

Cape Light Compact (CLC) Municipal Aggregation

A (Still) Broken Compact

*Presentation to Assembly Standing Committee
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Opinions reported herein are based on professional judgment, personal experience, and an incomplete and often-contradictory public record. Accordingly, some may be subject to revision.

Context

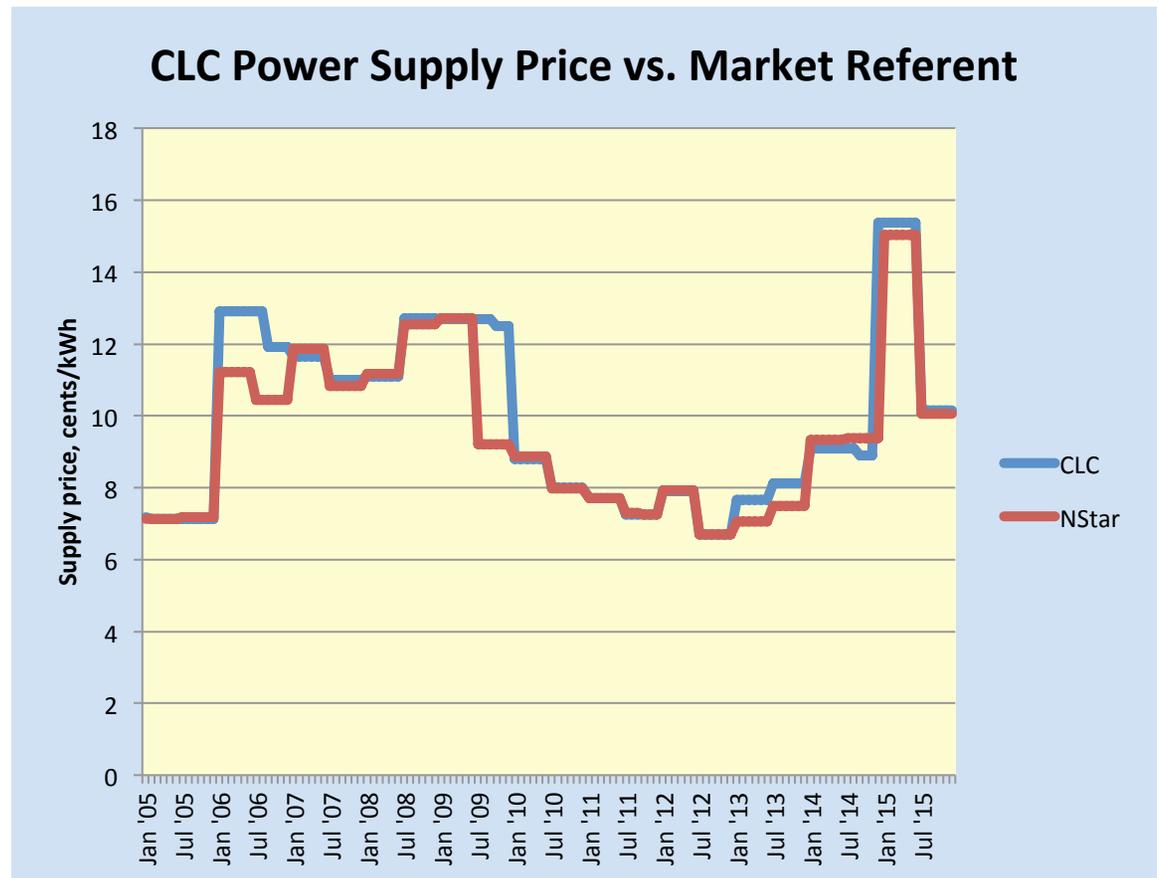
- Town Meeting votes provided limited authorization to elected officials and promised lower rates
- The CLC municipal aggregation is a legal construct – an inter-governmental agreement (IGA) – not an independent organization
- Towns and counties act together through the CLC municipal aggregation, as administered by Barnstable County and represented by BCK Law
- **CLC programs have, on a net basis, yielded far greater economic benefits than detriments – and they deserve continued support**
- Due to unauthorized actions, compliant appointees, and feckless regulators, towns and counties have zero authority over CLC as administered
- Assembly of Delegates and individual citizens have succeeded in engaging state agencies and bringing about some reforms
 - DPU compelled reporting and new Aggregation Plan but refused to exercise authority
 - AGO identified numerous illegalities and inequities
 - OIG highlighted regulatory void
- Revisionist history and repapering continue with latest in a serial rewriting of the original IGA, which remains the only one executed by town officials
- Consumers can still opt out of supply program and voice opinions

