

**Cape Light Compact JPE  
Governing Board  
Meeting Minutes  
Wednesday, June 9, 2021**

Pursuant to Massachusetts Governor Charles D. Baker's Order Suspending Certain Provisions of the Open Meeting Law on March 12, 2020, the Cape Light Compact JPE Board of Directors met on Wednesday, June 9, 2021 at 2 p.m. The meeting was held through a Zoom videoconference for members of the Board with audio call-in available for members of the public.

**Participating Remotely Were:**

1. Forest Filler, Aquinnah
2. David Anthony, Secretary/Executive Committee, Barnstable
3. Robert Schofield, Executive Committee, Bourne
4. Colin Odell, Executive Committee, Brewster
5. Peter Cocolis, Chatham
6. Brad Crowell, Dennis
7. Erik Peckar, Dukes County
8. Fred Fenlon, Eastham
9. Alan Strahler, Edgartown
10. Ronald Zweig, Falmouth
11. Richard Toole, Executive Committee, Oak Bluffs
12. Martin Culik, Chair/Executive Committee, Orleans
13. Nathaniel Mayo, Provincetown
14. Leanne Drake, Sandwich
15. Jay Grande, Tisbury Alternate
16. Bob Higgins-Steele, Truro Alternate
17. Richard Elkin, Executive Committee, Wellfleet
18. Sue Hruby, West Tisbury
19. Joyce Flynn, Vice Chair/Executive Committee, Yarmouth

**Absent Were:**

1. Timothy Carroll, Executive Committee, Chilmark
2. Valerie Bell, Harwich
3. Wayne Taylor, Mashpee
4. Kirk Metell, Tisbury
5. Jarrod Cabral, Truro

**Legal Counsel Participating Remotely:**

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

**Staff Participating Remotely:**

Austin Brandt, Senior Power Supply Planner

Maggie Downey, Administrator

Melissa Allard, Senior Administrative Coordinator

**Public Participants:**

None.

Martin Culik called the meeting to order at 2:01 PM.

**PUBLIC COMMENT:**

There were no members of the public present, and no public comments were submitted to the Board in writing under the public comment guidelines.

**APPROVAL OF MINUTES:**

The Board considered the May 12, 2021 Open Session Meeting Minutes.

*Peter Cocolis moved the Board to accept the minutes as amended and to release them as amended, seconded by Joyce Flynn.*

|         |                |              |           |
|---------|----------------|--------------|-----------|
| Forrest | Filler         | Aquinnah     | Yes       |
| David   | Anthony        | Barnstable   | Yes       |
| Robert  | Schofield      | Bourne       | Abstained |
| Colin   | Odell          | Brewster     | Yes       |
| Peter   | Cocolis        | Chatham      | Yes       |
| Brad    | Crowell        | Dennis       | Yes       |
| Erik    | Peckar         | Dukes County | Yes       |
| Fred    | Fenlon         | Eastham      | Yes       |
| Alan    | Strahler       | Edgartown    | Yes       |
| Ron     | Zweig          | Falmouth     | Yes       |
| Martin  | Culik          | Orleans      | Yes       |
| Nate    | Mayo           | Provincetown | Yes       |
| Leanne  | Drake          | Sandwich     | Yes       |
| Bob     | Higgins-Steele | Truro        | Yes       |
| Richard | Elkin          | Wellfleet    | Yes       |
| Sue     | Hruby          | West Tisbury | Abstained |
| Joyce   | Flynn          | Yarmouth     | Yes       |

*Motion carried in the affirmative (15-0-2)*

The Board considered the May 25, 2021 Open Session Meeting Minutes.

