

**Cape Light Compact JPE
Governing Board
Meeting Minutes
Wednesday, February 9, 2022**

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, February 9, 2022, 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. David Anthony, Secretary/Executive Committee, Barnstable
2. Peter Doyle, Barnstable Alternate
3. Robert Schofield, Executive Committee, Bourne
4. Francis Erdman, Bourne Alternate
5. Colin Odell, Executive Committee, Brewster
6. Peter Cocolis, Chatham
7. Timothy Carroll, Executive Committee, Chilmark
8. Brad Crowell, Dennis
9. Fred Fenlon, Eastham
10. Alan Strahler, Edgartown
11. Matthew Patrick, Falmouth
12. Valerie Bell, Harwich
13. Wayne Taylor, Mashpee
14. Dion Alley, Executive Committee, Oak Bluffs
15. Martin Culik, Chair/Executive Committee, Orleans
16. Nathaniel Mayo, Provincetown
17. Leanne Drake, Sandwich
18. Bob Higgins-Steele, Truro Alternate
19. Richard Elkin, Executive Committee, Wellfleet
20. Erik Peckar, West Tisbury
21. Joyce Flynn, Vice Chair/Executive Committee, Yarmouth

Absent Were:

1. Forest Filler, Aquinnah
2. Kirk Metell, Tisbury
3. Jarrod Cabral, Truro

Legal Counsel Participating Remotely:

Jeffrey Bernstein, Esq., BCK Law, P.C.
Audrey Eidelman Kiernan, Esq., BCK Law, P.C.
Erin O'Toole, Esq., BCK Law, P.C.
Rebecca Zachas, Esq., BCK Law, P.C.

Staff Participating Remotely:

Briana Kane, Residential Manager
Dan Schell, Senior Analyst
Maggie Downey, Administrator

Margaret Song, Commercial & Industrial Program Manager
Melissa Allard, Senior Administrative Coordinator
Phil Moffitt, Planning & Evaluation Manager

Public Participants:

None.

Martin Culik called the meeting to order at 2:00 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 January 9, 2022, Open Session Meeting Minutes.

Robert Schofield moved the Board to accept the minutes as amended and to release them as amended, seconded by Joyce Flynn.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Peter	Cocolis	Chatham	Yes
Tim	Carroll	Chilmark	Yes
Brad	Crowell	Dennis	Yes
Fred	Fenlon	Eastham	Did not vote due to technical issues
Alan	Strahler	Edgartown	Yes
Valerie	Bell	Harwich	Yes
Wayne	Taylor	Mashpee	Yes
Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Yes
Leanne	Drake	Sandwich	Yes
Bob	Higgins-Steele	Truro	Yes
Richard	Elkin	Wellfleet	Yes
Erik	Peckar	West Tisbury	Yes
Joyce	Flynn	Yarmouth	Yes

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

Matt Patrick and Dion Alley joined meeting at 2:05 PM.

CHAIRMAN’S REPORT:

1. Overview of January 27, 2022, Executive Committee Meeting

Martin Culik gave an overview of the Executive Committee meeting on January 27th. He stated that Jeff Bernstein will be stepping away from the Compact starting in March. Over the past few years, the Compact’s staff has worked primarily with Audrey Eidelman Kiernan, Erin O’Toole, and Rebecca Zachas. He stated that Audrey and Erin have reorganized the remaining BCK law team and created KO Law, P.C. and they are available and willing to continue representing the Compact. Staff’s recommendation was to engage the KO Law as the Compact’s General Counsel. He stated that the appointment of KO Law requires a Board vote. He stated during the Executive Committee meeting it was discussed and the sense of the meeting was to retain KO Law as the Compact’s General Counsel.

2. Discussion and Potential Vote to appoint KO Law, P.C. as Compact General Counsel effective as of March 18, 2022

Joyce Flynn stated that she can’t imagine where the Compact would find people that have the municipal law experience, knowledge of state regulations, and the energy expertise of the KO legal team and recommends moving forward with KO Law, P.C.

