

**Cape & Vineyard Electric Cooperative, Inc.**  
**Board of Directors and Executive Committee**  
**Executive Session Meeting Minutes**  
**Thursday, September 18, 2014**

The Cape & Vineyard Electric Cooperative, Inc. Board of Directors met in Executive Session during their Annual Meeting on Thursday, September 18, 2014 @ 11:59 p.m. in Conference Room 11/12, 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 by phone
3. Sheila Lyons, Executive Committee Member/Director, Barnstable County
4. Stephan Wollenburg, Executive Committee Member/Director/Cape Light Compact
5. Charles Hanson, Clerk/Director, Brewster
6. John Scott, Director, Chatham
7. Timothy Carroll, Director, Chilmark
8. Joseph Bayne, Eastham
9. Barbara Conroy, Edgartown
10. Lawrence Cole, Director, Harwich
11. Ronald Collins, Director, Orleans
12. Austin Brandt Director, Provincetown
13. Jennifer Rand, W. Tisbury
14. Steven Gavin, Director, Yarmouth

**ABSENT WERE:**

15. Peter Cabana, Member at Large/Executive Committee Member/Director, Dukes County
16. Jon Nelson, Director, Bourne
17. Richard White, Director, Dennis
18. Richard Toole, Director, Oak Bluffs
19. Michael Richardson, Director, Mashpee
20. James Killion, Director, Sandwich
21. William Straw, Director, Tisbury

**LEGAL COUNSEL:**

Audrey Eidelman, Esq. BCK Law

**STAFF PRESENT:**

Liz Argo, Special Projects Coordinator  
Karen Loura, Assistant Clerk

**OPEN SESSION VOTE TO ENTER EXECUTIVE SESSION**

At 11:58 L. Cole moved the Board vote to enter into Executive Session, seconded by S. Gavin. Pres. Checklick stated the reasons for entering into Executive Session as published on the Meeting Notice/Agenda as follows:

- a) Approval of Full Board Executive Session Meeting Minutes (pursuant to MGL Chapter 30A§21(a) (1) & (10)
- b) Discussion and potential vote regarding Renewable Energy Procurement Options including a Power Purchase Agreement, the form of Power Sales Agreements (and methodology of distributing net metered credits among potential off-takers pursuant to MGL Ch. 30A§21 (a) (10).

He declared that an open session 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 not return to Open Session at the conclusion of Executive Session this day. (E. Bibler requested a copy of the revenue report breakdown – report provided by P. Rogers. Pres. Checklick agreed to take the request under advisement.) *The Committee then voted by roll call vote as follows:*

- |                                      |     |                                 |     |
|--------------------------------------|-----|---------------------------------|-----|
| 1. J. Checklick, Falmouth            | Yes | 8. J Scott, Chatham             | Yes |
| 2. A. Brandt, Provincetown           | Yes | 9. S. Gavin, Yarmouth           | Yes |
| 3. T. Carroll, Chilmark              | Yes | 10. L. Cole, Harwich            | Yes |
| 4. J. Rand, W. Tisbury               | No  | 11. B. Conroy, Edgartown        | Yes |
| 5. R. Collins, Orleans               | Yes | 12. S. Lyons, Barnstable County | Yes |
| 6. C. Hanson, Brewster               | Yes | 13. J. Bayne, Eastham           | Yes |
| 7. S. Wollenburg, Cape Light Compact | Yes |                                 |     |

Motion passed in the affirmative (12-1-0)

Counsel and Staff were permitted to remain.

Recess 12:00 – 12:12 p.m.

**CONSIDERATION OF MEETING MINUTES**

The Board then considered the June 19, 2014 Board of Directors Executive Session Meeting Minutes. Several corrections were offered and agreed to. T. Carroll moved the Board vote to approve the minutes, seconded by S. Wollenburg and voted by roll call as follows:

- |                                      |     |                                 |     |
|--------------------------------------|-----|---------------------------------|-----|
| 1. A. Brandt, Provincetown           | Abs | 8. S. Gavin, Yarmouth           | Yes |
| 2. T. Carroll, Chilmark              | Yes | 9. L. Cole, Harwich             | Abs |
| 3. J. Rand, W. Tisbury               | Yes | 10. B. Conroy, Edgartown        | Abs |
| 4. R. Collins, Orleans               | Yes | 11. S. Lyons, Barnstable County | Abs |
| 5. C. Hanson, Brewster               | Abs | 12. J. Bayne, Eastham           | Yes |
| 6. S. Wollenburg, Cape Light Compact | Yes | 13. J. Checklick, Falmouth      | Yes |
| 7. J Scott, Chatham                  | Yes |                                 |     |

Motion passed in the affirmative (12-0-5)

Redactions remain unchanged.

