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May 17, 2013

**VIA ELECTRONIC MAIL ONLY**

Lauren Farrell  
Executive Office of Energy and Environmental Affairs  
Energy Policy Review Commission  
100 Cambridge Street, Suite 900  
Boston, MA 02114

Re: *Comments of the Cape Light Compact*

Dear Ms. Farrell:

Attached for filing please find the original Comments of the Cape Light Compact to the Energy Policy Review Commission.

Please contact me at the number above if you have any questions. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Jo Ann Bodemer". The signature is written in a cursive style with a large, looped initial "J".

Jo Ann Bodemer

JAB/drb  
Enclosure

cc: Margaret Downey, Cape Light Compact (via email and first class mail)  
Kevin F. Galligan, Cape Light Compact (via email only)  
Margaret Song, Cape Light Compact (via email only)

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COMMONWEALTH OF MASSACHUSETTS

**COMMENTS OF THE CAPE LIGHT COMPACT  
TO THE ENERGY POLICY REVIEW COMMISSION**

The Cape Light Compact (the “Compact”) hereby submits the following comments to the Energy Policy Review Commission (“EPRC”), pursuant to Section 41(c)(1) of An Act relative to competitively priced electricity in the Commonwealth, S. 2395 at §41 (2012) (the “2012 Energy Act”).

**I. THE ESTABLISHMENT OF THE EPRC**

The 2012 Energy Act established an energy policy review commission for the purpose of researching and reviewing the economic and environmental benefits, as well as the economic and electricity cost implications of energy and electricity policies in the Commonwealth. Energy Act at §41(a). The EPRC is directed to report to the legislature recommendations on how to:

- (i) further expand the commonwealth’s renewable energy portfolio and promote energy-efficiency;
- (ii) encourage business development and job creation;
- (iii) reduce the costs associated with energy programs funded, in whole or in part, by the commonwealth, while maximizing the benefit of these programs;
- (iv) reduce the cost of electricity for commercial, industrial and residential customers; and
- (v) increase electricity reliability.

*Id.*

The report to the legislature must include, among other things, “an analysis of the estimated or actual economic and environmental benefits, as well as the economic cost, electricity cost and implication for electricity reliability of (i) implementing

administrative, regulatory and legislative rulemaking as it pertains to electricity and the structure of the wholesale electricity market; and (ii) meeting legislative and administrative goals and requirements related to greenhouse gas reductions, energy efficiency and renewable energy generation. *Id.* at §41(b)(5). Furthermore, the EPRC is directed to report on:

- (i) determining consistent metrics to be utilized to evaluate the success and cost-effectiveness of programs under chapter 169 of the acts of 2008;
- (ii) the associated economic and environmental impact of scheduled increases in demand resources, aggregate net metering capacity and renewable energy capacity;
- (iii) the structure of the regional wholesale electricity market and its impact on retail electricity costs; and
- (iv) the overall impact of the commonwealth’s energy and electricity policies on economic growth in the commonwealth, specifically net job creation and business development, establishment and retention.

*Id.* at §41(b)(6).

The EPRC’s first report to the legislature is due by July 1, 2013. *Id.* at 41(c)(5). Toward this end, the EPRC has held meetings, issued information requests to the Energy Efficiency Program Administrators<sup>1</sup> and allowed the submission of public comment between May 2<sup>nd</sup> and May 17<sup>th</sup>, 2013. The EPRC’s meetings to date have included topical presentations by the Department of Public Utilities (the “Department”), Department of Energy Resources (“DOER”) and Energy Efficiency Program Administrators.

## **II. BACKGROUND OF THE COMPACT**

The Compact is a governmental aggregator pursuant to G.L. c. 164, §134 and

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<sup>1</sup> Collectively, the Energy Efficiency Program Administrators are both the electric and gas distribution companies (NSTAR Electric and Gas Companies; National Grid; Western Massachusetts Electric Company; Berkshire Gas; Columbia Gas of Massachusetts; New England Gas Company and Unitil Electric and Gas Companies) and the Compact.

consists of the twenty-one towns in Barnstable and Dukes Counties, as well as the two counties themselves. It is organized through a formal Intergovernmental Agreement under G.L. c. 40, §4A and is governed by a Board of representatives selected by its municipal members and two counties. The Compact's Aggregation Plan was approved by the Department in D.T.E. 00-47 (August 10, 2000). The Compact maintains a business office within the Barnstable County offices located at the Superior Courthouse at 3195 Main Street in Barnstable, MA 02630.