Monthly Bill Impacts of Power Supply & Efficiency Programs

- Electric bills for consumers served through CLC municipal aggregation frequently are higher than elsewhere in the state

Contributing Factors

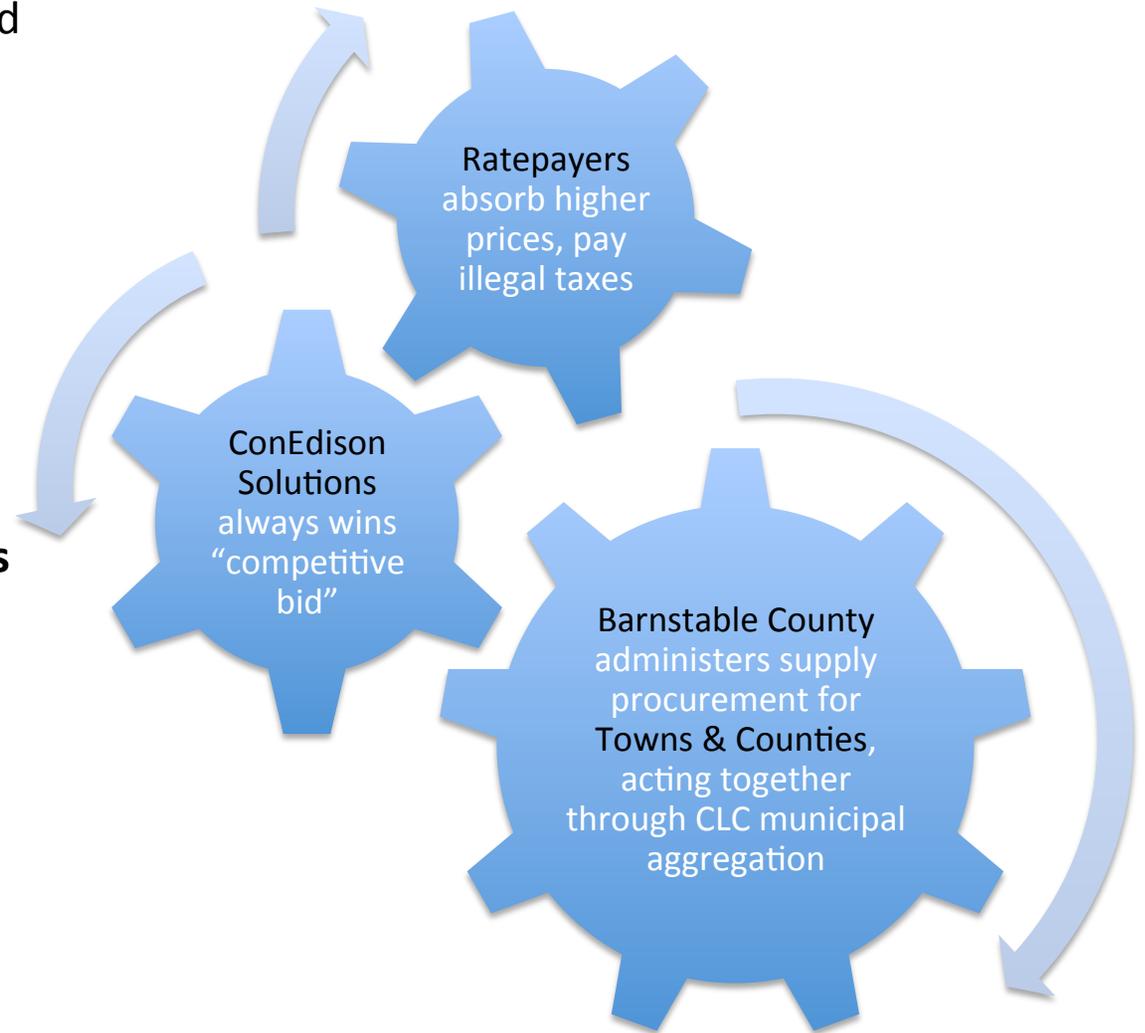
- Inherent limits, questionable direction, illegal taxes, and non-competitive procurement through CLC **power supply program, on supply side of utility bill**
- High efficiency charges and illegal taxes through CLC **energy efficiency program, on delivery side of utility bill**