**RENEWABLE ENERGY**

**Future Generation Wind**

J. Checklick informed the Board about the opportunity available with Future Generation Wind. A non-binding Letter of Intent (LOI) outlining the terms of an agreement was issued enabling L. Argo to approach potential off-takers to determine interest. Many positive responses were received. Future Generation Wind is offering to sell CVEC 3.125 million kWh of Net Metering Credits @ 11.5 ¢ per /kWh. CVEC intends to add .5¢ for the operational adder and offer the NM Credits at 12¢/kWh. Potential off-takers were offered “around 12¢/kWh” as final numbers are not known. Off-takers with room for the Credits are within CVEC and Monomoy School District.

Terms required CVEC to accept all of the available NM Credits (3.125 million kWh) or otherwise FGW would not contract. There was discussion about negotiating for a lower price. There is a 1/2¢ cent pricing differential in that pricing area.

The agreement must be complete by November 16, 2014. FGW has completely sold the project but would prefer 100% public off-takers. If CVEC signs an agreement with them, they will tell private investors that they are out of the deal.

The contracts are completely different from the Solar PV Agreements. FGW Representatives have been invited to meet with the Board of Directors later during this meeting at 1:30 p.m.

L. Argo informed the Board FGW has been thoroughly assessed and ConEdison Solutions is the financier. She distributed a calendar showing the schedule to complete the agreement. She said Orleans has indicated a desire to participate in wind project as an off-taker.

There was discussion about the pricing differences between solar and wind generation. There was discussion about variable pricing options. CVEC requested a fixed price arrangement believing it far better in the end. S. Wollenburg explained that as the prices increase CVEC receives 100% of the savings in a fixed pricing structure. With a variable pricing structure, the majority of the savings would go to the developer. Off-takers are all enthusiastic about the idea of adding wind NM Credits from off-cape.

There was discussion about the potential for the Attorney General's to interpret CVEC's operational adder as a tax. S. Wollenburg assured B. Conroy that there is no question about the CVEC adder being contrived as a tax. In the past, the Executive Committee decided not to include an adder on the ConEdison 7 PV Installations and CVEC cannot solve the sins of the past with this project. He said even if the adder were 1¢ it would only generate \$30,000 revenue annually. FGW has already sold their NM Credits and do not need CVEC. He explained that Private off-takers are not entitled to the public project credits. Public Projects earn 14¢ NM Credits. Private projects earn 10¢ NM Credits. He said it is not worth pushing the issue, if all off-taker agreements are signed, we will be reimbursed \$15,000 for legal expenses. If not, there is no expense reimbursement. The worse-case scenario commercial operation date is June, 2016. The commercial operation goal is the second quarter of 2015. The project consists of 4 turbines and 8 MW generation. FGW is determining which turbines to designate as public and which are private.

*At 1:40 p.m. lunch recess.*

Keith Mann and Carlos Pineda, FGW met with the board to provide a project update and expressed their excitement to be at this point with CVEC. K. Mann said a CVEC agreement would close out with all public off-takers. He said there are 13 agreements and listed the participants in their project portfolio. They forecast commercial operation by the 3<sup>rd</sup> quarter of next year. There was review of the siting of the project and flicker occurring east to west with the majority of homes in the north or south of the project. Atlantic Design Engineers, Sandwich is providing engineering. S. Lyons asked about mitigation of noise issues. FGW said noise mitigation is built into the agreements and they are committed to measuring. Noise reduction modules are being used. Two turbines are quite remote leaving only two which will need measuring. K. Mann said knowing the neighbors in the area and spending many hours at kitchen tables provided a lot of input. He is also involved with Next Generation Wind (NGW) in the Town of Bourne.

There was further discussion about noise and L. Cole mentioned a group known as Wind Wise which travels all over testifying about wind-turbine syndrome. C. Hanson explained that noise reduction is done with variable pitch and yaw. This gives the ability to reduce sound while still producing output. C. Pineda said FGW believes strongly in Best Practices in Permitting and said FGW did look at seasonal changes. FGW agreed to forward references, GPS coordinates and site plan to CVEC.

#### Net Metering Power Purchase Agreement – Future Generation Wind

Atty. Eidelman provided 9/13/14 Draft Net Metering Power Purchase Agreement modeled from all other FGW off-takers. She said this is a heavily negotiated draft and it was important to CVEC to obtain a fixed price agreement. She described the differences since the project is not cited on CVEC member land and CVEC is only an off-taker. She said the draft represents the best CVEC could get to date and it is with ConEdison Solutions for review who has provided feedback to FGW. The contract provides for a 20 year term from Commercial operation date with extendibility. Marion is the host for this project and it falls within their 10 MW cap. CVEC would sign a Net Metering Power Purchase Agreement (PPA) with FGW and then CVEC would sign a Net Metering Power Sales Agreement (PSA) with off-takers. She said FGW has an ISA w/Nstar Electric.