The purposes of the Compact include, among other things, (1) to provide the basis for aggregation of all consumers on a non-discriminatory basis; (2) to acquire the best terms and conditions for electricity supply and transparent pricing; (3) to provide sharing of economic savings to consumers based on current electric rates and/or cost-of service ratemaking approved by the Department; (4) to provide full public accountability to consumers; and (5) to utilize and encourage demand side management and other forms of energy efficiency and to advance consumer awareness and adoption of a wide variety of energy efficiency measures through the implementation of an energy efficiency plan.

Toward that end, the Compact currently operates comprehensive energy efficiency programs targeting the residential, low-income, and commercial and industrial customer sectors. These programs operate pursuant to the Compact's recently approved 2013-2015 Energy Efficiency Investment Plan (D.P.U. 12-107, Order, 2013-2015 Three-Year Energy Efficiency Plan (2013)). In addition to its administration and delivery of energy efficiency programs, the Compact has been offering its opt-out competitive power supply option since 2001, with its load aggregation program fully operational in 2004 (D.T.E. 04-32 (May 4, 2004) (approving the Compact's universal power supply

program). The Compact currently serves approximately 160,000 customers, across all customer classes, in its service territory. All of the electric customers in the Compact's service territory, approximately 200,000 in total, are eligible for the Compact's energy efficiency programs and services.

In response to the EPRC's request, the Compact submits these Initial Comments.

### **III. COMMENTS**

The Program Administrators are active participants in the EPRC's meetings, having representatives attend each of the scheduled meetings. In addition, on April 3, 2013, the Program Administrators presented "*Working to Expand and Promote Energy Efficiency*," an informative slideshow discussing the statutory directive and commitment of the Program Administrators to capture all cost-effective energy efficiency available within their service territories. More importantly, as a result of these efforts the Program Administrators have bestowed significant benefits upon all contributing ratepayers across the Commonwealth.

At this time the Compact offers two comments, each aimed at urging the EPRC to coordinate its review with on-going efforts noted below. The collective goal of these efforts is to reduce the administrative burdens of the Program Administrators, and ultimately save ratepayer funds. As more fully discussed below, the Compact urges the EPRC to make recommendations that will be consistent with the current efforts underway that are examining streamlining energy efficiency reporting requirements of the Program Administrators. Similarly, the Compact asks the EPRC, through its analysis of energy

policy, to make recommendations to the legislature that will continue the successes in reducing the administrative burdens and costs of the Program Administrators.

**A. Minimize Duplication of Review and Reporting.**

The Compact maintains that the EPRC should recognize the effectiveness of the existing oversight framework and the importance that any EPRC recommendation should maintain consistency with these existing policies and procedures. Through the presentations made to the EPRC, commission members are familiar with the multiple reporting and oversight mechanisms in place for the administration and delivery of energy efficiency in the Commonwealth.

*i. Existing Framework of Oversight*

*a. Department of Public Utilities*

Chapter 25, section 21 of the General Laws of Massachusetts establishes the Department as the regulatory body with primary oversight of the development, administration and delivery of energy efficiency programs in the Commonwealth. See G.L. c. 25, §21; see also G.L. c. 25, §19 (authorizing the Department to establish and regulate funding of energy efficiency programs). In this role, the Department is responsible for the review and approval of the Program Administrators' three-year energy efficiency plans,<sup>2</sup> as well as an ongoing role of monitoring and evaluating the effectiveness of all aspects of energy efficiency program development, administration and delivery. Currently, the Department has open investigations addressing many of the topics presently under review by the EPRC. For example, the Department, through its investigation for the purpose of updating its energy efficiency guidelines, has established

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<sup>2</sup> On January 30, 2013, the Department issued its Order approving the 2013-2015 Joint Statewide Three-Year Electric and Gas Energy Efficiency Plan. See e.g., D.P.U. 12-107 (2013) (Compact approval).

a bill impacts working group that regularly meets to evaluate and improve the bill impact reporting by the Program Administrators. See D.P.U. 08-50 (establishing bill impact working group, as well as an annual report working group charged with revising the annual report template utilized by Program Administrators). Similarly, the Department, by its own motion is investigating issues associated with the three-year energy efficiency plans, including the review of performance reporting, mid-term modifications to the three-year plans and the calculation of net savings. D.P.U. 11-120 (issuing revised energy efficiency guidelines revising mid-term modification process, as well as performance reporting). Most recently, the Department opened an investigation for the purpose of reviewing the presentation of rates charged for environmental public policy programs by distribution companies. See D.P.U. 13-51 (seeking comments, among other things, on the use of a single billing line for public policy programs).

