitute the full board. A vacancy in the Governing Board of a Representative shall be promptly filled, but in no case more than sixty days thereafter, by the appointing authority of the member municipality or county which originally selected such Representative. Each Representative chosen to fill a vacancy on the Governing Board shall hold office until the next annual selection of the Representatives and until his/her successor shall be appointed and qualify. Insofar as there is no Representative then in office representing a member municipality or county, the alternate shall act in his/her stead.

2. Vacancies on the Executive Committee.

Vacancies on the Executive Committee shall be filled in the same manner as the position was originally filled.

3. No Right to Compensation.

Unless the Governing Board in its discretion provides for compensation, no Representative or alternate resigning, and (except where a right to receive compensation shall be expressly provided in a duly authorized written agreement with the Compact) no Representative or alternate removed, shall have any right to any compensation as such Representative or alternate for any period following his/her resignation or removal, or any right to damages on account of such removal, whether his/her compensation be by the month or by the year or otherwise.

ARTICLE IV: MEETINGS OF THE GOVERNING BOARD

A. Place.

Meetings of the Governing Board, including meetings of the Executive Committee, shall be held at such place within Barnstable County or Dukes County as may be named in the notice

of such meeting.

B. Annual and Regular Meetings.

The annual meeting of the Governing Board shall be held each year on the second Wednesday of September. In the event the annual meeting is not held on such date, a special meeting in lieu of the annual meeting may be held with all the force and effect of an annual meeting. Regular meetings may be held at such times as the Governing Board may fix but no less frequently than quarterly.

C. Special Meetings.

Special meetings of the Governing Board may be called by the chairman or any other officer or Representative at other times throughout the year.

D. Notice.

In addition to the personal notice to Representatives set forth in Article III(E), public notice of any regular or annual meeting shall be made in compliance with the Open Meeting Law and other applicable law. Forty-eight hours' notice to Representatives by mail, telegraph, telephone or word of mouth shall be given for a special meeting unless shorter notice is adequate under the circumstances, provided, however, that public notice of such special meeting has been made in compliance with applicable law. A notice or waiver of notice need not specify the purpose of any special meeting. Personal notice of a meeting need not be given to any Representative if a written waiver of notice, executed by him or her before or after the meeting, is filed with the records of the meeting, or to any Representative who attends the meeting without protesting prior thereto or at its commencement the lack of notice to him or her.

E. Vote of Interested Representatives.

A Representative who is a member, stockholder, trustee, director, officer or employee of any firm, corporation or association with which the Compact contemplates contracting or transacting business shall disclose his or her relationship or interest to the other Representatives acting upon or in reference to such contract or transaction. No Representative so interested shall vote on such contract or transaction, but he or she may be counted for the purpose of determining a quorum. The affirmative vote of a majority of the disinterested Representatives as set forth in Article III(D) hereof shall be required before the Compact may enter into such contract or transaction.

In case the Compact enters into a contract or transacts business with any firm, corporation or association of which one or more of its Representatives is a member, stockholder, trustee, director, officer, or employee, such contract or transaction shall not be invalidated or in any way affected by the fact that such Representative or Representatives have or may have interests therein which are or might be adverse to the interests of the Compact. No Representative or

Representatives having disclosed such adverse interest shall be liable to the Compact or to any creditor of the Compact or to any other person for any loss incurred by it under or by reason of any such contract or transaction, nor shall any such Representative or Representatives be accountable for any gains or profits to be realized thereon.

Nothing contained herein shall affect the compliance of any Representative or the Governing Board or the Compact with G.L. c. 268A, as set forth in Article VI, below.

ARTICLE V: OPEN MEETING LAW; EXECUTIVE SESSIONS

The meetings of the Governing Board are subject to the Massachusetts law governing open meetings of governmental bodies and governmental boards and commissions, including the Open Meeting Law. The Governing Board is therefore required to maintain accurate records of its meetings, setting forth the date, time, place, members present or absent and action taken at each meeting, including executive sessions.

In accordance with the Open Meeting Law, the Governing Board may hold an executive session after an open meeting has been convened and a recorded vote has been taken to hold an executive session. Executive sessions may be held only for the purposes specifically enumerated in the Open Meeting Law, including, but not limited to, to discuss energy-related trade secrets or confidential information.