Since full retail competition in 2005, CLC supply rate has been below NStar/Eversource rate in 70 months (53%), above it in 61 months (47%). Large price disparities cost the Cape and Vineyard millions, for months at a time.

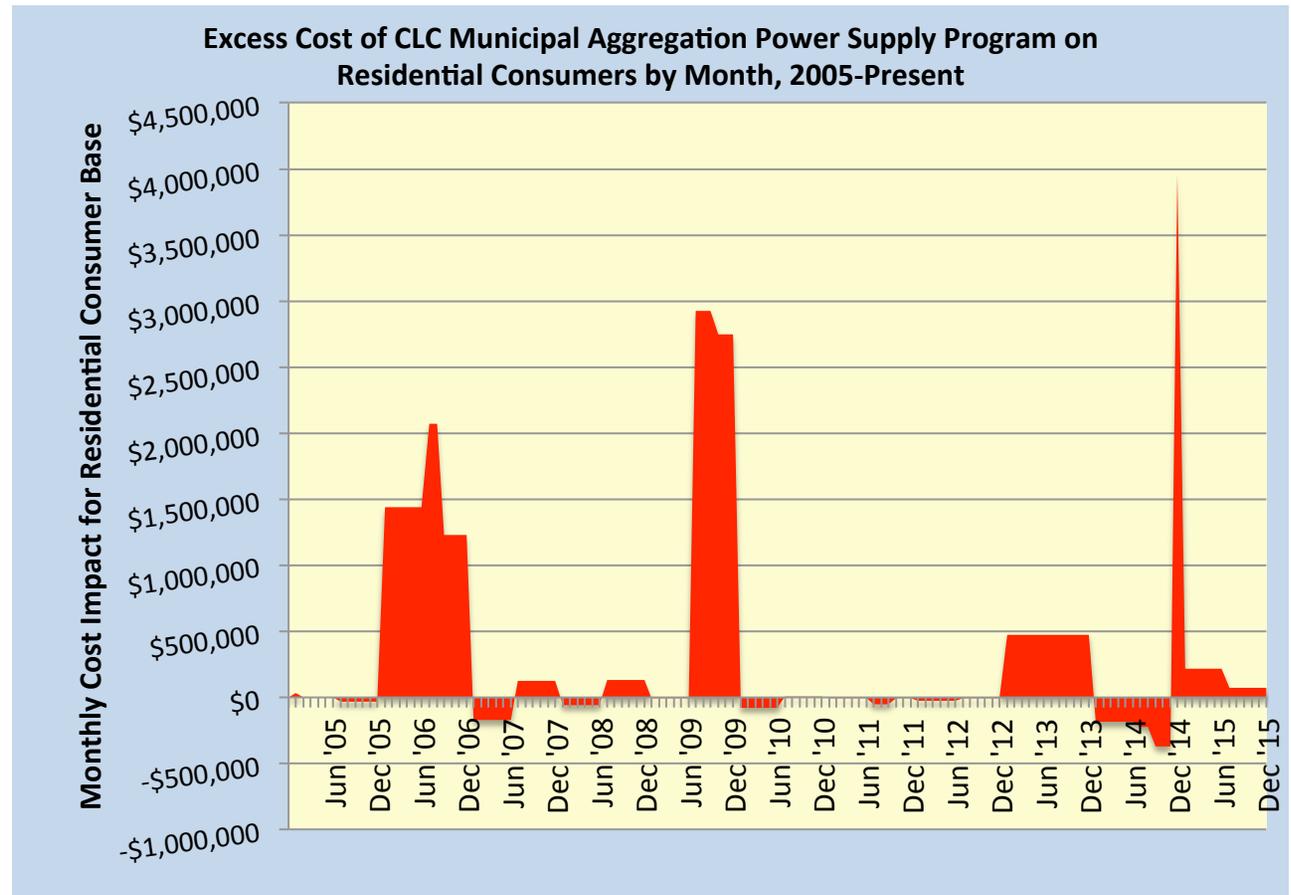
Power Supply Relationships & Results

- Town Meeting votes and executed IGA promise **lower rates**
- Original CLC Aggregation Plan covenanted **lower rates** and additional protections through state approval process
- Promises went out the window in 2006, when Barnstable County began operating a rogue aggregation based on “**best terms and conditions**”
- Ratepayers have experienced higher prices, illegal taxes, and other unknown impacts
- Towns have experienced lower prices and other preferential treatment
- Local, regional, and state officials have (largely) buried head in sand



“Best Terms & Conditions” – Rate Impacts on Residential Consumers

- Supply program, in vacuum:
Downside > Upside
- Periodically, highest rates in continental US
- Estimated adverse residential ratepayer impacts, relative to market referent:
>\$40M total,
>\$315 per consumer
- Procurement failures, leading to price spikes, present big risks for “sticky” consumers



CLC supply rate tends to beat NStar/Eversource rate by small amounts and periodically exceeds utility rate by large amounts, imposing millions in excess costs per month on Cape and Vineyard residents.

Supply Procurement & REC Purchases

- All-requirements power supply includes energy, capacity, renewable energy certificate (REC), and other price components
- Power suppliers serving CLC municipal aggregation must purchase RECS to meet state Renewable Portfolio Standard obligations
- Renewable energy project developers employ REC contracts to help secure project financing