*b.* Energy Efficiency Advisory Council

The Energy Efficiency Advisory Council (the “EEAC”) is an advisory body to the Department, chaired by the DOER, made up of fifteen voting members (including the Attorney General, the Department of Environmental Protection and other members of the environmental community) and non-voting members that include representatives from each of the Program Administrators, as well as one from the heating oil industry and energy efficiency businesses. G.L. c. 25, §22. The EEAC’s role is to “seek to maximize net economic benefits through energy efficiency and load management resources and to achieve energy, capacity, climate and environmental goals through a sustained and integrated statewide energy efficiency effort.” *Id.* The EEAC has retained consultants specifically to assist it in its review and analysis of the statewide energy efficiency plan.

Most recently, the EEAC's advisory role has expanded to include the review and approval of certain energy efficiency plan modifications proposed during the three-year term by a program administrator. See D.P.U. 11-120-A (establishing new energy efficiency guidelines that provide for EEAC oversight of certain plan modifications).

*c.* The Office of the Attorney General

The Office of the Attorney General (the "Attorney General") is designated as the Commonwealth's ratepayer advocate responsible for and concerned with electricity costs for all consumers. See G.L. c. 12, §11E. In this role, the Attorney General is an active participant in all Department proceedings relating to the administration, delivery and funding of energy efficiency programs in the Commonwealth.

*d.* Department of Energy Resources

The DOER, in addition to its role on the EEAC, discussed *supra*, is also responsible for the development and implementation of "policies and programs aimed at ensuring the adequacy, security, diversity and cost-effectiveness of the Commonwealths' energy supply within the context of creating a cleaner energy future." See DOER website at <http://www.mass.gov/eea/grants-and-tech-assistance/guidance-technical-assistance/agencies-and-divisions/doer/doer-purpose.html>. To that end, the DOER is active, through the EEAC, to ensure the Program Administrators' develop energy efficiency plans that capture all cost-effective energy efficiency available in their respective service territories.

*e.* Compact Governing Board

Unlike the utility Program Administrators, the Compact is the only publically funded municipal aggregator (as defined by G.L. c. 164, §134) energy efficiency program

administrator in Massachusetts. The Compact has no stockholders, has no rate of return and is controlled by a governing board consisting of representatives from each of its municipal members. Each Compact member appoints a representative to the Compact Governing Board, which is responsible for setting policy and overseeing the Compact's energy efficiency programs.

*ii. Program Administrators' Reporting Obligations*

*a. Department Reporting*

The Compact, along with its fellow Program Administrators, are required to submit comprehensive annual reports to the Department, which provide a detailed analysis of the plan year achievements in terms of benefits to the customers and the Commonwealth, as well as energy savings achieved, among other things. See e.g., D.P.U. 12-54 (Compact's 2011 Annual Report filing); D.P.U. 11-34 (Compact's 2010 Annual Report filing). The annual report is one of the means by which the Department monitors the achievements of the Compact and its adherence to achieving its approved plan goals.<sup>3</sup>

*b. EEAC Reporting*

The Compact, as well as its fellow Program Administrators, prepare quarterly progress reports for the EEAC. These quarterly reports are comprised of two parts, a quantitative and qualitative update that provide a snapshot of achievements by the electric and gas program administrators. Currently, the Program Administrators are working with the EEAC consultants to develop a more comprehensive quarterly report that would be utilized for two of the four quarterly report presentations. In addition to the quarterly

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<sup>3</sup> It should be noted that the Department recently adopted changes to the annual reporting requirement. See D.P.U. 11-120 (moving from three one year annual reports to one "three-year report"). For the 2013-1015 three-year term, the annual report working group and the Department will be working to develop a template for the new "three-year report" and any interim reporting that may be required.

reports, the Program Administrators routinely provide updates and/or reporting on specific topics to the EEAC, at the EEAC's request.<sup>4</sup>

*c.* DOER Reporting

The Compact, as well as the other Program Administrators, provide annual updates to the database maintained by the DOER. The "PARIS Database"<sup>5</sup> aids DOER in monitoring the energy efficiency achievements by each Program Administrator. In addition, the Program Administrators file quarterly Residential Conservation Services<sup>6</sup> ("RCS") reports to DOER that provide data concerning the RCS program activities.