*Joyce Flynn moved the Board to accept the minutes as amended and to release them as amended, seconded by Richard Elkin.*

|         |           |            |           |
|---------|-----------|------------|-----------|
| David   | Anthony   | Barnstable | Yes       |
| Robert  | Schofield | Bourne     | Abstained |
| Colin   | Odell     | Brewster   | Yes       |
| Richard | Toole     | Oak Bluffs | Yes       |
| Martin  | Culik     | Orleans    | Yes       |
| Richard | Elkin     | Wellfleet  | Yes       |
| Joyce   | Flynn     | Yarmouth   | Yes       |

*Motion carried in the affirmative (6-0-1)*

**CHAIR REPORT:**

**1. Testimony at Public Hearing on Senate Bill 2104 and House Bill 3213**

Martin Culik stated there was a public hearing on Senate bill 2104 and House bill 3213. Both bills are related to extending remote participation for public meetings. He noted that there should be some decision regarding remote participation before the June 15<sup>th</sup> expiration of Governor Baker's Emergency Declaration relative to the pandemic.

**2. Use of "Chat" function when arriving or leaving Zoom meeting**

Martin Culik asked Board Members who are joining the meeting late or leaving the meeting early, to send Melissa Allard a message so that she can document their arrival/departure time for the Minutes.

**John Grande and Richard Toole joined meeting at 2:09 PM.**

**FOLLOW-UP TO APRIL BOARD MEETING DISCUSSION: PRESENTATION ON CAPE LIGHT COMPACT GREEN AGGREGATION OFFERING, AUSTIN BRANDT AND NEXTERA ENERGY SERVICES**

Austin Brandt reviewed the Cape Light Compact Power Supply Overview PowerPoint. He stated that in 2016 the Board had several discussions on whether the Compact wanted to change the power supply aggregation strategy as part of the upcoming contract negotiations to extend the then-current contract. He stated as part of the strategy discussion the Compact held several public outreach meetings to get a sense from the community what it liked or disliked about the Compact's power supply offering. As a result of the discussion, the Board decided on November 9, 2016 to change the renewable strategy for the default aggregation product. He noted that in 2018, when it was time to go out with a competitive solicitation using a Request for Proposals (RFP) process for a supplier for the aggregation program, the Board affirmed the policy changes in 2016 and asked that the RFP seek new options that suppliers might be willing to offer and to ensure that suppliers supported the Compact's Green opt-in offering.

Austin Brandt stated that the current power supply contract RFP was issued on February 28, 2018. He stated that as always, the RFP review process and supplier selection process involved Maggie Downey as the Chief Procurement Officer and himself as the Power Supply Planner. He stated that three Board Members, a technical consultant, and CLC counsel also participated in the process. He stated that three suppliers responded to the RFP and the Compact selected NextEra to be the supplier for the aggregation program starting in December 2018. He explained that the current contract with NextEra includes the following features: 1) it exceeds the Massachusetts Renewable Portfolio Standard by 1%; 2) it retires an additional 99% of EarthEra voluntary Renewable Energy Certificates (RECs); 3) it contributes supplier service fees and EarthEra REC revenues into a trust to build new renewable energy projects, and 4) it includes a 20-year power purchase agreement of 5 MW of solar energy and RECs from a solar farm in Maine.

Austin Brandt stated that the Compact's opt-in Local Green options began in 2019. Customers can enroll in the program and match their electric usage, for a reasonable premium of around 1.3 cents/kWh for an additional 50% Class 1 RECs and around 2.7 cents/kWh for an additional 100% Class 1 RECs. He stated to the Compact's knowledge it exceeds renewable content at a lower cost than all other comparable offerings of municipal aggregators in Massachusetts.

Austin Brandt started reviewing the CLC Board Update PowerPoint. He stated that Massachusetts, through the passage of various laws over the past few years, has been steadily increasing renewable standards, which impacts the percentage of renewables included in the Compact's, and all suppliers', offerings.

Austin Brandt reviewed the graph showing how increasing REC prices, as well as increasing mandates, have led to higher rates to cover mandated and voluntary renewable content since 2017. He also reviewed a graph of the increases to the Class 1 RPS, and the implementation of the Clean Energy Standard (CES) have increased MA Class I REC prices. He stated it is difficult to keep control of the price range or Class 1 RECs we retire because they are a market product, and the prices are driven by supply and demand.