- CLC municipal aggregation is not a bankable entity capable of entering into long-term contracts to support development of renewable energy projects
- Barnstable County collaborated with private sector parties by leveraging the RPS obligation created by the CLC aggregation to enable REC contracting and fund the massive legal bills needed to capitalize CVEC
- Barnstable County negotiates REC sale agreements with ConEd and REC purchase agreements with preferred renewable energy developers, including ConEd, CVEC, and towns



RECs are not procured competitively but when sold to ConEd now account for about 15% of all-in price

REC Practices

- Barnstable County employed REC contracts to manipulate pricing and launch CLC municipal aggregation
- Barnstable County has engaged in tens of millions of dollars in REC-related transactions at prices and quantities that have never been publicly disclosed
- When Barnstable County provided the Assembly of Delegates with financial documents, REC-related accounts were “off the books”
- Audit reports for CLC/CVEC do not disclose numerous related-party REC transactions, and CLC financials included redacted parties *and* dates
- REC-related terms are redacted from publicly available competitive supply contracts, and REC contracts are claimed confidential and privileged
- Massive solar REC revenue stream for Phase I CVEC projects was discovered and had to be cut, contributing to CVEC’s current dire financial straits
- CVEC and CLC, as administered by Barnstable County, allowed ConEd to raise the CVEC-7 REC prices it charges to consumers in order to cover CVEC’s failure to deliver maintenance services
- Destination of high-value solar RECs generated by other CVEC-brokered projects is undisclosed



