

**Cape Light Compact JPE
Governing Board
Meeting Minutes
Wednesday, April 13, 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, April 13, 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. Colin Odell, Executive Committee, Brewster
5. Peter Cocolis, Chatham
6. Timothy Carroll, Executive Committee, Chilmark
7. Fred Fenlon, Eastham
8. Alan Strahler, Edgartown
9. Matthew Patrick, Falmouth
10. Valerie Bell, Harwich
11. Dion Alley, Executive Committee, Oak Bluffs
12. Martin Culik, Chair/Executive Committee, Orleans
13. Nathaniel Mayo, Provincetown
14. Bob Higgins-Steele, Truro Alternate
15. Richard Elkin, Executive Committee, Wellfleet
16. Erik Peckar, West Tisbury
17. Joyce Flynn, Vice Chair/Executive Committee, Yarmouth

Absent Were:

1. Forest Filler, Aquinnah
2. Brad Crowell, Dennis
3. Wayne Taylor, Mashpee
4. Leanne Drake, Sandwich
5. Kirk Metell, Tisbury
6. Jarrod Cabral, Truro

Legal Counsel Participating Remotely:

Audrey Eidelman Kiernan, Esq., KO Law, P.C.

Erin O'Toole, Esq., KO Law, P.C.

Rebecca Zachas, Esq., KO Law, P.C.

Staff Participating Remotely:

Briana Kane, Residential Program Manager

Maggie Downey, Administrator

Melissa Allard, Senior Administrative Coordinator

Phil Moffitt, Planning & Evaluation Manager

Public Participants:

Brian Miner
Clay Schofield

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

PUBLIC COMMENT:

No public comments were submitted to the Board in writing under the public comment guidelines.

PRESENTATION ON REVISIONS TO CAPE LIGHT COMPACT JPE POLICIES AND PROCEDURES MANUAL, REGINA RYAN, LABOR COUNSEL. DISCUSSION ON PROPOSED REVISIONS TO THE POLICIES AND PROCEDURES MANUAL

Regina Ryan reviewed the Cape Light Compact Policies and Procedures Manual PowerPoint.

Regina Ryan reviewed the new policies. She stated that she recommended the Compact consolidate its Americans with Disabilities Act (ADA) and Criminal Offender Record Information (CORI) policies and adopt the Massachusetts Commission Against Discrimination policy. It does require that a person is identified by name who would receive any complaints and Regina Ryan stated that the Compact Administrator, Maggie Downey, was identified as the recipient of complaints filed with the Compact. She stated that there is an outline on how those complaints would be handled. David Anthony asked how staff would go about reporting if there were a complaint against the Administrator and should there be an alternate person to report to. Regina Ryan stated that the Compact can add an alternate, whether a member of the board or reporting to a supervisor. Maggie Downey stated that she thinks it is a great idea to add an alternate and that it should be the Chair of the Board. She asked Martin Culik if he agreed, and he answered yes.

Regina Ryan reviewed the Remote Work Policy. She stated that guidelines have been provided and eligibility standards established. She noted that the policy can be reviewed, modified, suspended, or canceled at any time. She stated that there must be a defined workspace at their home in order to be in compliance with the policy.

Regina Ryan stated that a Computer Use Policy has been implemented. It defines unacceptable use and includes emails, texts, and other electronic messages. She stated that it makes staff aware that those things can become public record.

Regina Ryan reviewed the updated Use of Compact Motor Vehicle Policy. It identifies prohibited activities and requires employees to wear seat belts. She stated that it outlines how accidents should be reported and to whom. David Anthony asked if the policy specifically calls out cell phone use, or is it implied that you have to conduct yourself while driving to follow all vehicle laws in the Commonwealth. Regina Ryan stated that it is implied, but that wording can be added to clarify cell phone use.

Regina Ryan reviewed the Social Media Policy. She stated that the Administrator, or her/his designee, approves all sites and publications, and it is used to enhance communications with customers, and facilitates discussion on Compact business operations.

Regina Ryan reviewed the Workplace Violence Policy. She stated that it defines the expectations of the employees in the event that a situation does arise. It is a Zero Tolerance Policy and stated that the organization is free of violence, threats, harassment, intimidation, or other disruptive behavior.