Melva Deshmukh from NextEra Energy shared her PowerPoint presentation with the CLC Governing Board. She stated that NextEra has been supplying the Compact with an 100% renewable program since 2017 by supplying EarthEra RECs for 100% of the Compact's load. She stated that this is above and beyond the Massachusetts RPS and CES requirements for 2021 of 54.3%. She stated that it complies with the Massachusetts RPS requirements and then on top of that it retires 1% of the load Class 1 RECs and then 99% of the total load so that the Compact is truly 100% renewable.

Melva Deshmukh stated that EarthEra RECs are voluntary RECs. They come from the NextEra wind and solar projects around the United States. She stated that all proceeds from EarthEra voluntary REC purchases, as well as all service fees paid to NextEra, are deposited into the EarthEra Trust, and used toward new renewable projects. She stated that per the Compact's request, funds deposited into the EarthEra Trust on behalf of the CLC contract are disbursed toward new renewable projects in New England whenever possible.

Melva Deshmukh stated that the EarthEra Renewable Energy Trust was created back in 2008 to generate additionality when purchasing RECs generated from existing NextEra Energy renewable projects. EarthEra RECs are generated by existing NextEra-owned wind and solar projects that have been built in the last 15 years. Since 2009, EarthEra Renewable Trust has disbursed funds to six projects in five states across the United States. The Compact's Power Supply Program has contributed over \$14MM to the EarthEra Trust and \$13.4 MM went towards new renewable projects in New England.

Richard Elkin asked if the graph on slide five about the required certificates as a percentage of load could be projected out to 2035 to see where regulations may be going. Austin Brandt stated that he believes they can based on existing laws and regulations. However, the Compact would not be able to do the breakouts of solar 1 and solar 2 RECs since those are not set that far in advance. Richard Elkin stated that he is just looking for an overall planning sense about where we will be in terms of renewable energy. Austin Brandt stated that he believes with the CES it would get us to 80% across all these categories except for the clean peak standard by 2050.

Alan Strahler asked if there is a way for the Compact to revisit having more Class 1 RECs as a part of the Compact's basic power supply option. Austin Brandt stated that would be a strategy change. He stated that the current contract with NextEra is up at the end of 2023. Therefore, the Compact's Power Supply Planner and Maggie Downey will be working with the Board to decide what the Compact wants to do at the end of that contract. He stated that the Compact has an extension option in the contract or there is the option to go back out to bid. Either way, that is the time to talk about strategy. Maggie Downey stated that the Board needs to determine whether it wants to revise its strategy. She stated that this has been discussed before. She would like input as to whether the Compact's customers are more price sensitive or more renewable content sensitive? She stated that work needs to be done to determine the answer to these questions.

Erik Peckar asked if an opt down option was ever discussed. Maggie Downey stated that it was not discussed at the time the Compact was going out to bid for a competitive supplier because the Board affirmed it wanted opt-in greener options. She stated to go the other way around would put the Compact's price in a large delta above the utilities and would likely require the Compact having to update its Aggregation Plan with the Department of Public Utilities. Austin Brandt stated that an opt down option is relatively new, and the Compact is going to want to look at the town's annual aggregation reports to see whether customers are opting down or opting out. He stated from his experience people are going to opt out. Erik Peckar asked if this was something the Compact would consider surveying customers about to see if they would be willing to pay a small percentage more for renewable energy. Maggie Downey stated that she will get back to the Board with a recommendation on this as part of the 2022 budget process.

Martin Culik asked when the contract with NextEra ends. Maggie Downey stated the end of 2023 with an option to extend for another 3 years. She stated either way the policy and parameters can be handled whether the Compact extends or goes out to bid.