*d.* Other Reporting

The Program Administrators also regularly provide information to ISO New England for ISO's use in development energy forecasts and demand reports. In addition, the Compact provides monthly, town-by-town reports, to the Governing Board and Boards of Selectmen on its energy efficiency program. Compact monthly reports include: number of customers served, by sector and program; kilowatt hours saved and expenditures. These reports are also posted on the Compact's web site (<http://www.capelightcompact.org/report/energy-efficiency-town-reports>).

*e.* Statewide Database

Currently, the EEAC, Department, Program Administrators and other stakeholders are working collaboratively to design, develop, and implement a statewide database that would serve as a repository for energy efficiency information. The primary

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<sup>4</sup> For example, the Program Administrators also present monthly data dashboard reports at the monthly EEAC meetings. The dashboard provides data on percentages of statewide goals achieved year to date.

<sup>5</sup> Program Administrator Reporting Information System.

<sup>6</sup> The Residential Conservation Services is also called the Home Energy Services initiative within the Residential Whole House Program in the 2013-2015 Plan.

function of the database is to streamline statewide energy efficiency data and improve accessibility and efficiency in the reporting of key performance indicators.

While there is arguably always room for improvement, the regulatory framework overseeing the administration, funding and delivery of energy efficiency in Massachusetts is effective. As a result of this oversight framework, Massachusetts has been recognized as the most energy efficient state in the country for the past two years by the ACEEE (American Council for an Energy-Efficient Economy). Similarly, the Compact recognizes that regular reporting of energy efficiency achievements is a necessary part in the administration of its energy efficiency plan. Nevertheless, the current reporting obligations of the Program Administrators are formidable, as is. As such, the Compact cautions the EPRC when considering its recommendations to the legislature to recognize the effectiveness of the existing framework and to ensure any recommendation is consistent with the existing policy and procedures.

**B. Reduce Administrative Burdens.**

Through the Department's leadership, the Program Administrators, as well as other stakeholders, including the EEAC, DOER and Attorney General, are focused on reducing the administrative burdens and costs associated with the administration and delivery of the approved Three-Year Energy Efficiency Plan. To this end, the Department has established a Streamlining Working Group to examine ways to reduce the administrative burdens currently experienced by Program Administrators. See D.P.U. 11-120 (Phase II). The Compact urges the EPRC in their analysis of energy policy to make recommendations that would continue to improve the progress made toward reducing the administrative burdens and costs, as well as continue to build on the

collaborative efforts the Program Administrators have achieved in advancing nationally recognized statewide energy efficiency plans in a cost-effective manner.

**C. Progressive Energy Services Presentations.**

The Compact's representative attended several EPRC meetings that Tom Regh, EPRC member and owner of Progressive Energy Services, made presentations, for the benefit of the EPRC. The Compact is concerned that the record of information before the EPRC is as accurate as current information allows. Unfortunately, some of the statements advanced by Mr. Regh are not accurate and potentially create a misleading picture of successes of the Program Administrators delivery of energy efficiency services to date. Again, the Compact cautions the EPRC to ensure its recommendations to the legislature balance stakeholder interests and serve to improve the policies in place for the betterment of all residents of the Commonwealth.

The following addresses the Compact's concerns with Mr. Regh's May 1, 2013 presentation:<sup>7</sup>

*a. Slide 2: "Why do we need to keep talking about Residential"*

With this slide, it appears that Mr. Regh is suggesting that a disproportionate amount of energy efficiency dollars are being used to fund the residential sector, despite more energy consumption by the commercial sector. This is not accurate. Energy efficiency funds are primarily collected for the residential and commercial sectors based on kilowatt hour sales. More importantly, the majority of the costs for commercial

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<sup>7</sup> Some of Mr. Regh's presentation attempts analysis of National Grid's 2013 Electric Program. The Compact cannot address these slides but suggests that Mr. Regh may not fully understand the intricacies of the screening program utilized by the Program Administrators. Similarly, Mr. Regh presents a case study of a homeowner in Unitil's service territory. The Compact understands that Unitil will be filing comments independently to address that portion of Mr. Regh's presentation.

