

**Cape Light Compact JPE
Governing Board
Executive Session Meeting Minutes
Wednesday, January 9, 2019**

The Cape Light Compact JPE Board of Directors met on Wednesday, January 9, 2019 in the Martha's Vineyard Conference Room at the Cape Light Compact JPE Offices at 261 Whites Path, Yarmouth MA 02664 at 2:00 PM.

Present Were:

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

Absent Were:

1. Michael Hebert, Aquinnah
2. Timothy Carroll, Chilmark
3. Brad Crowell, Dennis
4. Robert Hannemann, Dukes County
5. Wayne Taylor, Mashpee
6. Kirk Metell, Tisbury
7. Jarrod Cabral, Truro

Members/Alternates:

Physically present: 13

Present by phone: 3

Legal Counsel:

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

Staff Present:

Austin Brandt, Senior Power Supply Planner

Phil Moffit, Planning and Evaluation Manager

Dan Schell, Marketing and Communications Coordinator

Maggie Downey, Administrator

Open Session Vote on entry into Executive Session pursuant to M.G.L. c. 30A §§21(a)(1) and (3) to discuss matters below, to return to open session:

1. Regulatory litigation strategy for the following matters: DPU 18-116, CLC 2019-2021 Energy Efficiency Plan Filing; DPU 16-169, National Grid; DPU 18-128, 2019 Energy Efficiency Surcharge, Potential Votes
2. Discuss matters regarding physical health of an individual

Joyce Flynn at 2:06 PM moved to enter into Executive Session pursuant to MGL Chapter 30A §21(a)(1) and (3) to discuss pending litigation strategy regarding the Compact's 2019-2021 Energy Efficiency Plan (DPU 18-116 and DPU 18-128) and pending regulatory proceeding with NGRID (DPU 16-169) and matters regarding the physical health of an individual.

Joyce Flynn declared that an open session may have adversely affect the Cape Light Compact's litigating position. The Governing Board will return to Open Session at the conclusion of Executive Session. Seconded by Martin Culik.

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

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

1. **Regulatory litigation strategy for the following matters: DPU 18-116, CLC 2019-2021 Energy Efficiency Plan Filing; DPU 16-169, National Grid; DPU 18-128, 2019 Energy Efficiency Surcharge, Potential Votes**

Maggie Downey stated that the order will be issued on, or before, January 31st. The Compact is expecting the Department of Public Utilities (“DPU”) to rule separately on D.P.U. 16-169 as well as, among other things, the Compact’s enhancements and CVEO program in the order on the 3 year plans. The Compact calls several Commercial & Industrial (“C&I”) incentives enhancements for transparency, while other Program Administrators (“PAs”) categorize these C&I incentives as custom measures. Therefore, the Compact is looking for clarification on why our C&I incentive levels are being called-out and not other PAs’. Based on the DPU’s

actions so far, the Compact is looking to get a sense of the Board to figure out what they want to do depending on the ruling.

Jeffrey Bernstein stated that the Compact has 20 days after the ruling to file a motion for reconsideration or clarification or to appeal a decision directly to the Massachusetts Supreme Judicial Court. Motions to reconsider a DPU decision are rarely granted by the DPU. Jeffrey Bernstein stated that if the DPU rules to remove the Compact's enhancements including the CVEO program, an appeal to the DPU of its decision might not be the best use of resources although that would have to be evaluated at the time based on the actual decision. A denial of the Compact's ability to serve mutual customers, in contrast, would present a better case for appeal and for seeking to maintain the status quo (in the form of injunctive relief) while the appeal is pending. It would take about a year for an appeal to be finally decided.

Richard Elkin joined meeting at 2:23 PM.

Peter Cocolis asked if the ruling can be segmented to take some and not others or does it have to be all. Jeffrey Bernstein answered that the Compact could win on some and lose on others. Ron Zweig stated that the Compact should get the towns to send letters of support to the DPU. That the DPU is taking away the voice of this Board. Ron Zweig also stated that the Compact should argue that Eversource has no data supporting them that batteries will mess up their system.