Nate Mayo stated when talking about the local green option and the premiums, people tend to get lost in the math. There needs to be more clarity. He stated people want to know where the energy comes from and how much extra is it going to cost them. He stated he thinks, with better clarity on these issues, there are many people that are willing and eager to pay a modest premium. Austin Brandt stated that those are great points - how the Compact differentiates between these offerings and how it has been a challenge since the local green program began. He stated when talking about the standard and local green options he talks about where the energy comes from. He stated that there is also a calculator on the website for customers to put in their monthly kWh and calculate additional costs per month if they were to opt into the local green program.

#### **DISCUSSION AND POTENTIAL VOTE TO AMEND ARTICLE V.D, MANNER OF ACTING AND QUORUM OF THE CAPE LIGHT COMPACT JOINT POWERS AGREEMENT, JEFFREY BERNSTEIN**

Jeff Bernstein stated that there is some traction in passing some legislation before the 15<sup>th</sup> of June. This legislation that would extend remote meeting protocols through April 2022.

Jeff Bernstein stated that it is recommended the Compact also consider an alternative, or additional, route that would allow for a reduced in-person total quorum. The Compact cannot change the JPA such that remote participants count towards the quorum. The Governing Board, however, can propose an amendment to the JPA with respect to what constitutes an in-person quorum. He stated that the Compact would have to give a 30 days' notice to the member towns.

Richard Elkin stated that in case no legislation is passed, the Compact should move forward with preparing such a JPA amendment. It can always be terminated at the next meeting. Sue Hruby stated that she agrees. Colin Odell stated that he is in favor of it being moved forward as well. He stated that if it is being sent to town select boards that it needs to have a well-crafted cover letter that indicates the Compact board is preparing to act in case the state does not allow remote meetings in the future. Maggie Downey stated that she will do so and that she is meeting with the town managers tomorrow so she will bring this up and let them know it is coming. She stated that Board Members will be copied on it and asked if they could speak to their towns. Martin Culik asked for a sense of the Board on moving forward with the preparations. Sense of the Board was yes.

#### **CONTINUE DISCUSSION ON ENERGIZE THE CAPE & VINEYARD PROPOSAL PRESENTED AT THE MAY 12, 2021 COMPACT BOARD MEETING**

Martin Culik stated that the executive committee met on May 25<sup>th</sup>. The executive committee indicated an interest in proceeding with development of a MOU between the Compact and the Cape Cod Climate Change Collaborative outlining the roles and responsibilities. He stated that the MOU is being worked on by Maggie Downey and Barry Margolin. He asked for a sense of the Board on whether they support the development of the MOU identifying the roles and responsibilities of the partners and bringing it back to the Board later for a discussion and vote. Sense of the Board was yes.

**ADMINISTRATOR’S REPORT:**

**1. Consumer Advocacy Worksheet Update**

Maggie Downey stated that the last time the consumer advocacy worksheet was discussed there was an allocation of 70/30 split on the DPU grid modernization and the rate case. She stated that she has instructed counsel to track their time according to the subject matter because they are now very specific. She stated that it is either all about energy efficiency or power supply. She stated that we do not need to prorate those invoices.

**2. Reschedule July Board Meeting from July 14 to July 21**

Maggie Downey stated that the next Board Meeting will be moved from July 14<sup>th</sup> to the 21<sup>st</sup> due to scheduling conflict. She will send out the calendar invite and asked Board Members to accept or decline it to see how many are able to attend.

**3. Executive Session Minutes**

Maggie Downey stated that she, counsel, and secretary of the Board, David Anthony have reviewed executive session minutes as directed by the Board. She stated that there are no changes in terms of release of any minutes that are being held on a confidential basis – there is still a basis to hold all such redacted minutes confidential.

**4. 2020 Annual Report**

Maggie Downey stated that the Compact filed its 2020 annual report for the energy efficiency program. She stated it has been posted tot the website if anyone want to review it.