Regina Ryan reviewed the Pregnancy and Pregnancy Related Conditions Policy. She stated that it is a new protected class that was adopted by Massachusetts in 2018. It is required to provide the policy to new employees. She stated that it again requires that an individual be named specifically in the policy and the Administrator, Maggie Downey, was identified as the person to receive any concerns or complaints. She stated that the Chair can be named as an alternate again in case the Administrator was the one reported as violating the policy.

Regina Ryan reviewed the additional changes. For the Drug Free Policy, it was updated to add marijuana. She stated because FMLA and Parental Leave changes quite frequently, that it be stated employees can refer to the posters in the break room and therefore, the policies manual does not have to be continually updated. She stated that compensatory pay was removed because for non-exempt employees it is illegal to pay them compensatory pay and there are no employees that it would apply to.

Matt Patrick left meeting at 2:38PM.

Regina Ryan stated that the merit pay was updated to what Maggie Downey believed to be fair for the employees. Maggie Downey stated merit pay was 0 to 4% when Compact staff were employees of Barnstable County and was only for managers. She stated that when the Compact reorganized to a Joint Powers Entity in 2017, the Board decreased it to 2% but expanded it to all employees. She stated that she is recommending that it be increased to up to 3% based on annual performance. Richard Elkin asked how many employees are at the top step. Maggie Downey answered that there are 6 employees. Richard Elkin asked if any of those employees are in positions that could get promoted to positions where they are not at the cap. Maggie Downey answered that for 3 no, and for the other 3 possibly. Maggie Downey stated that the vacation buyback has been modified so that instead of 5 days it is 10 and the next step it would be 10 to 20 days. Erik Peckar asked if that is on the rate the person earns. Maggie Downey answered yes. David Anthony asked if there is there a cap on how many days of vacation days an employee can accrue over the course of their employment. Maggie Downey answered that employees require permission to carry-over vacation, but there is no cap on the amount carried over. Employees are required to use 10 days before carrying over vacation. Regina Ryan reviewed the sick leave buyback at retirement. She stated that the proposal would entitle qualified employees be compensated for 20% all earned sick days up to 150 days. Maggie Downey stated that to be eligible, the retiring employee must have worked for 15 years or more.

Richard Elkin asked if remote work is confined to an employee's home. Regina Ryan stated that the employee must define their workspace. Richard Elkin stated that there should be some flexibility and recognition that people work from many venues than traditional like their house. Regina Ryan stated that her concern is with workers compensation but that the wording can be changed. Richard Elkin stated that it could be changed so that employees would be required to let Maggie Downey where they are going to be working and then it is up to her whether to approve or not. Dion Alley asked if the Compact supplies the equipment for the employee's remote office. Maggie Downey stated there is a form that was given to employees for them to define what equipment they will need. That is then passed on to the supervisor and then the administrator. She stated that the employee is responsible for maintaining and safety of the equipment.

Colin Odell stated for the automobile use, there should be a requirement for personal vehicles as well, that when employees are traveling for work, they must report any accidents in case the Compact becomes liable. David Anthony stated that by being paid 55 cents a mile, there is a burden that shifts when the employee accepts that payment and there is less liability in that regard as you are compensating the employee for the wear and tear on their vehicles. He stated that we need to be careful not to extend the umbrella too far over personal vehicles. Maggie Downey stated that she will make sure that the policy is clear. David Anthony stated that he would be willing to meet and talk about it more.

David Anthony asked how often the Compact should review the policies. Regina Ryan stated that at least every three years should be sufficient.

Peter Cocolis joined meeting at 2:49PM.

APPROVAL OF MINUTES:

The Board considered the March 9, 2022, Open Session Meeting Minutes.