programs is paid for by commercial customers. Similarly, residential energy efficiency funds are expended to serve the residential sector.<sup>8</sup>

*b. Slide 3: “Residential Programs are Costly”*

Again, Mr. Regh is using numbers in a way to support his point but that do not accurately reflect the real world. Here, he is only using \$/lifetime kWh instead of \$/benefits. This is not an effective data set for comparison of residential and commercial programs because it does not generally capture and recognize all of the benefits, such as those derived from other fuels (such as oil and propane) that are achieved through the Residential and Low Income Whole House programs. In addition, this slide fails to account for the benefits (albeit slightly more costly) of the Program Administrators efforts of “going deeper” in each home they serve.

*c. Slide 4: “Cost-effectiveness and the TRC Test”*

Mr. Regh attempts to undermine the use of the Total Resource Cost (“TRC”) test by the Program Administrators for the cost effectiveness screening of offered energy efficiency programs. The TRC has been affirmed by the Department as the most appropriate marker for cost-effectiveness of energy efficiency programs. See D.P.U. 08-50-A (2009), Order at 2 (expressly reaffirming the TRC is the test that “...continues to be the most appropriate test to use in analyzing energy efficiency cost-effectiveness...”). Similarly, contrary to Mr. Regh’s assertions, the Department has approved the non-resource benefits in use, after significant input from the Attorney General to insure that the benefits actually inure to the participant.<sup>9</sup> Lastly, Mr. Regh questions the differences

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<sup>8</sup> The low-income programs are funded through a combination of low-income collections as well as allocations from the residential and commercial sectors.

<sup>9</sup> The 2013-2015 Three-Year Plan approval required Program Administrators to remove certain non-resource benefits because they were viewed as societal benefits.

between the benefits for gas and electric, suggesting something is awry. There always will be differences in some benefit values because of the cost of the resource and the design of the program.

*d. Slide 11: "Breakdown of Benefits"*

It appears that Mr. Regh is making a faulty comparison and drawing an erroneous conclusion about the worth of the HES program. It appears that he is using the portfolio level value for the breakdown of benefits (since there are \$10B in benefits, which is for all sectors in the approved Statewide Plan). Then, he applies the percentages for just the Residential HES program. While the Residential HES program may represent a big portion of the benefits, it is not an accurate comparison because it does not take into consideration the negative benefits that could skew these numbers. The more appropriate analysis would have used the HES program values only, not the entire portfolio values, as Mr. Regh has done.

*e. Slide 12: "Cost Effectiveness of Insulation"*

Again, Mr. Regh is looking at one number in isolation and drawing a misleading conclusion. Here, he is only looking at insulation, which does not include the cost of acquisition (including EM&V, Marketing, PP&A costs also), causing a misleading skew in the data.

*f. Slide 13: "Other Considerations"*

Unfortunately, Mr. Regh draws a negative conclusion from the electric Program Administrator's transition from a one-stop shopping model to a competitive market model for the delivery of its residential program services. The Program Administrators have seen a rapid increase in participation and savings over the years, which a market

model compliments this trajectory. Similarly, consistent with the Commonwealth's goals, a market model encourages business development and job creation. Finally, along with this transition to a market model also came a change in the amount of quality control being performed. Contrary to Mr. Regh's assertion, the Program Administrators view the increase in quality control as means to identify training opportunities and ensure a high quality of work. It is not an issue of quality but rather an opportunity to improve program delivery.

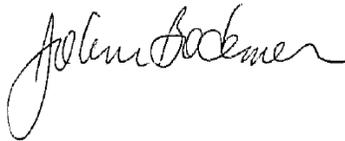
#### IV. CONCLUSION

The Compact appreciates the opportunity to provide Comments to the EPRC as it prepares its first report to the Legislature. The Compact trusts the EPRC will be judicious in the drafting of its report and recommendations to the legislature to ensure that any recommendations are the result of a balanced deliberation and reasoned analysis of the existing energy efficiency regulatory framework and for the purpose of continuing the delivery and administration of award winning energy efficiency programs to the residents and businesses of the Commonwealth.

Respectfully submitted,

THE CAPE LIGHT COMPACT

By its attorneys,



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Dated: May 17, 2013

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