Brad Crowell asked if the option to hire inhouse counsel was considered. Maggie Downey stated that many of the Program Administrators (PAs) have inhouse counsel and sometimes more than one, but they also all utilize outside counsel. She stated that given the amount of work there is, the Compact would still be required to seek outside counsel. She stated that she briefly looked at some of the budget numbers and didn’t see any savings by hiring inhouse counsel.

Joyce Flynn moved the CLC JPE Board of Directors vote to approve KO law, P.C. as General Counsel for the Cape Light Compact JPE effective March 18, 2022 (close of business).

The Compact Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by Bob Schofield.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Peter	Cocolis	Chatham	Yes
Tim	Carroll	Chilmark	Yes
Brad	Crowell	Dennis	Yes
Fred	Fenlon	Eastham	Did not vote due to technical issues
Alan	Strahler	Edgartown	Yes
Matt	Patrick	Falmouth	Yes
Valerie	Bell	Harwich	Yes
Wayne	Taylor	Mashpee	Yes
Dion	Alley	Oak Bluffs	Yes
Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Yes
Leanne	Drake	Sandwich	Yes
Bob	Higgins-Steele	Truro	Yes
Richard	Elkin	Wellfleet	Yes
Erik	Peckar	West Tisbury	Yes

Joyce	Flynn	Yarmouth	Yes
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Motion carried in the affirmative (18-0-0)

ENERGY EFFICIENCY: PRESENTATION ON THE 2022-2024 ENERGY EFFICIENCY PLAN (DPU 21-126) ORDER

Maggie Downey reviewed the Summary of the D.P.U. 27-726 Order on the 2022-2024 Energy Efficiency Plan PowerPoint.

Maggie Downey stated that all electric and gas PAs filed a statewide 2022-2024 Energy Efficiency Plan (Plan) on November 1, 2021. The Department of Public Utilities (DPU) then had 120 days to review and issue an Order. She stated that the DPU finding regarding the PA goals are that individual gas and electric savings goals are consistent with achievement of all available cost-effective energy efficiency, subject to required modifications for heating systems and lighting. She stated that the DPU did acknowledge that the electric PAs fell short of greenhouse gas (GHG) emissions reductions goals set by the Secretary of EEA. She stated that all the PAs were also given a directive that the Annual and Term Reports must describe how Plan implementation aligns with Secretary's overall and sector specific GHG emissions reduction goals. She stated that the timing of these goals being delivered to the PAs by the Secretary came after the draft Plan filed on April 30, 2021. The Secretary's GHG goals are required to be set in advance of the April 30 plan filing for the next three-year plan.

Maggie Downey reviewed the DPU directives on serving hard-to-reach customers. She stated that traditionally for the Compact the hard-to-reach customers have been the second homeowners and limited English proficiency customers. She stated that PAs must finalize plan details earlier and eligibility criteria, deadlines and other participation requirements must be communicated to potential participants in advance of plan filing. The PAs must set very specific eligibility criteria for serving and gave three separate criteria that must be complied with. She stated that the PAs must use EEA Environmental Justice Policy definition of environmental justice populations and submit compliance filing on April 1, 2022, to identify their targeted hard-to-reach communities that meet the new DPU criteria. She stated that PAs must also track participation in all service territories by municipality and conduct an updated residential non-participant customer profile study, and file testimony in the next plan to describe how they sought to increase participation and whether actual increases occurred. Lastly, PAs must file a final renter strategic plan by September 30, 2022. She stated that for the Cape Light Compact it changes the number of towns that were covered. Initially there was one environmental justice town on the list, but now there are approximately 12 Cape and Vineyard towns. Overall, the DPU added 60 environmental justice communities.

Maggie Downey reviewed the DPU directives on strategic electrification. The big takeaway is that PAs must ensure weatherization is completed prior to electrification to the extent possible to minimize bill impacts, particularly for low-and moderate-income customers. PAs must encourage all residential market rate customers to weatherize their homes prior to installing heat pumps through robust education and by offering an incentive structure like that of moderate-income customers. She stated that by May 2, 2022, PAs must file detailed protocols and programmatic changes to address these directives and provide evidence and description of an online operational heating comparison calculator. PAs must disclose potential fuel savings and bill impacts to customers seeking to adopt electrification measures and file data tables that provide information on electrification offerings by sector on April 1, 2022, and in all future Annual and Term Reports. They can offer no-cost-effective strategic electrification measures that reduce customer energy use, lower GHG emissions, lower customer energy costs, and within? cost-effective strategic electrification offerings. Also, PAs may not recover costs in excess of approved program budgets for strategic electrification unless DPU approves the increase and PAs can show that the budget increase will result in an increase in kWh or therm savings.