Matters discussed in executive sessions of the Governing Board must be treated as confidential. A violation of confidentiality may lead to disciplinary action as established by the Governing Board, including removal of a Representative in accordance with Article III(G)(2).

ARTICLE VI: G.L. c. 268A

The Governing Board, as it consists of county and municipal representatives is subject to the provisions of the Massachusetts Conflict of Interest Law, G.L. c. 268A, and shall act at all times in conformity therewith. Public employees who work for two or more public entities may find that each agency has an interest in a particular matter. Compact employees or Representatives may be asked to work on matters for the Compact and the Compact's affiliated organization, the Cape & Vineyard Electric Cooperative, Inc. (the "Cooperative"). In order to help employees and Representatives identify and properly address potential conflicts under the Conflict of Interest Law, employees and Representatives should consider the following: (i) the Cooperative's founding purpose is to develop renewable energy projects and otherwise procure generation and generation-related products (i.e., RECs); (ii) the Compact is a municipal aggregator and serves the complementary purposes of arranging for retail power supply, consumer advocacy and energy efficiency; (iii) the Cooperative seeks to finance and develop such projects and to provide generation to its members and the Compact (to be blended with its retail power supply); and (iv) the Compact is a member of the Cooperative and the Compact intends to purchase generation from the Cooperative and participate in projects developed by the Cooperative. Any employee or Representative may request free legal advice from the State

Ethics Commission about how the Conflict of Interest Law applies to them in a particular situation. This process is explained at <http://www.mass.gov/ethics/commission-services/request-advice.html>.

ARTICLE VII: OFFICERS

A. Election.

At its first meeting of the calendar year, the Governing Board shall elect a chairman, vice chairman, treasurer, secretary and officer at large and such other officers as the Governing Board shall determine. The term of office for those so elected shall be one year and until their respective successors are elected and qualified. Notwithstanding the foregoing, all officers must be a Representative and, upon selection of a successor Representative by such officer's appointing municipality or county, such officer shall immediately tender notice thereof to the Compact and the Governing Board shall select a replacement among the various Representatives for the remaining term of such officer.

B. Qualifications.

Two or more offices may be held by the same person, except the offices of chairman and secretary.

C. Vacancies.

Any vacancy occurring among the officers, however caused, may be filled by the Governing Board, from among the Representatives for the unexpired portion of the term.

D. Removal and Resignation of Officers.

1. Removal.

Any officer of the Compact may be removed from their respective offices with or without cause by resolution adopted by a majority of the Representatives then in office at any annual or special meeting of the Governing Board or by a written consent by all of the Representatives then in office.

2. Resignation.

Any officer may resign at any time by giving his or her resignation in writing to the chairman, treasurer, secretary or any other officer or Representative of the Compact. An officer may resign as officer without resigning from other positions in the Compact, including positions on the Executive Committee or as Representative.

E. Sponsors, Benefactors, Contributors, Advisors, Friends of the Compact.

Persons or groups of persons designated by the Governing Board as sponsor, benefactor, contributor, advisor or friend of the Compact or such other title as the Governing Board deems appropriate shall, except as the Governing Board shall otherwise determine, serve in an honorary capacity. In such capacity they shall have no right to notice of or to vote at any meeting, shall not be considered for purposes of establishing a quorum and shall have no other rights or responsibilities.

F. Chairman.

The chairman shall be chief executive officer of the Compact and, subject to the control of the Governing Board, shall in general supervise and control all of the business and affairs of the Compact. The chairman shall preside at all meetings at which he or she is present. Unless otherwise directed by the Governing Board, all other officers shall be subject to the authority and supervision of the chairman. The chairman also shall have such other powers and duties as customarily belong to the office of chairman or as may be designated from time to time by the Governing Board.

G. Vice Chairman.

The vice chairman shall assist the chairman and preside at meetings at which the chairman is not present. The vice chairman also shall have such other powers and duties as customarily belong to the office of vice chairman or as may be designated from time to time by the Governing Board.

H. Treasurer.

The treasurer shall be the chief financial officer of the Compact and shall have such powers and duties as customarily belong to the office of treasurer or as may be designated from time to time by the chairman or the Governing Board. The roles and responsibilities of the treasurer may be delegated or expanded. Pursuant to the Administrative Services Agreement between the Compact and Barnstable County, as such agreement may be amended from time to time, the County is the designated agent and fulfills the administrative role for the Compact.