Richard Elkin moved the Board to accept the minutes as amended and to release them as amended, seconded by Peter Cocolis.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Peter	Cocolis	Chatham	Yes
Tim	Carroll	Chilmark	Yes
Fred	Fenlon	Eastham	Yes
Alan	Strahler	Edgartown	Yes
Valerie	Bell	Harwich	Yes
Dion	Alley	Oak Bluffs	Yes
Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Yes
Bob	Higgins-Steele	Truro	Yes
Richard	Elkin	Wellfleet	Yes
Erik	Peckar	West Tisbury	Yes
Joyce	Flynn	Yarmouth	Yes

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

CHAIRMAN'S REPORT:

1. Discuss Changing Public Comment Protocol

Martin Culik stated that currently we accept only written comments. He stated that there has been a question on whether to allow verbal comments as well. He asked the Board whether anyone would object. Joyce Flynn asked if the Board Meetings will be resuming in person or hybrid meetings. Martin Culik stated that we will be resuming hybrid meetings once the Zoom Room is ready. He stated that the Compact is waiting for the equipment as some of it is on backorder. Joyce Flynn asked if it would be a bother to staff to let people in and out of the office during the Board Meeting. Maggie Downey stated that there are not usually many members of the public attending the Board Meetings so it should not be a bother. Joyce Flynn asked if there would be a time limit for public comment. Martin Culik stated that there would be a time limit. Tim Carroll stated that he likes written public comment because that means they were thought through and not something done on the fly. Richard Elkin stated that prior to COVID-19 we used to allow the public to attend the Board Meetings and we limited the amount each could present therefore making sure they are on top of it. He stated that he is in favor of allowing verbal comment again.

Colin Odell moved the CLCJPE Board of Directors vote to allow public comment in both written and verbal format giving the Chair the right to enforce a three-minute time limit. Seconded by Nate Mayo.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Peter	Cocolis	Chatham	Yes
Tim	Carroll	Chilmark	Yes
Fred	Fenlon	Eastham	Yes
Alan	Strahler	Edgartown	Yes
Valerie	Bell	Harwich	Yes
Dion	Alley	Oak Bluffs	Yes
Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Yes
Bob	Higgins-Steele	Truro	Yes
Richard	Elkin	Wellfleet	Yes
Erik	Peckar	West Tisbury	Yes
Joyce	Flynn	Yarmouth	Yes

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

2. Board Meeting Packet Posting on Website

Martin Culik stated that Board Meeting Packets were not posted in advance for all the Board Meetings as stated in the agenda. He stated that from now on that will be corrected.

Tim Carroll left meeting at 3:19PM.

3. Approval of January 27, 2022, Executive Committee Minutes

The Board considered the January 27, 2022, Executive Committee Meeting Minutes.

Richard Elkin moved the Board to accept the minutes as amended and to release them as amended, seconded by Colin Odell.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Martin	Culik	Orleans	Yes
Richard	Elkin	Wellfleet	Yes
Erik	Peckar	West Tisbury	Yes
Joyce	Flynn	Yarmouth	Yes

Motion carried in the affirmative (7-0-0)

ENERGY EFFICIENCY:

1. 2022-2024 Energy Efficiency Plan Compliance Filing Presentation, Phil Moffitt

Phil Moffitt reviewed 2022 – 2024 Energy Efficiency Plan Compliance Filing PowerPoint. The objective of the PowerPoint is to provide an overview of the April 1st Compliance Filing required by the MA Department of Public Utilities (DPU) in their Order on the Program Administrators' (PA) and the Compact's 2022-2024 Energy Efficiency Plan.

Phil Moffitt stated that the DPU found that the PAs should not discontinue offering lighting measures to all residential customers. The DPU also required PAs to conduct a study to assess remaining lighting savings opportunities for renters, moderate income, minority, and limited English-proficiency customers. He stated that the Compact added residential lighting measures to 2022 only, which increases the Compact's costs by \$147,000 and benefits by about \$80,000. The DPU required Study is underway and due by September 30, 2022.

Phil Moffitt stated that the DPU directed the PAs to continue offering fossil fuel heating and water heating measures as long as savings opportunities remain. The Compact added residential fossil fuel heating and water heating measures to the plan which increased both the budget and benefits.

Phil Moffitt stated that the DPU directed the PAs to file a formal energy scorecard proposal, and to remove costs associated with the energy scorecards from the RCS budget until the DPU approves the proposal. He stated that the Compact removed \$1.6 million per year or \$4.8 million for the term. He stated that there are no impacts on the benefits.