Maggie Downey reviewed the directives on active demand reduction (ADR). She stated PAs must study the five-year incentive rate lock for battery storage to assess its efficacy and whether this incentive continues to be warranted if there is increased deployment of the technology on the grid and employ opt-in customer enrollment for all residential and income-eligible ADR programs. National Grid and the Compact must file any proposed Electric Vehicle (EV) load management offering for DPU approval prior to implementation. The Compact may not administer any ADR offerings until it demonstrates that it has entered an MOA with Eversource for the Plan term. She stated that the DPU found that National Grid improperly implemented a solar PV inverter control offering and should have sought DPU approval; National Grid was deemed to have failed to demonstrate how this was an ADR or energy efficiency measure.

Richard Elkin asked if EVs were being added to the demand response program. Maggie Downey stated that there would be incentives for not charging the EVs during peak times. Dan Schell stated that the current program structure the Compact is looking at is for both EVs and possibly Electric Vehicle Supply Equipment (EVSE) depending on the manufacturers that are available but that is still being worked on.

Maggie Downey reviewed the directives on lighting and cost-effective heating equipment. She stated that PAs must continue to pursue lighting measures that have historically been offered and remaining energy savings opportunities that can be cost-effectively achieved at the program level and must conduct a study to assess remaining lighting savings opportunities and strategies for renters and moderate income, minority, and limited English-proficiency customers. The study must be filed by September 30, 2022. She stated that PAs must continue to offer direct install lighting measures through home energy audits within their Existing Buildings program. She stated therefore, the Compact needs to add back in lighting to its budget and Plan. Also, PAs must continue to offer incentives for cost-effective heating systems to participants so long as savings opportunities remain and use their knowledge, experience, and evaluation study results to identify an appropriate incentive level for these heating systems. She stated that this overrides the Board's previous vote to not offer oil and propane incentives for market rate customers.

Maggie Downey reviewed the directives on calculating the social value of GHG emissions reductions. She stated that the PAs had proposed using \$393 per short ton, but the DPU ruled there was not enough evidence required and instead set the value at \$128 per short ton and required the use of a 2% discount rate, not 1%. She stated that now the Compact must revise all its tables and savings benefits in the compliance filing. She stated that it may impact micro and small businesses. Margaret Song stated that as a reminder a lot of these projects are custom. As projects come in, the Compact will be looking at savings.

Maggie Downey reviewed the directives on bill impacts. She stated that PAs may not exceed its planned program level budget for 2022-2024 without approval by the DPU. She stated that this is not by sector level but by program. This could impact the Compact's ability to reach its savings goals. To qualify for a program level budget modification, the PA must demonstrate that an increase in budget results in an increase in kWh or therm savings and submit the proposed budget change to DPU and the Council simultaneously.

Maggie Downey reviewed the directives on revenue decoupling. She stated the bottom line is that the DPU is requiring that in each rate case for the electric PAs that the electric PA include a proposal about eliminating decoupling. She stated that it is not saying that decoupling was prohibited for the electric PAs, but that they submit a proposal stating what the impacts would be if decoupling was eliminated.

Maggie Downey reviewed the miscellaneous DPU directives. She stated Combined Heat and Power (CHP) projects that use renewable natural gas and meet specific requirements will satisfy the definition of an energy efficiency measure. PAs must implement GHG emissions reductions analyses in future potential studies and consider service-territory specific top-down GHG emissions reduction potential in setting goals for the next

plan. PAs must file a formal energy scorecard proposal with the DPU that would use ratepayer funds to implement them. In the compliance filing the PAs must remove all costs associated with scorecards from the RCS budgets. They must also amend their Residential Coordinated Services (RCS) operating budgets and present a filing that includes pre-filed testimony and exhibits describing the proposal and an itemized budget with information specific to scorecards. As for codes and standards, PAs must complete an attribution study and submit it with their 2022 Annual Reports to support the attribution rate they propose to use for savings associated with their appliance standards lobbying activities.

