

***Committee of the Barnstable  
County Assembly of  
Delegates  
September 21, 2011***



# Purpose of Today's Presentation

- August 3, 2011, Barnstable County Assembly of Delegates adopts Resolution 11-02
  - To create a sub-committee to address concerns stated in Resolution and to facilitate the understanding of the relationship between Cape Light Compact (CLC), Cape & Vineyard Electric Cooperative, Inc. (CVEC), and Barnstable County Administration
- August 17, 2011, Assembly appoints members to subcommittee
- September 21, 2011, Representatives of CLC and CVEC meet with subcommittee members and present information to assist the subcommittee in understanding the relationship between CLC, CVEC and County Administration



# Background on CLC

- CLC was originally formed in 1997 through an inter-governmental agreement (IGA) pursuant to G.L. c. 164, §134, c. 25A, §6 and c. 40, §4A. The CLC now consists of Barnstable County, Dukes County, and all of the twenty-one municipalities located within these counties on Cape Cod and Martha's Vineyard
- Under current IGA, the purposes of the CLC include: aggregating consumers as part of the competitive market for electricity, negotiating the best terms and conditions for electricity supply, ensuring transparent pricing, providing equal sharing of economic savings based on current electric rates, providing and enhancing consumer protection, allowing consumers who choose not to participate to opt-out, as well as supporting environmental protection, energy efficiency, and renewable energy development



# Background on CLC - 2

- The CLC is governed by a Governing Board, which is responsible for the general management and supervision of the business and affairs of the CLC. The Governing Board consists of one representative selected by the Board of Selectmen or Town Council of each member municipality, plus one County Commissioner appointed by the Barnstable County Commissioners, and one representative appointed by the Dukes County Commissioners
- The CLC uses a weighted voting structure; both quorum and weighted votes are tabulated according to the population represented



# Background on CLC - 2

- The CLC is funded through several sources, including ratepayer funds, federal and state grants, administrative charges levied on electricity sold through the CLC's aggregated power supply contract with its private competitive electric supplier, and other sources as described further below
- Barnstable County has provided \$3.6 million through County general fund over the past 15 fiscal years
- Barnstable County funded CLC as a regional effort similar to its funding of other independent regional efforts
  - Wastewater Collaborative - \$1.2 million over the past 6 fiscal years
  - Open Cape - \$3.2M through long term lease of County Public Safety Building



# Background on CLC - 3

- The CLC has the power to plan and implement projects, as well as to negotiate contracts and other agreements. The CLC may adopt an annual budget and bylaws, direct the expenditure and investment of funds, acquire property, construct equipment and facilities, as well as apply for and receive grants or other financial assistance. It may employ staff, consultants, attorneys, technical advisors, and independent contractors
- The CLC may enforce agreements or otherwise prosecute claims on behalf of its members, and may coordinate the defense of members in any claim relating to such agreements
- The bylaws expressly permit it to retain counsel who may also represent its members or other public entities in matters in which CLC has a direct or substantial interest, subject to certain conditions set forth in the bylaws



# Background on CVEC

- CVEC was formed out of a strategic planning process commissioned and undertaken by the CLC
- Neither CLC, nor its member towns, could develop or finance electric generation projects and enter into long-term power purchase and other agreements on a wholesale basis
- Desire to stabilize electric rates for all ratepayers with renewable energy projects
- Develop renewable energy projects
- Public policy



# Formation of CVEC

- CLC examined alternatives in 2006
- Organized in September 2007 – separate legally distinct entity from all member towns and counties
- IRS Private Letter Ruling obtained in 2008
- Three initial members: CLC, Barnstable County and Town of Barnstable



# CVEC's Objectives

- Maximize the economic benefits of projects through net metering of municipal load
- Projects developed, owned and operated by CVEC
- RECs, capacity and other benefits will stabilize electric rates for all CLC customers
- Long term - develop electric generation projects and wholesale power purchase contracts over the next 10 years to stabilize electric rates for all CLC customers



# **CVEC Bylaws – Eligibility**

- Any municipality or county or political subdivision thereof, or body politic that meets the requirements of Internal Revenue Code Section 115, shall be eligible to apply for membership in CVEC, provided that the governing board of each Member has authorized its membership
- All Members must agree to be bound by and to comply with all of the other provisions of CVEC's Articles of Organization, and all rules, regulations, program requirements, membership agreements and terms and conditions of membership as may be established by CVEC



# Cooperative Bylaws – Governance

- Membership on CVEC's Board of Directors is controlled by the member governmental units, with each of them having a representative on the Board
- For the purpose of organizational efficiency, the Board has delegated most of its powers, with some exceptions, to the Executive Committee.
- CVEC's bylaws expressly permit it to retain counsel who may also represent its members or other public entities (e.g. the CLC) in matters in which CVEC has a direct or substantial interest, subject to certain conditions set forth in the bylaws



# Rights and Obligations of Membership

- Goal is to have power purchase agreements be the primary financing mechanism provided by Members
- Members may be asked to provide *pro-rata* financial contribution/backstop for specific projects as approved by CVEC Board
- Failure to make a contribution means the Member is terminated



