

Cape & Vineyard Electric Cooperative, Inc.
Executive Committee and Finance Committee
REMOTE EXECUTIVE SESSION MINUTES
Thursday, November 21, 2024 8:30 AM EST

THIS IS ITEM 6 ON THE CORRESPONDING OPEN SESSION AGENDA

1. Call to Order

a. Roll call, and Notice of Reconvening or Adjourning

The President stated that the committees would adjourn and not reconvene at the close of Executive Session. He referenced the purpose of the session as follows:

Discussion on matters conducted by a cooperative subject to MGL c. 164, s. 136, and pursuant to MGL c. 30A, s.21 (a): 1- Action on Round 4 & 5 Project Contracts Pending Construction by DSD b) DY High School Roof, Round 2 Production Loss, c) Greenskies/Clean Focus Proposal at Brewster Landfill Solar Array

Upon a motion and second, the committees voted to enter into Executive Session and not reconvene in Open Session.

Executive Committee: Yes- W.Lake, A.Nelson, M. Marchand, D.Anthony.

Mark Forest attended Executive Session during the meeting.

Finance Committee: Yes-B. Wirtshafter, C. Hanson, D.Anthony

- i) CVEC and DSD have agreed to terminate the PPAs for the projects in Sandwich, Mashpee, and Yarmouth which were delayed in the Cape & Islands Group Study. DSD cited not being able to carry the \$3. 5 million additional interconnection costs of these projects. CVEC had sought to find a solution, including trying to identify a possible assignee. CVEC and DSD will executive PPA terminations, and each individual town will be responsible to execute lease terminations with DSD.

Upon a motion and second, the committees voted to approve the following:

To authorize President or Executive Director to Execute terminations of PPA for the respective DSD Round 4 & 5 projects due to the inability of the developer to fund additional interconnection costs.

Executive Committee: Yes- W.Lake, A.Nelson, M. Marchand, D.Anthony.

Finance Committee: Yes-B. Wirtshafter, C. Hanson, D.Anthony

- ii. Sunray DY High School Roof, Round 2 Potential Notice of Default, and Impact on BESS
The Executive Director had previously reported that the DY HS Roof Mount has been underperforming going on 2 years, that the Developer will have mediation with solar manufacturer for failed panel; the Developer is open to selling the system; and that DY HS wants the max NMCs from the system.

The Executive Director reported on the actions taken since September: Bway DY HS Solar LLC is not contesting the shortfall, but doesn't think the failure to repair issue is a default but rather a PV System Loss under the EMS. Bway DY HS Solar LLC is in litigation with the manufacturer of the solar panels over this issue (it is an issue for multiple projects) as documented in the lawsuit . CVEC is not opposed to treating this as a PV System Loss provided that the parties can enter into a side letter agreement to address, among other things, the timing of when they must declare whether they intend to fix the problem or not (we offered up *Force Majeure* timing of 180 days, which is March 2025). If they intend to repair it, we are concerned as to how long it will take. Further, if BWay is not intending to make repairs, we need to confirm the formula for the Foregone User Benefit, which will be a damages calculation of the lost benefit for the missing capacity calculated in present day dollars (the formula is in the EMS Agreement). CVEC needs to recalculate the impact to DYRSD and continue to keep them informed. DY is "better off" with some NMC than none.

- iii. Greenskies/Clean Focus Proposal at Brewster Solar Landfill
Town Administrator Peter Lombardi informed CVEC that it was not interested in locating a battery at this time, as proposed by Greenskies, as it will be undergoing improvements at the landfill. Brewster Director Chuck Hanson state that the town staff will be meeting soon and will report if there are any changes. CVEC will continue to pursue the questions about how to amend the Project Development Agreement with the Office of the Inspector General. Co-locating a battery may be exempt under an energy-related services contract and may benefit other towns with landfill projects.

2. Adjournment of Executive Session

Upon a motion and second, the committees voted to adjourn Executive Session and not reconvene in Open Session.

Executive Committee: Yes- W.Lake, A.Nelson, M. Marchand, D.Anthony, M. Forest

Finance Committee: Yes-B. Wirtshafter, C. Hanson, D.Anthony

Approved _____5.25.25_____ Deemed a Public Record 5.1.25