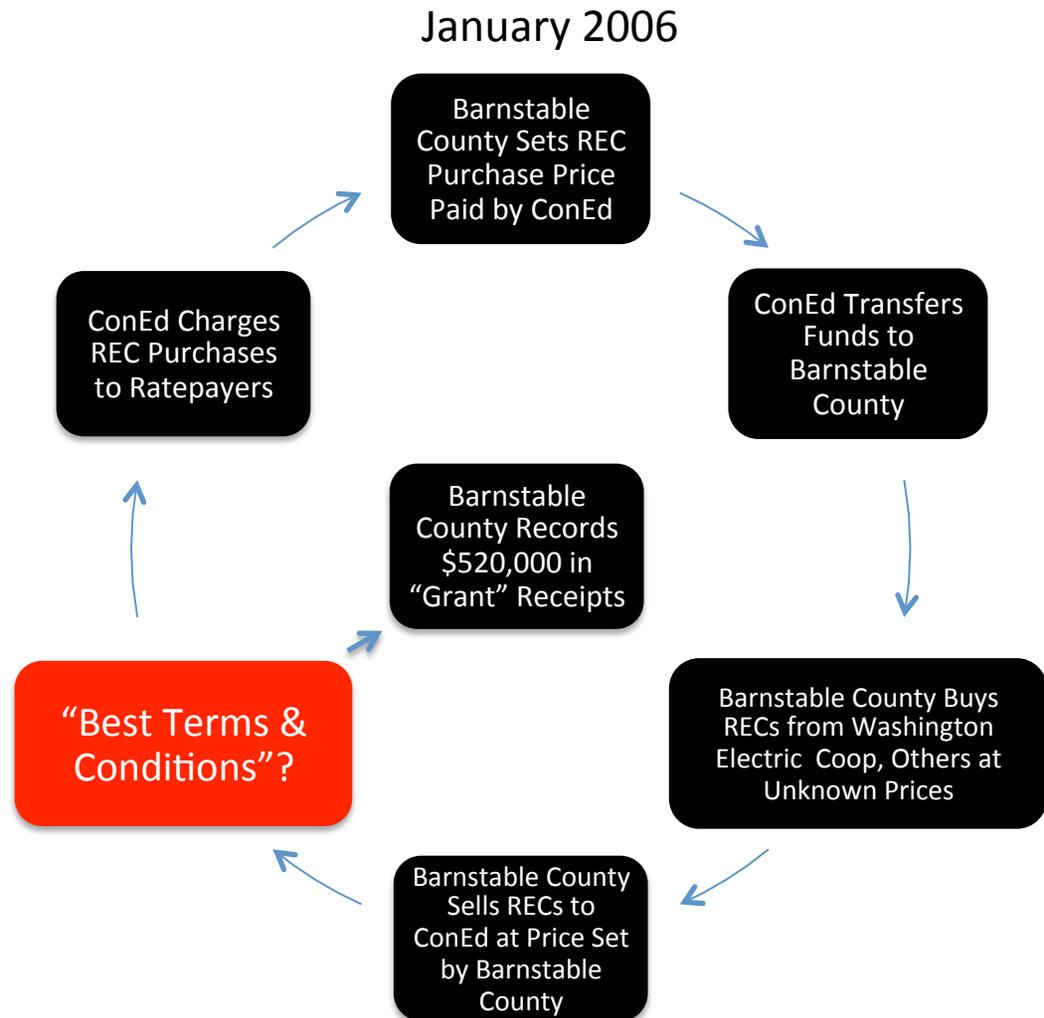
RECs & the \$520,000 “Grant”

Claims

- Grant for efficiency services?
- Fee for efficiency services?
- Re-assigned grant for CVEC?