Maggie Downey reviewed the directives regarding future plan review and approval process. She stated future plans must include descriptions of each program in a clearer manner and that the process with the EEAC has a cutoff. Once this response is submitted to the Energy Efficiency Advisory Council (EEAC), no additional substantive changes to the plan are allowed. PAs may not participate in EEAC meetings from the date the plan is filed with DPU through the filing of briefs in the plan dockets. They must also include all program offerings, using full name marketed to customers, in their plans and share their proposed plan enhancements in advance of plan filing.

Maggie Downey reviewed the directives regarding Minimizing Administrative Costs. She stated that going forward all PAs must include specific proposed Key Performance Indicators (KPIs) in the plans. In the April 1, 2022 Compliance Filing, the PAs must provide a complete list of KPIs in their Plan. The DPU did not have sufficient time to consider the Data Request Process Proposal agreed to between the PAs and the Council in January 2022. Also, PAs may not recover any administrative costs related to EEAC data until DPU approves the Data Request Process Proposal. She stated historically the Compact has received a data request from an EEAC member that takes a significant amount of time for staff to pull together.

Maggie Downey reviewed the DPU findings and directives on Compact specific elements of the Plan. She stated that the DPU denied Cape and Vineyard Electrification Offering (CVEO) for the same reasons they listed in the DPU 20-40A order. They did add more clarity on why it believes solar PV is not an energy efficiency or demand reduction resource within the scope of the Green Communities Act (GCA). The DPU claims that CVEO is inconsistent with GCA because it would serve a limited number of customers. She stated that the DPU did approve the Compact's Residential and C&I enhancements. However, DPU did not determine whether they were reasonable because there is no evaluation study on record. It said that in future plans the Compact must include a list of each measure in the BCR that is receiving an incentive higher than the Statewide Plan. Also, the Compact must complete another evaluation through statewide protocols of the enhancements approved for the Plan and submit it with the next plan.

Maggie Downey reviewed the DPU findings and directives on the Compact's proposed allocation of shared costs. She stated that overall, the DPU agreed with the Compact's position, which is shared costs should be set on staff time and our allocation between two budgets which we track on staff timesheets. In its next plan filing the Compact must present a detailed study of cost drivers for each category of shared costs and will be asking the auditor to assist with this task.

Maggie Downey reviewed the DPU findings on equity and participation rates for the Compact. She stated that specifically the DPU claims the 2013-2017 Residential Non-Participant Customer Profile Study (Study) data shows too many municipalities in the Compact service territory have low participation rates. She stated that the data that they have is accurate; however, the DPU only looked at one of the four metrics used to determine participation in the Study. The metric that the DPU utilized is for large multi-family buildings. The Compact's service territory does not have many large multifamily buildings and when you compare the Compact to the statewide participation average utilizing this metric, the Compact will always be lower than the statewide

average due to its lack of large multifamily buildings. She stated that you must look at all four metrics in the Study to analyze participation rates more accurately.

The DPU stated that the Compact is not meeting statutory requirement for spending 10% of its budget on low-income customers and that since the Compact does not have performance incentives, if the Compact does not improve, it will consider decertifying the Compact's Energy Efficiency Plan. She stated that this is a systemic problem because the legislation requires the electric PAs to spend 10% of their total budget on low-income customers, and the Compact has a small number of low-income customers, and many have already been comprehensively served through the energy efficiency program. Staff is going through the data to determine how many low-income customers have been comprehensively served and what remains to be done through the energy efficiency program. Staff intends to address this issue and participation rates in the August Term Report.