Phil Moffitt stated that starting with the 2022-2024 Plan, the PAs are required to include the social value of greenhouse gas emission reduction as a benefit in their cost-effectiveness analyses. The DPU significantly reduced the Social Cost of Carbon (SCC) value, which reduces the benefits. He stated that the Compact's benefits are reduced by about 30%, or \$155 million for the plan term.

Phil Moffitt stated that the DPU changed the definition for Environmental Justice Communities (EJCs) to focus more on prior energy efficiency program participation. In the proposed plan the Compact had one EJC which was Eastham and now it has 12.

Phil Moffitt stated the DPU finds that the Plans should be designed to ensure weatherization is completed prior to electrification to the extent possible to minimize bill impacts, particularly for low- and moderate-income customers. He stated that consistent with other PAs, the Compact did not adjust budgets or benefits for this directive. He stated that the Compact will be reporting heat pumps installed in weatherized and un-weatherized homes and buildings.

Phil Moffitt stated that the DPU found that if the Compact wishes to serve Mutual Customers who heat with natural gas, it must adhere to the statewide coordination protocols for claiming savings and costs, which means the Compact would incur costs but not be able to claim any savings for conducting a home energy assessment and/or weatherizing a home. Serving mutual customers as directed by the DPU would increase the budget but reduce the cost effectiveness of the Compact's Residential program, which could result in the Compact being criticized by the DPU. He stated that going forward National Grid will pay incentives and claim savings and benefits for serving mutual customers. The Compact will be advising all customers who heat their homes with natural gas that they will be served by National Grid. He stated that the Compact removed weatherization services to residential customers who heat with natural gas. Erik Peckar asked how this affects the energy efficiency budget. Phil Moffitt stated that the Compact included about \$17 million to pay for those measures. Joyce Flynn asked if when National Grid customers call, we are sending them to National Grid or does the Compact still take on the job them and just not get any of the credit. Briana Kane stated that the Compact is still

finishing the compliance filing requirements on this issue, and she reiterated that the Compact will not be serving customers who heat their homes with natural gas, and that once the process is filed with the DPU she will update the Board.

Dion Alley asked how customers who are converting to natural gas are handled. Briana Kane stated that those customers would be served by the Compact until they become a National Grid customer. Dion Alley asked how are customers that have two different fuel types handled. Briana Kane stated that the Compact staff may have to spend more time on the phone with the customer to determine what the primary heating source is to determine who would serve them. Erik Peckar asked what are the medium to long term implications of this action and will this have an impact on the Compact. Briana Kane stated that the Compact has done multiple analyses. She stated that the Compact looked at the prior three-year plan and removing the weatherization measures, the program cost effectiveness went up. The Compact will still receive any electric measure savings during a National Grid assessment. She noted that the Compact still has a very robust energy efficiency budget and the Compact is adequately able to serve all our customers. She stated that the Compact will be working on new tactics and pursuing EJC, income eligible, and moderate-income customers and that will be a great way for the Compact to continue to be involved in the community by providing services.

Phil Moffitt stated the Compact filed an appeal to the Supreme Judicial Court (SJC) on the DPU's decision to deny the Cape and Vineyard Electrification Offering (CVEO). He stated that the Compact has removed it from the Plan which reduced the budget by about \$11 million and benefits by about \$42 million.

Phil Moffitt stated that the DPU found CLC should use six years of staff time to determine the allocation factor for all costs shared between the energy efficiency and operating budgets. He stated using the staff time from 2019 to 2021 the shared cost allocations for 2022 to 2024 planning and reporting are 94 percent for energy efficiency and 6 percent for operating. The change in allocation factors shifts about \$40,000 per year from energy efficiency to operating relative to the Compact's proposal to use 95 percent to energy efficiency and 5 percent to operating.