*C. McLaughlin joined the meeting remotely.*

She reviewed the dates and deadlines within the draft. She reviewed the estimated annual output production concept. She reviewed Exhibit E- Hypotheticals and Lockbox Agreement and responsibilities. There was

discussion about events and scenarios should CVEC become a utility and towns receiving assignment of CVEC's rights and interest. Atty. Eidelman said the language contained in the draft leaves room for flexibility. She explained the difference between wholesale and purchasing of NM Credits. S. Wollenburg explained if CVEC decided to be a distribution company today, the process would take 10 years' time to complete. 10 years into the future, if Towns did not accept assignment, CVEC would buy out their interest for 3 million which would become a rounding error.

Pres. Checklick asked for a motion to enter into a contract with FGW. *C. Hanson moved the Board vote to approve the Net Metering Power Purchase Agreement that was presented to all of you today for 3.125 million kWh of net-metered power to distribute to member and non-member off-takers subject to final word and approval of the Agreement by the Executive Committee, seconded by S. Wollenburg.* C. McLaughlin brought up the burden to counter parties who need to agree to accept assignment and the need to find homes for the Net Metering Credits. *The Board then voted by roll call vote as follows:*

- |                                      |     |                                 |     |
|--------------------------------------|-----|---------------------------------|-----|
| 1. A. Brandt, Provincetown           | Yes | 8. S. Gavin, Yarmouth           | Yes |
| 2. T. Carroll, Chilmark              | Yes | 9. L. Cole, Harwich             | Yes |
| 3. J. Rand, W. Tisbury               | Yes | 10. B. Conroy, Edgartown        | Yes |
| 4. R. Collins, Orleans               | Yes | 11. S. Lyons, Barnstable County | Yes |
| 5. C. Hanson, Brewster               | Yes | 12. J. Bayne, Eastham           | Yes |
| 6. S. Wollenburg, Cape Light Compact | Yes | 13. C. McLaughlin, Barnstable   | Nay |
| 7. J. Scott, Chatham                 | Yes | 14. J. Checklick, Falmouth      | Yes |

*Motion passed in the affirmative (13-1-0)*

Atty. Eidelman then reviewed the September 18, 2014 BCK Law. P.C. /RFZ Memorandum addressing general considerations related to the PSAs and the PPA for FGW and some of the major differences between the PSA for FGW Project and the PSA for PV excess allocation projects.

*A. Brandt moved the Board vote to authorize the Executive Committee to work with counsel to finalize the form of the PSA to be presented to the Town/off-takers for their approval and signatures by November 17, 2014, seconded by S. Lyons.* L. Cole asked for clarification about low production which could occur annually.

*C. McLaughlin disconnected from remote participation.*

*The Board then voted by roll call vote as follows:*

- |                                      |     |                                 |     |
|--------------------------------------|-----|---------------------------------|-----|
| 1. A. Brandt, Provincetown           | Yes | 8. S. Gavin, Yarmouth           | Yes |
| 2. T. Carroll, Chilmark              | Yes | 9. L. Cole, Harwich             | Yes |
| 3. J. Rand, W. Tisbury               | Yes | 10. B. Conroy, Edgartown        | Yes |
| 4. R. Collins, Orleans               | Yes | 11. S. Lyons, Barnstable County | Yes |
| 5. C. Hanson, Brewster               | Yes | 12. J. Bayne, Eastham           | Yes |
| 6. S. Wollenburg, Cape Light Compact | Yes | 13. J. Checklick, Falmouth      | Yes |
| 7. J. Scott, Chatham                 | Yes |                                 |     |

*Motion passed in the affirmative (13-0-0).*

At 2:30 p.m., *J. Rand moved to adjourn, seconded by S. Lyons and voted unanimously in favor.*

Respectfully submitted,

Karen E. Loura  
Assistant Clerk

List of Documents and Exhibits:

- June 19, 2014 Board of Directors Executive Session Meeting Minutes
- 9/13/14 Draft Net Metering Power Purchase Agreement (Confidential and Privileged) *Exempt from public records disclosure GL Ch. 4§7, cl 26 (d, h and s)*
- September 18, 2014 BCK Law. P.C. /RFZ Memorandum (Confidential and Privileged Attorney/Client communication) *Exempt from public records disclosure GL Ch. 4§7, cl 26 (d, h and s)*
- Calendar showing the schedule to complete FGW deal.
- Chart identifying off-taker kWh of NMC contracted under PV PSA and kWh of NMC released for application to FGW.