Bob Higgins-Steele asked if Truro was one of the underperforming towns in the study. Maggie Downey stated that 13 of the 21 towns are below the 35% participation rate using the weighted average and that she does not have that list on hand. She stated that is only one metric and we need to look at all the metrics. Phil Moffitt stated that the data the DPU is focused on is called the consumption weight of participation rate. It includes participant consumption in the numerator and total consumption in the denominator. It is then comparing the Compact's rates to the statewide average rates. He stated there are several problems with that. It negatively impacts PAs with smaller building and positively impacts those with bigger buildings. He stated that when a high-rise building participates and only one unit participates, all the consumption goes to both the numerator and the denominator. He stated there is also the unweighted participation metric, which looks at the rate at which buildings participate, and the Compact does well in this metric. Phil Moffitt stated that there is still more data to be collected but, on the surface, the underperforming towns are Chilmark, Edgartown, Aquinnah, Oak Bluffs, and Provincetown.

Erik Peckar asked what 12 towns were added to the environmental justice communities. Maggie Downey stated that she is not at her desk but will send them out by Friday. Erik Peckar asked whether the EV demand response program will include plugin hybrid vehicles. Dan Schell stated that the primary focus would be on the charger, but for customers that do not have an eligible charger the Compact will be looking at some of the manufacturers. He does not have the current list, but if the customer has a level two charger, they would be able to participate with that. Erik Peckar asked about the social value of GHG emission reductions and why there was such a discrepancy about the \$393 and \$128. Maggie Downey stated that the PAs are required to do an avoided energy supply cost study that is done by multiple states and reach an agreement on these numbers. She stated that when the study was completed, the PAs, based on what was happening at the federal and state level, believed that these numbers were no longer accurate and conducted a supplemental study that was denied by the DPU. Erik Peckar asked if there is a way to raise awareness of low-income eligibility. Briana Kane stated that the Compact speaks to the ability to serve income eligible customers at every presentation it does. She stated this past year the bulk of the Compact's marketing has been promoting landlord and renter participation and income eligible participation. The Compact does present at places such as libraries and senior centers. COVID did change that a bit, but the Compact was able to do a few virtual presentations. She stated that the Compact worked with towns to get the word out as well. She stated that customers approved for the fuel assistance program and/or electric discount rate are encouraged to assess their weatherization potential. She stated our vendors also work from the fuel assistance list to reach out to those customers and let them know about the programs. Maggie Downey stated that staff welcomes suggestions from the Board on how to better reach out to these customers.

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 NOT RETURN TO OPEN SESSION:

Martin Culik at 3:28 PM moved to enter into Executive Session pursuant to M.G.L. c. 30A §21(a)(3) to review and approve executive session minutes which contain discussions regarding pending or imminent regulatory litigation related to Massachusetts Department of Public Utilities (DPU) 20-40, Cape & Vineyard Electrification Offering (CVEO) and the 2022-2024 Energy Efficiency Plan; and (2) pursuant to M.G.L. c. 30A §21(a)(3) and (10) to discuss and potential vote on pending or imminent regulatory litigation and trade secrets and confidential, competitively-sensitive or other proprietary power supply information related to Massachusetts Department of Public Utilities 20-40, Cape & Vineyard Electrification Offering (CVEO) and the 2022-2024 Energy Efficiency Plan, DPU 21-126, and the Eversource Rate Case, DPU 22-22, 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
Tim	Carroll	Chilmark	Yes
Brad	Crowell	Dennis	Yes
Fred	Fenlon	Eastham	Did not vote due to technical issues
Alan	Strahler	Edgartown	Yes
Matt	Patrick	Falmouth	Yes
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Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Yes
Leanne	Drake	Sandwich	Yes
Bob	Higgins-Steele	Truro	Yes
Richard	Elkin	Wellfleet	Yes
Erik	Peckar	West Tisbury	Yes
Joyce	Flynn	Yarmouth	Yes

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

Respectfully submitted,

Melissa Allard

LIST OF DOCUMENTS AND EXHIBITS:

- Meeting Notice/Agenda
- January 12, 2021, Draft Meeting Minutes
- Agenda Action Request: Appointment of General Counsel
- Summary of the D.P.U. 27-726 Order on the 2022-2024 Energy Efficiency Plan PowerPoint