

Cape & Vineyard Electric Cooperative, Inc.
Executive Committee
Open Session Meeting Minutes
Thursday, August 7, 2014

The Cape & Vineyard Electric Cooperative, Inc. Executive Committee met in Open Session on Thursday, August 7, 2014 @ 9:30 a.m. in the County Commissioners' Meeting Room, Superior Court House, 3195 Main Street, Barnstable MA 02630

PRESENT WERE:

1. John C. Checklick, President/Executive Committee Member/Director, Falmouth
2. Charles McLaughlin, V. President/Executive Committee Member/Director, Barnstable
3. Peter Cabana, Member at Large/Executive Committee Member/Director, Dukes County
4. Stephan Wollenburg, Executive Committee Member/Director/Cape Light Compact
William Straw, Director, Tisbury

ABSENT WERE:

5. Sheila Lyons/Executive Committee Member/Director, Barnstable County

LEGAL COUNSEL

Audrey Eidelman, Esq. BCK Law – remote participation by telephone

STAFF PRESENT:

Liz Argo, Special Projects Coordinator
Karen Loura, Assistant Clerk

1. CALL TO ORDER

At 9:40 a.m., with a quorum present, Pres. Checklick called the meeting to order stating the agenda has been duly posted in accordance with the Open Meeting Law on the CVEC website <http://documents.cvecinc.org/agendas/2014/2014%2008%2007%20Exec%20Comm%20Agenda.pdf> and on exterior Public Meeting Notice Board at Superior Courthouse on 8/4/14 at 9:05 a.m. and a revised agenda on 8/4/14 @ 5:20 p.m.

2. NO PUBLIC COMMENT PERIOD

3. CONSIDERATION OF MEETING MINUTES

By agreement, the consideration of meeting minutes was moved to the end of Executive Session when the Committee Returns to Open Session.

4. DOER ENERGY RESILIENCY GRANT

L. Argo announced the Department of Energy Resources (DOER) Community Clean Energy Resiliency Initiative Grant for technical assistance to help determine if a battery back-up system is possible at the Dennis/Yarmouth Regional High School for the Roof-mounted PV solar system. The Committee was also provided with copies of a letter from Pres. Checklick to NSTAR Electric asking about the possibility of a secondary behind the meter connection. S. Wollenburg urged CVEC choose a stand-alone system if given the opportunity to choose. C. McLaughlin moved the Committee vote to accept the grant for energy resiliency from DOER for technical Assistance by The Cadmus Group, seconded by P. Cabana. P. Cabana asked about site selection. Although several sites on Martha's Vineyard were examined none were found to qualify for the grant because of criteria requiring a distributive generating facility and classified as a critical facility (such as an emergency shelter). C. McLaughlin urged caution to determine maximum dollar value of the grant being careful to not exceed by expenditure. *The Committee then voted unanimously in favor of the motion (4-0-0).*

5. CVEC-7 PV PROJECTS

L. Argo reviewed history of seeking quotes for the Operation and Maintenance of the ConEdison Solutions PV Systems which CVEC is by contract now obliged to provide. She reported all price quotes obtained have been too high and that CVEC has spent \$3,000 on repairs already this year. She estimated CVEC could expect \$13,000-\$15,000/year for O&M. ConEdison Solutions has been approached and offered the amount of the CVEC adder plus Renewable Energy Certificates (RECs) which CVEC passes through to ConEdison Solutions who are seeking a rate of \$50.00 vs. the current \$40.00. Cape Light Compact will not pay more than \$45.00/REC. S. Wollenburg expressed his strong preference to try to reach agreement with ConEdison Solutions adding their prices are really good. P. Cabana agreed. L. Argo said she has been unsuccessful in receiving a response from ACE (Round I) Fishbach & Moore (Round II) on her request for an O&M price quote.

C. McLaughlin requested a review to determine CVEC's ability to purchase the systems and if so whether it is economically a consideration. Atty. Eidelman agreed to research if a buyout provision exists in the agreement and report back to the Committee. S. Wollenburg said it makes sense to have the system owner provide the O&M since they want to be sure to keep the systems running. There was discussion about the merits of having G&S take over systems at sites containing CVEC 7 Systems where there will also be Round II PV systems (i.e., Barnstable High School).

P. Cabana moved to authorize L. Argo to go back to ConEdison and offer \$47.50 on the RECS and come back for a final decision based on response received, seconded by S. Wollenburg. It was agreed to have the purchase options, if any provided in advance of the next meeting. There was discussion about the market values of REC's & SREC's values and Atty. Eidelman said they are different commodities. ConEdison took the tax credit and the projects are subject to 7-year "claw-back" provisions. The Committee then voted unanimously in favor of the motion (4-0-0).