I. Secretary.

The secretary shall arrange for the recording, consistent with applicable law, of all proceedings of the Governing Board, Executive Committee and any other such committee in a book or books to be kept therefor, shall have custody of the seal of the Compact, and have such powers and duties as customarily belong to the office of clerk or secretary or as may be designated from time to time by the chairman or the Governing Board.

J. Other Officers.

The Governing Board shall have legal counsel for the Compact. The Compact's legal counsel may jointly represent the Compact's members or affiliates in accordance with a bylaw adopted by the Compact pursuant to Article II(j).

The Compact shall designate a Chief Procurement Officer, whose role, in accordance with G.L. c. 30B and other applicable provisions of law, shall be to select proposals for and facilitate the award of contracts on behalf of the Compact, with input from members of the Governing Board, Compact staff, counsel and others, as such Chief Procurement Officer sees fit. Notwithstanding the foregoing, the Governing Board may determine that the Compact, as long as consistent with applicable law, will select proposals and award contracts in another manner.

Other officers shall have such powers as may be designated from time to time by the Governing Board.

ARTICLE VIII: BUDGET; MAXIMUM FINANCIAL LIABILITY OF THE MEMBER MUNICIPALITIES AND COUNTIES

The Compact, when appropriate, shall adopt an annual budget and direct the expenditure of funds in accordance with applicable law.

This Agreement is not intended to impose any independent financial liabilities on the members. Each member shall remain responsible for its own debts and other financial liabilities, except as specifically provided herein.

ARTICLE IX: COOPERATION

The member municipalities, Dukes County and Barnstable County agree to act in good faith and use their best efforts to effectuate the intent and purpose of this Agreement. All parties to this Agreement shall cooperate to the fullest extent possible.

ARTICLE X: ELECTRICITY AND OTHER AGREEMENTS

Pursuant to this Agreement, member municipalities, Barnstable County, Dukes County, and private consumers may enter into contracts for the distribution, transmission and/or supply of electricity, for the purchase of energy and RECs, and for project financing in support thereof, provided, however, that any contract for the purchase of electric power supplies, distribution, transmission or metering, billing and information services or related to any of the foregoing, shall not impose direct financial obligations on any member municipality or county (except for *de minimis* impacts by virtue of such member's participation in the Compact) until approved by such individual member municipality or county, as the case may be, and further, that any contract shall indemnify and hold harmless the Compact and its members from any financial liability or provide commercially reasonable indemnification with respect to the provision of such products

or services.

ARTICLE XI: OTHER APPLICABLE LAWS

Nothing in this Agreement or in any negotiated contract for the supply of electricity shall be construed to supersede, alter or otherwise impair any obligation imposed on any municipality or county by otherwise applicable law.

ARTICLE XII: INDEMNIFICATION OF REPRESENTATIVES AND ALTERNATES

Each member of the Compact shall, to the extent legally permissible, indemnify the person(s) each such member chooses as set forth in Article III(A) to serve as a Representative for their service on the Governing Board and/or as a member of the Executive Committee and/or as an officer or who has served at any time as a Representative or officer or Executive Committee member of the Compact. All contracts negotiated or undertaken by the Compact shall also include, to the maximum extent feasible, indemnification of the Representatives and the participating members.

ARTICLE XIII: AMENDMENT

This Agreement may be altered, amended, or repealed, in whole or in part, by the affirmative vote of Representatives of municipalities whose population is at least equal to 50% of the combined population of all of the member municipalities of the Compact; provided that at least two-thirds of the Representatives from all of Barnstable County vote in the affirmative; and further provided that at least one Representative from all of Dukes County also votes in the affirmative.

ARTICLE XIV: TERM AND WITHDRAWAL

Each member shall take such action as required under G.L. c. 40, §4A to make this Agreement effective. This Agreement shall be effective as of the date that the last of the members signs below, and shall continue in effect for a term not to exceed twenty-five years. At the conclusion of the term, taking into account any changed circumstances, the members shall in good faith negotiate a replacement intergovernmental agreement.

