

Questions from the Attorney General's Office Relative to the Cape Light Compact's Aggregation Plan Compliance Filing in Response to the Advisory Ruling from the Department of Public Utilities (D.P.U. 17-95) on the Compact's Internal Reorganization to a Joint Powers Entity in Accordance with the Joint Powers Agreement Statute, G.L. c. 40, §4A ½

February 14, 2018

AGO Question #1: Please refer to the Foreword of the Redlined Revised Aggregation Plan. Please provide a copy of the Cape Light Compact's Joint Powers Agreement, dated April 12, 2017.

CLC Response: The April 12, 2017 Joint Powers Agreement is on the Compact's website under Governing Documents and is referred to as the "Original Joint Powers Agreement": <http://www.capelightcompact.org/about/>. The Compact Board meeting packets also provide a thorough public record of the Compact's discussion of its internal reorganization to a Joint Powers Entity. Board meeting packets can be found at <http://www.capelightcompact.org/meeting-center/>.

AGO Question #2: Please refer to the Foreword of the Redlined Revised Aggregation Plan. Please provide copies of all "votes, resolutions or other authorizations" of the boards of selectmen of the Cape Light Compact's members regarding those members' entry into the Joint Powers Agreement.

CLC Response: Compact member Towns' votes to reorganize as a Joint Powers Entity are located on the Compact's web site at [http://www.capelightcompact.org/about/ under Governing Documents](http://www.capelightcompact.org/about/underGoverningDocuments).

AGO Question #3: Please provide copies of any and all amendments to the Joint Powers Agreement and any documentation reflecting votes or other authorization to make any such amendment.

CLC Response: Amendments to the Joint Powers Agreement (Agreement) are made consistent with Article XV of the Agreement. Notices of the proposed amendments were sent to Members consistent with Article XV. The Compact Board meeting packets and meeting minutes have the red-lined versions of the Agreement distributed to Member Towns and Board members, and the December 13, 2017 Compact Board vote to amend the Agreement. Both the initial and amended Agreements can be found at <http://www.capelightcompact.org/meeting-center/>. The final December 13, 2017 Amended and Restated Joint Power Agreement can be found at [http://www.capelightcompact.org/about/ under Governing Documents](http://www.capelightcompact.org/about/underGoverningDocuments).

AGO Question #4: Please refer to Section 2.2 of the Redlined Revised Aggregation

Plan. Please explain why the Cape Light Compact proposes to strike the language “and the most competitive market rates available.”

CLC Response: The Compact struck this language from the Revised Aggregation Plan in accordance with the Advisory Ruling issued in D.P.U. 17-95 on December 29, 2017 at page 11, which directed the Compact to “[replace] all references to the prior inter-governmental agreement” and to “include any other changes that result from the Compact’s transition to a joint powers entity.” The Power Supply Goals, Policies and Purposes listed in Section 2.2 are thus no longer taken from the prior inter-governmental agreement and instead are taken from the Joint Powers Agreement, Article II. The phrase “and the most competitive market rates available” was not included in Article II of the Joint Powers Agreement. Elimination of this language was designed to reduce customer confusion because the Compact believes the language may give customers the impression that the Compact will always have the lowest retail electricity rate at all points in time, which is impossible. Having the lowest retail rate at all points in time is impossible as the Compact offers a fixed price and energy market prices fluctuate constantly. To note, while this language is not specifically included in Article II of the Joint Powers Agreement or in Section 2.2 of the redlined Aggregation Plan for the aforementioned reasons, the description of rate-setting in Section 6 of the Aggregation Plan remains unchanged and makes clear that, “[t]he generation charge/supplier charge for each customer class, or any customer grouping by load factor or other appropriate pricing category, will reflect the Compact’s best efforts to secure the best terms and conditions and the most competitive market rates available *at the time of contracting with competitive power suppliers.*” (Emphasis added.)

AGO Question #5: Please refer to Section 2.3.1 and 2.3.3 of the Redlined Revised Aggregation Plan. Please disclose whether the Cape Light Compact’s Power Supply Program is still “designed to reduce the amount consumers pay for electric energy” and “designed to reduce the cost of a kilowatt hour of energy.” If the answer is “yes,” please provide all reasons why the Cape Light Compact believes that it can provide savings from Eversource’s basic service rate.

CLC Response: Yes, the Compact’s power supply program continues to be designed to reduce the cost of electricity supply for participating customers. The Compact seeks to achieve this goal through negotiations with suppliers to obtain favorable terms and conditions and the lowest available energy pricing for our customers at the time of wholesale energy procurement(s). However, the Compact’s Aggregation Plan does not state that the Compact believes it can always provide savings as compared to Eversource’s basic service rate. To the contrary, the Compact’s Aggregation Plan explicitly states on page 19, “[d]ue to fluctuations in competitive electric market prices and basic service rates, Compact generation/supplier charges may not always be lower, and are not required to be lower than the Local Distribution Company’s basic service rate. The Compact’s potential pursuit of a higher percentage of renewable energy than required under the Massachusetts Renewable Portfolio Standard (“RPS”) may also result in rates higher than basic service.” In addition, the concept of a price benchmark for municipal aggregation is outmoded, as

the obligation for a municipal aggregation rate to be below the Standard Offer rate ceased to be in effect 13 years ago.

AGO Q#6: Please refer to <http://www.capelightcompact.org/cape-light-compact-is-going-100-renewable-and-announces-pricing/>. Please identify all provisions of the Redlined Revised Aggregation Plan that describe the Cape Light Compact’s “green aggregation.”

CLC Response: Section 2.2, 2.31, and 2.32 provide an overview of the Compact’s power supply program and its potential pursuit of green/renewable energy options. These sections are designed to give the Compact flexibility in the design of its power supply program, and be responsive to Compact members. The Compact’s Aggregation Plan need not nor is it intended to provide every single detail of how it intends to pursue the objectives contained in these sections.