Possibilities

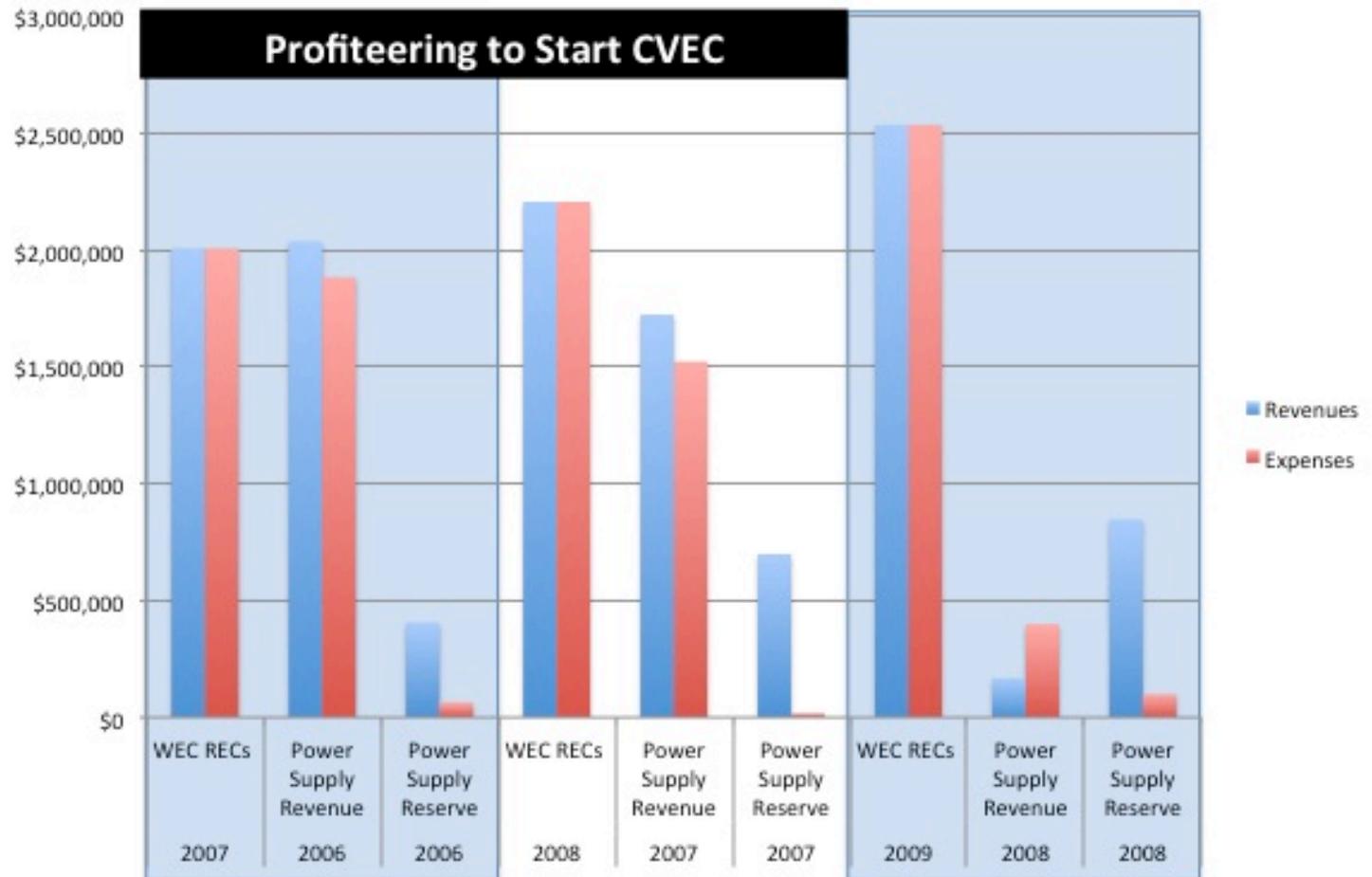
- Direct “graft” from ConEd?
- Hidden mill charges?
- Profit-taking on REC trading?



Profiteering on REC Trading?