6. RECORDING MEMORANDA OF LEASE AND ASSIGNMENT IN LAND REGISTRY FOR ROUND II (G&S PROJECTS)

Atty. Eidelman explained a request by one of the lenders to G&S solar who is seeking an Assignment Under the Intergovernmental Project Development Agreement for the Barnstable High School System. She explained several of these have been executed for Round I projects and urged the Board to adopt the form as a template for subsequent sites going forward. She said recording fees will be paid by lender. *S. Wollenburg moved the Committee approve the Form entitled Assignment under Inter-Governmental Project Development Agreement and Memoranda of Lease as a template for this project and others for recording in the local Registry of Deeds and that the President and V. President be authorized to work with BCK Law to make minor edits as necessary, seconded by P. Cabana.* Atty. Eidelman explained the Memoranda of Lease is essentially a short form of the Project Development Agreement which was executed by CVEC and the Town and the Assignment is a short form of the Energy Management Services Agreement between CVEC and Developer and it was reviewed last fall by (Special Town Counsel) Attorney Kevin Batt. The Committee then voted 3-0-1 with C. McLaughlin abstaining.

7. DISCUSSION AND VOTE ON AMENDMENT TO ROUND I PV INITIATIVE EMS AGREEMENTS TO INCORPORATE PROCESS FOR REPLACING FORM OF LOCKBOX AGREEMENT WITH A CONTROL ACCOUNT AGREEMENT AND VOTE TO APPROVE CONTROL ACCOUNT AGREEMENT

Atty. Eidelman explained the Control Agreement for Deposit Account form was chosen versus a Lockbox Account due to high fees for multiple deposits through a lockbox. Protections for CVEC were taken from the Lockbox Agreement and imbedded into this new Control Agreement. The Committee reviewed the proposed

Agreement. In the Control Agreement, the Developer(s) (American Capital Energy – ACE) will own and control the account but the Bank will take direction from CVEC and the funds will waterfall into CVEC’s Account. The developer would only have access to funds if CVEC failed to pay. In addition a hold can be placed for any amounts in dispute. This is an agreement between the Century Bank & Trust Company, CVEC and ACE. Except for Eastham, all projects in Round I are set up to be cashed out. There was discussion about Eastham’s exposure. Atty. Eidelman said provided Eastham pays CVEC, there is no reason CVEC would not pay ACE. *P. Cabana moved the Committee vote to approve the Control Agreement, seconded by S. Wollenburg and voted unanimously in favor (4-0-0).*

8. DISCUSSION ON JULY, 2014 NET METERING LEGISLATION

Atty. Eidelman updated the Committee on Net Metering (NM) Legislation which did not pass for a variety of reasons. There is an increase in the NM caps currently @ 3% is now 5% for public installations and 4% for private installations. She will check to see if an Emergency Preamble was in place and if so, the increase would take effect immediately. She said existing SREC II Legislation is still in place and the change only affects Net Metering. She said NSTAR currently has 8MW available in the public NM cap. Projects over 600 kW not behind the meter could be considered managed growth. The SREC II program for 2014 & 2015 is full. Managed growth is capped in SREC II but other categories are still available and will help to reach the Administration’s goals of 1600 MW by 2020.

The Governor has filed legislation for the formation of a 17-member Net Metering Taskforce to assess and report to the legislature on the costs and benefits of the existing net metering framework from the perspectives of the customer-generator, non-participating ratepayers, and the citizens of the commonwealth at large. The Task Force’s first meeting is to take place by October 1, 2014 and their Report is due March 31, 2014. She listed the proposed designated taskforce membership to be appointed.

There was discussion about the 2015 Managed Growth (80 MW) Cap which is fully subscribed and has a wait list. There is availability in other categories outside of the Managed Growth Category (projects over 600 kW and which are not behind the meter). CVEC Members would not likely propose projects outside of the Managed Growth Category. C. McLaughlin suggested CVEC think about organizations on Cape Cod & Martha’s Vineyard who may qualify for project development in the other categories.

Committee members discussed the possibility of getting Stephan Wollenburg appointed to the NM Task Force and/or having input. Atty. Eidelman did not see a place for such an appointment and will email the proposed list of appointees.