Any governmental member may voluntarily withdraw from the Compact at the end of each quarter of the fiscal year (i.e. June 30th, September 30th, December 31st, March 31st), upon thirty days prior written notice. Withdrawal of such member shall not affect any obligations entered into prior to the date of withdrawal which are binding by their terms on such member, including, without limitation, contracts directly entered into by such member and financial contributions to the Compact made or agreed to be made by such member.

If the purposes of the Compact are attained, or for any other reason duly voted upon by the Governing Board, the Compact may dissolve. Upon dissolution, an accounting of the assets

owned by the Compact shall be performed and sold. The proceeds of the sale shall be distributed equitably to the then remaining members of the Compact according to their percent contribution.

ARTICLE XV: CONSTRUCTION AND SEVERABILITY

This Agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Agreement shall be severable and if any phrase, clause, sentence or provision of this Agreement is declared to be contrary to the constitution of any Massachusetts or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Agreement shall be held contrary to the constitution or General Laws of Massachusetts, the Compact shall remain in full force and effect as to all severable matters.

ARTICLE XVI: MISCELLANEOUS

A. Principal Office.

The principal office of the Compact shall be located at the Barnstable County Commissioners' Office, P.O. Box 427, Barnstable, MA 02630. The Governing Board may change the location of the principal office in accordance with Article III.

B. Compact Records.

The original, or attested copies, of this Agreement and records of all meetings of the Governing Board and members shall be kept in Massachusetts at the principal office of the Compact. Said copies and records need not all be kept in the same office. They shall be available at all reasonable times for the inspection of any member or Representative for any proper purpose and as required by law. The records of the Compact shall be subject to the Massachusetts Public Records Act, G.L. c. 66, and shall be deemed public records, unless such records fall within the exemptions set forth in G.L. c. 4, §7, including exemptions for development of inter-agency policy and trade secrets or commercial or financial information.

C. Fiscal Year.

The fiscal year of the Compact shall begin on July 1st and end on June 30th, e.g. the same fiscal year as established by the General Laws for cities and towns in the Commonwealth.

D. Seal.

The seal of the Compact shall be a circular die with the name of the Compact around the periphery and the year and the date of establishment within.

E. Reports; Compliance with G.L. c. 40, §4A.

The Compact shall keep accurate and comprehensive records of services performed, costs incurred, and reimbursements and contributions received. The Compact agrees that it will perform regular audits of such records separate and apart from audits conducted by the Compact's fiscal agent. Periodic financial statements shall be issued to all members. Compact officers responsible for this Agreement, or County officials to the extent treasury or other functions are delegated to them pursuant to Article VII(H) hereof, are to give appropriate performance bonds. To the extent applicable, if at all, any reimbursement for or contribution toward the cost of any work related to this Agreement shall be made at such intervals as provided in the Administrative Services Agreement or other applicable agreements. The Compact will comply with all other applicable provisions of G.L. c. 40, §4A.

The Compact shall also prepare a written annual report, in the format required by the Massachusetts Department of Public Utilities ("DPU") regarding the expenditure of energy efficiency funds for the previous calendar year. Such reports shall be filed with the DPU no later than August 1, unless filing or reporting requirements established by the DPU necessitate a different date, and posted to the Compact's web site within thirty days of submission to the DPU. In addition, the Compact shall periodically prepare written overviews of the Compact's program activities for each member for inclusion in its individual town annual reports.

F. Multiple Originals.

This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. In addition, this Agreement may contain more than one counterpart of the signature page and all of such signature pages shall be read as though one and shall have the same force and effect as though all of the parties had executed a single signature page.

G. No Partnership or Joint Venture in Contracts with Third Parties; Limitation of Responsibility.

In carrying out its purposes as described herein, and in entry into any third party contract for the purchase of electric power supplies, distribution, transmission or metering, billing and information services or related to any of the foregoing, neither the Compact nor any of its members shall be a partner or joint venturer with any third party. The relationship between the Compact (and/or its members) on the one hand and the other party(ies) to such contract on the other hand shall be that of buyer and seller or agent for the buyer and seller, as the case may be. Nothing therein contained shall be deemed to constitute the Compact (and/or its members) as a partner, agent or legal representative of any third party or to create a joint venture, agency or any relationship between the Compact (and/or its members) and any third party other than that of buyer and seller or agent for the buyer and seller, as the case may be. The Compact and its members have no responsibility to supply, distribute, transmit, meter, bill or otherwise provide electricity to any consumer and none is implied hereby or thereby. Nothing in this Article XVI(G) shall be construed as prohibiting the Compact from entering into a partnership or joint venture relationship with any organization in which it has a membership interest or affiliation, including the Cooperative.