# Rights and Obligations of Membership

- For Projects Financed by CVEC
  - CLC is entitled to receive 10% of the annual energy output
  - The Host Member is entitled to net meter up to ninety percent (90%) of the energy output (but not capacity or RECs) from any projects located on municipal land against such Member's municipal accounts up to the limit of project output or municipal load
  - The remaining energy output shall be allocated to other CVEC members on a *pro rata* basis



# Initial Benefits Identified By Joining CVEC

- Financing large scale renewable energy projects will not burden a Town's debt capacity
- CVEC supported by the financial commitment of Massachusetts Clean Energy Center's Community Wind financing package
  - RECs will be sold to CLC to work towards stabilizing electricity prices for all consumers
- Professional and technical expertise (\$\$) in the energy field
- Central contract for purchasing, operation and maintenance, and general administration



# Initial Benefits of Joining CVEC

- Lower cost financing (Rural Utilities Service, potential financial backing with renewable energy trust funds)
- Electric Cooperative statute generally limits member liability exposure to member pledge or capitalization
- Benefits of proposed net metering law will bring financial savings to towns and consumers
- Long term goal is to develop projects that will benefit all ratepayers



# What we did to form CVEC

- Met with Town Administrators and Town legal counsel to review Cooperative documents
- Informational meetings with Selectman and members of the public
- Town Meeting vote, when required
- CLC assigned a \$520,000 grant to Cooperative as its first capital contribution
- To date CLC has granted CVEC \$1.7 million in capital contributions
- CLC is included every year in the County's Annual Audit
- CVEC entered into an administrative services agreement with Barnstable County (similar to one it has with the CLC) so that Barnstable County could perform certain administrative and fiscal functions for CVEC



# What we did to form CVEC

- No rate payer energy efficiency funds were used for CVEC
- Expenditure of CLC energy efficiency funds are subject to annual regulatory review and accounting
- Votes to make CLC grants to CVEC were taken in open session, except one, and are in CLC's meeting minutes posted on CLC web site
- Pursuant to MGL Chapter 30A, Section 21(a)(3) and MGL Chapter 30A, Section 21(a)(10), CLC held an executive session discussion and vote on March 23, 2011 to grant additional funds for Brewster wind project



# Harwich and Brewster Wind Projects

- After six years of local study and discussion, Harwich requested that CVEC develop its community wind turbines, supported by Town Meeting votes
- CVEC assumed development responsibilities: financing, permitting, and constructing of the Harwich project
- After many years of local study and discussion, Brewster requested that CVEC develop its community wind turbines, supported by Town Meeting votes



# Harwich and Brewster Wind Projects

- CVEC assumed development responsibilities: financing, permitting, and constructing of the Brewster project
- Fall 2009, Harwich Town Meeting votes not to pursue the wind turbines
- Summer 2010 Brewster wind turbines begin the permitting process
- Brewster wind turbines, located in Commerce Park, Brewster's wind overlay district require a special permit from the Planning Board



# Brewster “Commerce Park” Wind Project

- Commerce Park wind turbines received all required local permits except the Special Permit from the Planning Board
  - Planning Board vote was 3 in support, 3 against, and 1 abstention
- Two options were identified and discussed with both CVEC and the Brewster Selectmen (1) appeal to Superior Court or (2) petition the DPU to conduct an adjudicatory proceeding to exempt project from local zoning
- Both CVEC and Board of Selectmen agreed to pursue DPU option



# Brewster “Commerce Park” Wind Project

- Town of Brewster elects to include the Commerce Park property in CVEC’s Round Two Request for Proposals to Install Photovoltaic Panels
- CVEC Board of Directors agree to take no further action on the DPU proceeding until the Town of Brewster has reviewed the responses to the PV RFP and selected the type of project it wishes to advance at the Commerce Park property



# CVEC PV Projects

- 2009 – 2010: CVEC installed 760 KW on 7 municipal buildings through a competitive bid process
- 2011: CVEC awards contract to install 16.53 MW in 7 member Towns at 9 sites
- 2011, September 21: CVEC issues an RFP for an additional 68.6 MW of PV at sites throughout Cape Cod and Martha's Vineyard
- PV systems not only save money for the owners of the system, but for all ratepayers through Avoided Energy Supply Costs



# Avoided Energy Supply Costs (AESC) Attributable to CVEC PV Projects

- Four components of AESC
  - Energy (not included in calculation)
  - Capacity
  - Price Impact
  - Infrastructure
- 16.5 MW of PV is expected to save ratepayers nearly \$20M in avoided costs over 20 year term of the contract
- 85.9 MW of installed PV is expected to save \$204M in avoided costs over 20 year term of the contract
- Avoided cost benefits accrue to all ratepayers regardless of whether they are CLC customers of CVEC members



# Conclusions

- CVEC and CLC are legally distinct entities
- CVEC was established to carry out functions for CLC that CLC and its member towns/counties could not do directly or would incur greater liability in doing so
- Barnstable County is a member of each of these entities, and has the rights and obligations that each of the other members in these entities also has
- Barnstable County has also agreed to perform certain functions for these entities. This authority arises from a contract with each entity, but these contracts do not grant Barnstable County control over either organization
- CVEC and CLC are both regional initiatives that bring a return on investment for all residents and businesses of Cape Cod