**Open Session Vote on entry into Executive Session pursuant to M.G.L. c. 30A §§21(a)(3) and (10) to discuss matters below, to return to open session:**

*Martin Culik at 3:52 PM moved to enter into Executive Session pursuant to M.G.L. c. 30A §21(a)(3) and (10) to (1) review and approve executive session minutes which contain discussions regarding pending or imminent regulatory litigation and trade secrets and confidential, competitively-sensitive or other proprietary power supply information related to a proposed Low-Income Community Solar project (when the release of the discussion would have a detrimental effect on the Compact’s negotiating position); and (2) to discuss pending or imminent regulatory litigation and trade secrets and confidential, competitively-sensitive or other proprietary power supply information related to a proposed Low-Income Community Solar project, not to return to open session thereafter. Seconded by Joyce Flynn.*

|        |           |            |     |
|--------|-----------|------------|-----|
| David  | Anthony   | Barnstable | Yes |
| Robert | Schofield | Bourne     | Yes |
| Colin  | Odell     | Brewster   | Yes |
| Peter  | Cocolis   | Chatham    | Yes |

|         |                |              |                                      |
|---------|----------------|--------------|--------------------------------------|
| Brad    | Crowell        | Dennis       | Yes                                  |
| Fred    | Fenlon         | Eastham      | Did not vote due to technical issues |
| Alan    | Strahler       | Edgartown    | Yes                                  |
| Ron     | Zweig          | Falmouth     | Yes                                  |
| Richard | Toole          | Oak Bluffs   | Yes                                  |
| Martin  | Culik          | Orleans      | Yes                                  |
| Nate    | Mayo           | Provincetown | Yes                                  |
| Leanne  | Drake          | Sandwich     | Yes                                  |
| Bob     | Higgins-Steele | Truro        | Yes                                  |
| Richard | Elkin          | Wellfleet    | Yes                                  |
| Sue     | Hruby          | West Tisbury | Yes                                  |
| Joyce   | Flynn          | Yarmouth     | Yes                                  |

*Motion carried in the affirmative (15-0-0)*

**Brad Crowell left meeting at 4:00 PM.**

**ADJOURNMENT:**

*Motion to adjourn made at 4:02 PM moved by Richard Toole, seconded by Ron Zweig.*

|         |                |              |                                      |
|---------|----------------|--------------|--------------------------------------|
| David   | Anthony        | Barnstable   | Yes                                  |
| Robert  | Schofield      | Bourne       | Yes                                  |
| Colin   | Odell          | Brewster     | Yes                                  |
| Peter   | Cocolis        | Chatham      | Yes                                  |
| Fred    | Fenlon         | Eastham      | Did not vote due to technical issues |
| Alan    | Strahler       | Edgartown    | Yes                                  |
| Ron     | Zweig          | Falmouth     | Yes                                  |
| Richard | Toole          | Oak Bluffs   | Yes                                  |
| Martin  | Culik          | Orleans      | Yes                                  |
| Nate    | Mayo           | Provincetown | Yes                                  |
| Leanne  | Drake          | Sandwich     | Yes                                  |
| Bob     | Higgins-Steele | Truro        | Yes                                  |
| Richard | Elkin          | Wellfleet    | Yes                                  |
| Sue     | Hruby          | West Tisbury | Yes                                  |
| Joyce   | Flynn          | Yarmouth     | Yes                                  |

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

Respectfully submitted,

Melissa Allard

**LIST OF DOCUMENTS AND EXHIBITS:**

- Meeting Notice/Agenda
- May 12, 2021 Draft Meeting Minutes

- May 25, 2021 Draft Executive Committee Meeting Minutes
- Solarize Cape & Vineyard Proposal PowerPoint
- Cape Light Compact Power Supply Overview PowerPoint
- CLC Board Update PowerPoint
- 2021 Operating Budget
- 2021 Energy Efficiency Budget

Draft Minutes subject to correction, addition and Committee/Board Approval