H. Appendix.

The bylaws of the Compact shall be set forth in an appendix to this Agreement. The Compact's administrator may update and replace such appendix each time such bylaws are duly amended by the Governing Board without the necessity of further Governing Board approval.

AUTHORIZED AND AGREED TO BY:

Town of Barnstable

Town of Bourne

Town of Brewster

Town of Chatham

Town of Dennis

Town of Eastham

Town of Falmouth

Town of Harwich

Town of Mashpee

Town of Orleans

Town of Provincetown

Town of Sandwich

Town of Truro

Town of Wellfleet

Town of Yarmouth

Barnstable County

Town of Aquinnah

Town of Chilmark

Town of Edgartown

Town of Oak Bluffs

Town of Tisbury

Town of West Tisbury

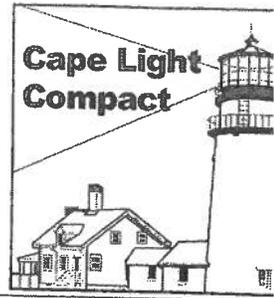
County of Dukes County

**BYLAWS
OF
CAPE LIGHT COMPACT
Adopted March 25, 2009**

**Bylaw 1. *Shared Legal Representation Involving Members or Other Public Entities;
Official Duties of Compact Counsel.***

The purpose of this bylaw is to allow the Compact from time to time to retain counsel who may also represent its Members or other public entities in matters in which the Compact has a direct or substantial interest without violating G.L. c. 268A, Section 11(a) and (c). Such dual or common representation allows the Compact to pool resources for a common purpose, develop mutual interests, and preserve scarce Compact funds. Pursuant to this bylaw, the official duties of Compact counsel include, but are not limited to, representing Members or other public entities in: (i) administrative and judicial proceedings in which the Compact is also a party; (ii) contract negotiations or project development matters in which the Compact or its Members have an interest, and (iii) other matters in which the Compact has a direct or substantial interest, provided that in each instance, such dual or common representation would not cause a violation of rules governing attorney conduct. Compact counsel shall discharge such duties only when requested in writing by the Compact's Governing Board. Prior to making such a request, the Compact's Governing Board shall determine whether the interests of the Compact would be advanced by such dual or common representation and shall evaluate if actual or potential conflicts of interest exist. If any conflicts are identified, they shall be described in the written request. Counsel shall then make its own determination whether such dual or common representation would not cause a violation of rules governing attorney conduct.

**Agenda Action Request
Cape Light Compact
Meeting Date: 9/12/12**



- 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

CLC Funding Commitment to CVEC

REQUESTED BY: *Peter Cocolis, Treasurer*

Proposed Motion(s)

1) Moved, that the Board vote that CLC will continue to provide grants as requested to CVEC for its operations through FY15 and to notify CVEC of the same in writing.

Additional Information

CLC has discussed through its budget process and has verbally communicated to CVCE its intent to continue to provide grants to CVEC, upon request, for its operation through FY15 (July 1, 2014 -June 30, 2015). In light of the attached Proposed Resolution from the Assembly of Delegates, I recommend CLC formalize this in writing.

Record of Board Action

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

RESOLUTION _____2012

Be it resolved that:

The Assembly of Delegates recommends and requests that its representative to the Board of Cape Light Compact present a motion and seeks a vote of the Board to end the use of Compact funds to subsidize the operation of the Cape and Vineyard Electric Co-operative.

Further

The Assembly of Delegates asks its representative on the Cape and Vineyard Electric Co-operative Board of Directors to present a motion and seek a vote of the Board a motion to end the practice of seeking funds from the Cape Light Compact and to become a separately funded, solvent entity.

Be it further resolved that the Speaker forward this resolution to the other appointing authorities of the members of the Board of Directors of each of these organizations with our respectful request that they too instruct their representatives to take the action recommended herein.