Phil Moffitt stated that the Compact and all the PAs are required to spend at least 10% of its total budget on income eligible programs. The Compact reduced the income eligible budget by about \$2 million for the term to be closer to the ten percent spending requirement, such that the Compact now plans to spend 10.4 percent of the three-year budget on the income eligible sector. He stated that this reduces the benefits by about \$11.5 million for the term. Richard Elkin asked what the motivation is for reducing the budget. Briana Kane stated that statutorily the Compact is required to make sure the income eligible expenditures are 10 percent of the overall budget. However, it is not designed like the rest of the programs. She stated that after looking at how the overall budget has changed, the Compact thought it best to align the income eligible budget closer to the 10 percent. She stated that it does not make sense to leave the income eligible budget at such a high threshold because the Compact has not spent the required 10 percent in the last several years.

Phil Moffitt stated that there is a net decrease in the total budget of about \$34.7 million and \$271.6 million for the benefits over three-years. He stated for the residential bill impacts the rate that is in effect for 2022 is slightly higher than the 2022 Compliance Filing rate. This will be reconciled and reflected through our 2023 EES rate setting process. That goes for residential, low-income, and commercial and industrial customers.

ADMINISTRATOR'S REPORT:

1. Release of RFP for Municipal Outdoor Lighting Operations & Maintenance as a Service to Towns and Fire Districts

Maggie Downey stated that the Compact facilitated on behalf of the participating towns and fire districts on Cape Cod and Martha’s Vineyard an RFP for municipal outdoor lighting operations and maintenance. The Compact is working with the Town Managers and Fire Chiefs and the contracts with the selected vendor will be between the vendor and the participating towns/fire districts, not the Compact.

2. Discussion and potential vote to appoint Compact Business Officer

Maggie Downey stated that the Compact has a contract with Dan Sullivan, a CPA, to help with the Comptroller tasks as Megan Terrio no longer works for the Compact as of the end of March. She stated that the Joint Powers Agreement requires that the Compact have a business officer and she recommended that the Board appoint Dan Sullivan.

Joyce Flynn moved the CLCJPE Board of Directors vote to appoint Daniel Sullivan, CPA, as the Compact’s Business Officer effective April 13, 2022.

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
Fred	Fenlon	Eastham	Yes
Alan	Strahler	Edgartown	Yes
Valerie	Bell	Harwich	Yes
Dion	Alley	Oak Bluffs	Yes
Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Yes
Bob	Higgins-Steele	Truro	Yes
Richard	Elkin	Wellfleet	Yes
Erik	Peckar	West Tisbury	Yes
Joyce	Flynn	Yarmouth	Yes

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

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 4:04 PM moved to enter into Executive (1) pursuant to M.G.L. c. 30A §21(a)(3) to consider strategy and potential vote regarding pending litigation related to the Eversource Rate Case, D.P.U. 22-22; and (2) pursuant to M.G.L. c. 30A §§21(a)(3) and (10) to review and approve the March 9, 2022 executive session minutes regarding the review and approval of September 9, 2020 and February 9, 2022 executive session minutes concerning pending or imminent regulatory litigation related to Massachusetts Department of Public Utilities (DPU) 20-40, Cape & Vineyard Electrification Offering (CVEO), the 2022-2024 Energy Efficiency Plan, D.P.U. 21-126, the Eversource Rate Case, DPU 22-22, and trade secrets and confidential,

competitively-sensitive or other proprietary power supply information related to Low Income Community Shared Solar Project. Seconded by Joyce Flynn.

David	Anthony	Barnstable	Yes
Robert	Schofield	Bourne	Yes
Colin	Odell	Brewster	Yes
Peter	Cocolis	Chatham	Yes
Fred	Fenlon	Eastham	Yes
Alan	Strahler	Edgartown	Yes
Valerie	Bell	Harwich	Yes
Dion	Alley	Oak Bluffs	Yes
Martin	Culik	Orleans	Yes
Nate	Mayo	Provincetown	Yes
Bob	Higgins-Steele	Truro	Yes
Richard	Elkin	Wellfleet	Yes
Erik	Peckar	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
- March 9, 2022, Draft Meeting Minutes
- Cape Light Compact Policies and Procedures Manual PowerPoint
- Cape Light Compact Policies and Procedures Manual
- 2022-2024 Energy Efficiency Plan Compliance Filing
- Agenda Action Request: Appointment of Compact's Business Officer
- 2022 Operating Budget
- 2022 Energy Efficiency Budget