Maggie Downey stated that for 2018 obligations any customer that had signed a contract for work to be completed will be honored. Even if those customers are mutual gas customers. Colin Odell asked if those projects would be coming out of the 2019 budget. Maggie Downey stated that the 2018 budget hasn't been closed yet. However, some projects may be paid out of a bit of both the 2018 and 2019 budget. Margaret Song stated there is precedent for that in the Compact's Benefit Cost Ratio ("BCR") model. Colin Odell asked if there were any big 2018 town projects that were still in the works. Margaret Song stated that those projects have been completed.

Jeffrey Bernstein stated that sending letters after January 31st won't have much of an effect. David Mead-Fox stated that the letters could be sent to Sarah Smegal instead of the DPU itself. Martin Culik stated that if the Board is to share with the their Boards of Selectmen/Town Council what is going on with the 2019-2021 EEP, then a summary of issues will need to be prepared for Board members to use. Maggie Downey stated after the DPU issues its Order the Compact will put together a summary document for the Board to share with their towns. Martin Culik asked about sharing information before January 31st. Jeffrey Bernstein stated until the Compact knows what happens with the ruling, it would be hard to know what to say.. Maggie Downey stated that she wants to know the outcome of Order first and then put something together to send to the Board. David Mead-Fox stated that Board Members could go to the next Board of Selectmen meetings and explain the concern of what may happen with the order and impact it may have instead of springing it on them last minute. Jeffrey Bernstein stated that the Compact has 20 days to choose whether or not to appeal or seek reconsideration/clarification, but there is more time for the towns to send letters to the DPU. Valerie Bell stated that if she were to go to a Board of Selectmen meeting, she would prefer to know how the ruling went first and have all the facts. . The Compact is looking into options on what it can do relative to what Eversource's position, as presented in its Reply Brief, and also figuring out it's strongest arguments against the position raised by Eversource. Ron Zweig stated that he understands about Eversource, but National Grid is taking half our customers. Maggie Downey stated yes, but there is nothing to reply to in the National Grid brief. The sense of the Board is to develop a strategy to respond to the issues raised in the Eversource brief. David Anthony asked that if there needs to be further interaction with Board how will the Compact want to go about it. Jeffrey Bernstein stated that the Compact staff and counsel can communicate with the Board in writing and if needed an executive meeting can be scheduled. Sue Hruby stated that Eversource is missing an opportunity. It is not going

to stop batteries from being installed. She asked why they wouldn't want to work with us.. Maggie Downey told the Board that if the DPU denies the Compact's enhancements will the Board want to strategize at the February Board Meeting on how to proceed. Sense of the Board is yes it will want to seek further review.

David Mead-Fox asked if there was anything prohibiting Board Members from voicing our concerns. Jeffrey Bernstein stated that Board Members can voice their concerns. Maggie Downey stated that she did send the Eversource reply brief to David Panagore from the Town of Provincetown as they are one of the towns that would benefit from the batteries and have already been in communication with Eversource regarding municipal land to site a large scale Eversource battery. Richard Elkin asked if the Compact knows how many batteries are already installed on Cape Cod. Austin Brandt stated that he was unsure, but its probably less than 1,000. Martin Culik asked if the Compact knew what Green Mountain Energy was doing in Vermont. Austin Brandt stated that 2000 Tesla Powerwall storage batteries will be installed in homes. The utility company will have access to the battery to use during periods of peak demand or offset IOS costs. Martin Culik stated that Eversource will be missing out on the benefits of these batteries.

2. Discuss matters regarding physical health of an individual

Maggie Downey stated that Joanne Nelson is now on medical leave until she retires in February. As required under the Massachusetts General Laws, Maggie Downey notified Joanne Nelson that this matter was to be discussed during executive session and Joanne elected not to be present. In Joanne's absence, two consultants will be assisting in completing the Comptroller job tasks and Peter Cocolis will serve as the interim Business Officer, assisted by Compact staff. Maggie Downey stated she will be reevaluating the job description to figure out whether it will be a full time or part time position and then advertise to bring in a new Comptroller.

Return to Open Session

At 3:14 PM, Joyce Flynn asked for a motion to end executive session, moved by Robert Schofield, seconded by Colin Odell.

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

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

Respectfully submitted,

Melissa Allard

LIST OF DOCUMENTS AND EXHIBITS:

- Meeting Notice/Agenda