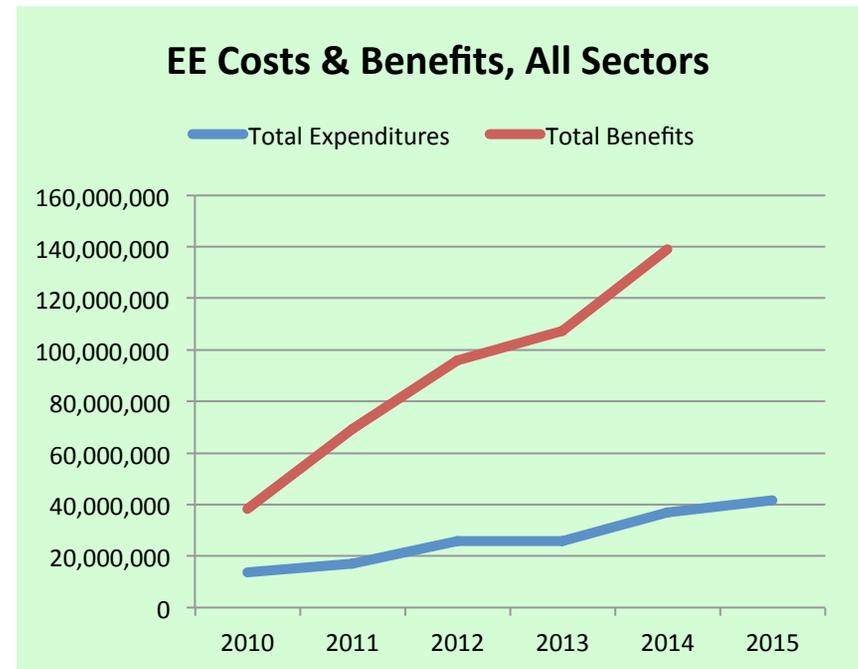
- REC futures were bought from Washington Electric Coop (WEC) in 2006 under fishy supply contract that fixed the REC price subsequently paid by ConEd and borne by CLC ratepayers
- Barnstable County booked minted REC transactions with ConEd in WEC REC account but recorded anomalous transactions and \$520,000 “grant” in Power Supply Revenue account
- Total CLC surplus exceeded \$1M+ in FY06-07; high-volume FY09 WEC REC purchases but little FY08 Power Supply Revenue activity suggest halt to large-scale profiteering

CLC accounts associated with REC purchasing and trading continue to show surpluses over time.