9. OPEN SESSION VOTE ON ENTRY INTO EXECUTIVE SESSION

At 10:55 a.m. P. Cabana moved the Board vote to enter Executive Session pursuant to MGL Ch. 30A § 21 (a) 3 & 10, seconded by C. McLaughlin. Pres. Checklick declared the reasons for moving into Executive Session as listed on the Agenda as follows:

- a) M.G.L. c. 30A, Section 21 (a) (10): Discussion and potential voting regarding Renewable Energy Procurement Options and the allocation of excess energy. (confidential and competitively sensitive information).
- b) Discussion regarding status of appeal of building permit for Round II Mattacheese Ground Mount PV System and extension of net metering capacity allocation pending outcome of litigation pursuant to M.G.L. c. 30A, §21(a)(3) (litigation strategy) and M.G.L. c. 30A, §21(a)(10) (confidential and competitively sensitive information)
- c) Discussion and potential vote on percentage allocations of net metered energy for certain PV Round II Inter-Governmental Agreements pursuant to M.G.L. c. 30A, §21(a)(10) (confidential and competitively sensitive information)

- d) Consideration of and Vote to Approve Executive Session Meeting Minutes pursuant to MGL Ch. 30A § 21 (a) (10).

and stated an open meeting may have a detrimental effect on CVEC's ability to conduct business in relation to other entities making, selling or distributing electric power and energy and a detrimental effect on the bargaining or litigating position of the public body. He said the Board would return to Open Session at the conclusion of Executive Session. C. McLaughlin informed the Committee of his reservations about Topics c & d warranting an Executive Session and solicited the written opinion of Counsel which persuaded him that they do. He asked that Atty. Eidelman's email be entered into the Executive Session Minutes as a reason for his support of the motion. There was discussion about Attorney/Client privilege of the email if it is used during Open Session. C. McLaughlin agreed to include it by reference only to shield it from public disclosure due to attorney-client privileged. *The Committee then voted unanimously in favor by roll call vote as follows:*

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|------------------------------|-----|--------------------------------------|-----|
| 1. J. Checklick, Falmouth | Yes | 3. P. Cabana, Dukes County | Yes |
| 2. C. McLaughlin, Barnstable | Yes | 4. S. Wollenburg, Cape Light Compact | Yes |

At 12:20 p.m. The Committee reconvened in Open Session.

S. Wollenburg left the meeting at 12:20 p.m.

3. CONSIDERATION OF MEETING MINUTES

Atty. Eidelman reported members absent from meetings may still vote on accepting those meeting minutes. The Committee then considered the Open Session Minutes of **February 27, 2014**. *C. McLaughlin moved to accept the minutes as presented, seconded by P. Cabana and voted unanimously in favor by roll call vote as follows:*

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|------------------------------|-----|----------------------------|-----|
| 1. J. Checklick, Falmouth | Yes | 3. P. Cabana, Dukes County | Yes |
| 2. C. McLaughlin, Barnstable | Yes | | |

The Committee then considered the Open Session Minutes of **June 5, 2014**. *C. McLaughlin moved to accept the minutes as presented, seconded by P. Cabana.* Pres. Checklick requested Executive Session Agenda Items be added to the Open Session Vote on Entry into Executive Session and to change "List of Materials" to "List of Documents & Exhibits" and to add "Agenda" to the list - by agreement. *The Committee then voted unanimously in favor of the amended motion by roll call vote as follows:*

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|------------------------------|-----|----------------------------|-----|
| 1. J. Checklick, Falmouth | Yes | 3. P. Cabana, Dukes County | Yes |
| 2. C. McLaughlin, Barnstable | Yes | | |

The Committee then considered the Open Session Minutes of **July 1, 2014**. *C. McLaughlin moved to approve the minutes subject to incorporating changes previously discussed in Executive Session, seconded by P. Cabana. The Committee then voted unanimously in favor of the motion by roll call vote as follows:*

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|------------------------------|-----|----------------------------|-----|
| 1. J. Checklick, Falmouth | Yes | 3. P. Cabana, Dukes County | Yes |
| 2. C. McLaughlin, Barnstable | Yes | | |

Respectfully submitted,

Karen E. Loura
Assistant Clerk

List of documents and exhibits:

- Meeting Notice/Agenda
- Copy of 8.1.14 Letter from J. Checklick to C. Tavaras, Nstar Electric relative to the DOER Energy Resiliency Grant
- Executive Committee Meeting Minutes:

- June 5, 2014 Open Session Meeting Minutes
- February 27, 2014 Open Session Meeting Minutes
- July 1, 2014 Open Session Meeting Minutes
- Exhibit A – CVEC 7 O&M ConEdison Solutions Renegotiated PPA Proposal
- Draft Template for Assignment under Inter-governmental Project Development Agreement (IG PDA)
- Draft Control Agreement for Deposit Account