Rising Costs & Benefits of Ratepayer Energy Efficiency (EE) Investment

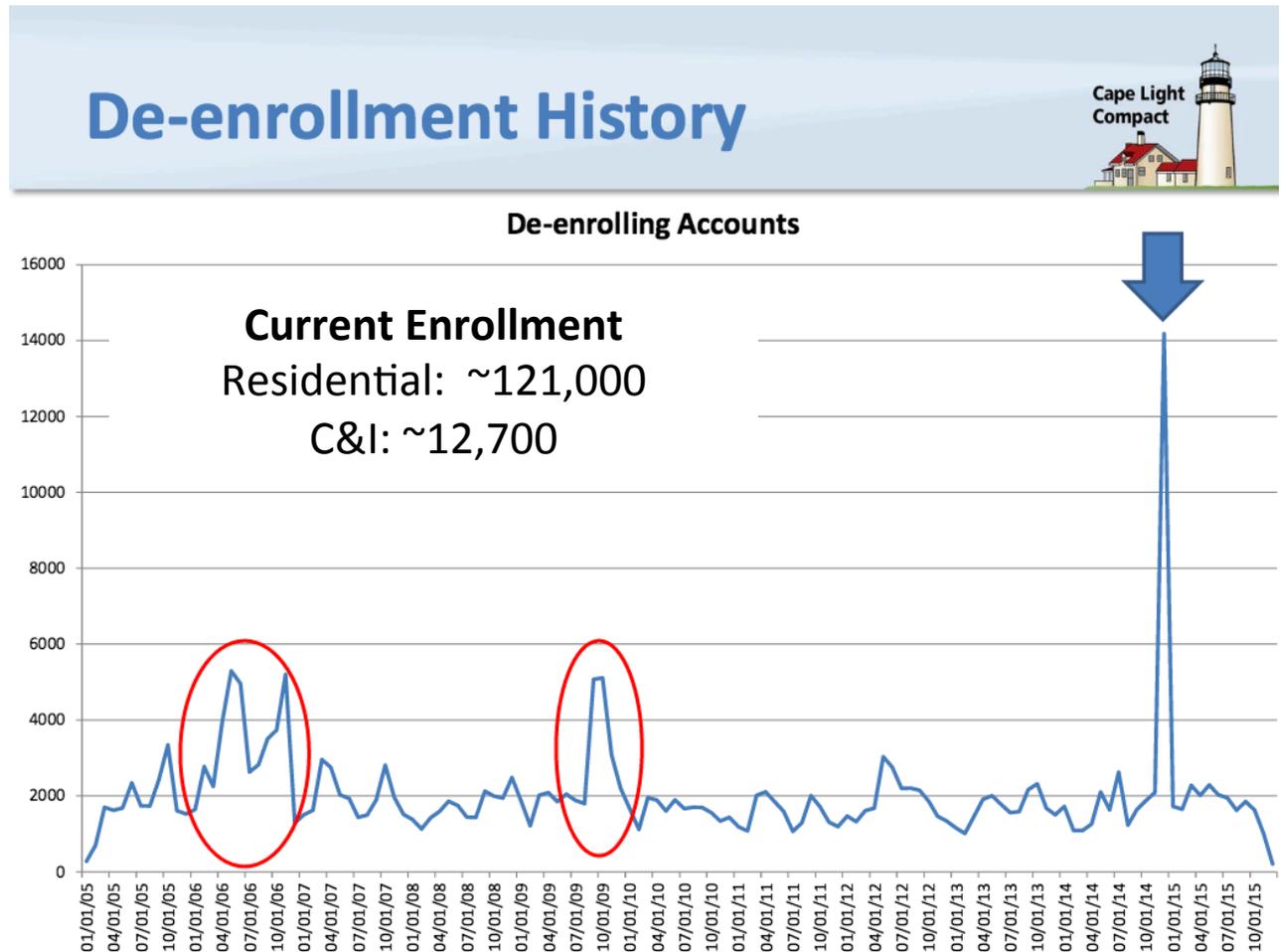
- Towns and counties, acting together through CLC municipal aggregation, set EE charges for all Cape & Vineyard electricity consumers charged on utility bills
- Annual CLC EE program benefits across all sectors now total well over \$100M
- Since 2010, annual CLC EE costs and benefits have more than tripled
- Local residents face highest electric EE charges in state: average annual bill impact of ~\$150
- Businesses and other commercial and industrial ratepayers face higher rates to subsidize municipal energy efficiency upgrades
- Natural gas customers also pay EE charges set by National Grid
- Actual CLC EE budget increased by 33% over approved 2013-15 plan through annual “mid-term modifications” (MTMs)
- Proposed CLC 2016-18 EE plan projects continued growth in costs and benefits, without MTMs



Energy efficiency is and should remain the CLC aggregation’s “first fuel” – but bill impacts are significant and are expected to continue increasing. Seasonal EE cost allocation could reduce costs borne by year-round residents and businesses.

Power Supply Opt-Outs Over Time

- Initial enrollment: almost 180,000
- Competitors, consumers have seized opportunities
- Declining customer base = Reduced mill charge collections
- Information/ understanding represent barriers
- State website and market maturation are steps forward but ...



Consumers can opt out of the CLC power supply program at any time. They continue to fund and should participate in the CLC energy efficiency program – get your audit at 800-797-6699!

Things for the Committee to Do

- Compare CLC power supply and efficiency program performance against Town Meeting authorizations, executed IGA, and “best terms and conditions”
- Shine light on Barnstable County’s REC and solar REC dealings
- Clarify bill impacts of green power, efficiency, and grid modernization programs
- Explore rate apportionment, community empowerment, and green power purchasing strategies
- Communicate with town and county officials regarding their responsibility for protecting ratepayer interests while acting together through CLC, as administered by Barnstable County
- Communicate with state officials and push for 2016 energy bill to include reforms relating to municipal aggregation, ratepayer protection, public records, etc.