

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: Block Island Power Company : Docket No. 3655
General Rate Filing

BLOCK ISLAND POWER COMPANY'S
RESPONSE TO THE TOWN OF NEW SHOREHAM'S
REQUEST FOR DETERMINATION OF SCOPE OF PROCEEDING

INTRODUCTION

1. On or about October 12, 2004, the Town of New Shoreham (Town) filed a Complaint against Block Island Power Company (BIPCo) with the Public Utilities Commission (Commission) (Docket No. 3460).

2. On or about November 2, 2004, BIPCo filed with the Commission a Motion to Dismiss the Town's Complaint in Docket No. 3460.

3. On or about November 23, 2004, the Town withdrew the Commission Complaint. On that same day, the Town filed a similar Complaint against BIPCo before the Division of Public Utilities and Carriers (Division) (Docket No. D-04-46).

4. On or about December 16, 2004, BIPCo filed with the Division a Motion to Dismiss the Town's Complaint in Docket D-04-46.

5. The primary purpose of both of the Town's Complaints, as stated in the Town Resolution attached to Complaints, was "to bring appropriate action before the Public Utilities Commission requesting that the Commission require BIPCO to develop and implement an Integrated Resource Plan (IRP)". The Town also asked that the IRP include a "demand side management program" (DSM). The IRP and DSM requests were the thrust of the identical Town Council Resolution attached to both Complaints.

6. On December 17, 2004, BIPCo filed a general rate case with the Commission (Docket No. 3655). As set forth in the testimony of Walter E. Edge, Jr., MBA, CPA (at 37), BIPCo placed the issues of an IRP and DSM squarely before the Commission:

“Q. Mr. Edge, are there any other rate design issues that you would like to address at this time?

A. Yes. The Town has filed a complaint with the Division to have BIPCo address two areas of concern. The first is a Demand Side Management Study/Program and the second is an Integrated Resources Plan. We believe that both of these studies would be in addition to the recommendations in BIPCo's recent Draft Long Range Distribution System Planning Report and will require additional funds to have experts prepare these studies. In addition, a Demand Side Management program will require money to fund the activities identified in the study. I estimate that the Demand Side Management Study will cost about \$15,000 while the Integrated Resources Plan Study will cost between \$80,000 and \$100,000. We expect that the Town will intervene in this case and provide more supplementary testimony for these projects.

Q. How would you suggest the funds be generated for these projects?

A. In the past the PUC has allowed BIPCo a separate surcharge for activities such as these. I believe a surcharge that generated about \$50,000 per year for the next five years should cover these activities. Further BIPCo would be agreeable to maintaining these funds in a separate restricted account to be used exclusively for these two projects.

Q. How would you recommend the calculation of the surcharge be completed?

A. Simply by dividing the \$50,000 amount required by the rate year estimated annual KWH (11,148,754) would result in a surcharge of \$0.0045 per KWH. This would result in about a \$27.00 additional fee per year for the average residential ratepayer. This surcharge could be reviewed annually and adjusted if necessary.”

7. On or about January 6, 2004, the Town filed a Motion to Intervene in BIPCo's general rate case before the Commission, Docket No. 3655. That Motion was not objected to by BIPCo or the Division and it was granted.

8. On or about January 6, 2004, the same day that the Town moved to intervene in BIPCo's general rate case Docket No. 3655, the Town filed a reply to BIPCo's Motion to Dismiss the Complaint in Docket No. D-04-46, together with a "Motion for Temporary Stay." The Town argued that the stay should be granted "as a matter of administrative discretion and for the benefit of the parties" because "a temporary stay would enable the Town and the Division to learn whether the range of issues covered in the Town's Complaint will be considered and decided by the Commission in the context of BIPCo's rate case." (at 12). However, the Town, in its Conclusion, suggested that the Division should first rule on BIPCo's Motion to Dismiss, and then temporarily stay the proceeding (at 13-14).

9. BIPCo does not oppose a stay in Docket No. D-04-46. However, BIPCo believes that it would be a waste of the Division's time and effort to rule on BIPCo's pending Motion to Dismiss if there is going to be a stay of this matter while the Commission considers the Town's positions in the currently pending BIPCo general rate filing, Docket No. 3655.

10. Accordingly, BIPCo has respectfully suggested to the Division that the entire Division matter be stayed pending completion of the general rate filing in Docket No. 3655, and this stay should include any action on BIPCo's pending Motion to Dismiss in Docket No. D-04-46.

11. The Town's Request for Determination of Scope of Proceeding makes it clear that the heart of the Town's concerns regarding BIPCo relate to "demand side management and integrated resource plans." (at 1-2). Moreover, the Town's request admits that "BIPCo's rate filing calls for the Commission to address at least several issues

raised in the Town's Complaint" and discusses the IRP and DSM requests, among other issues raised by BIPCo's rate filing (at 2-3).

12. Clearly, therefore, the primary issues sought to be addressed by the Town, which are DSM and IRP, are issues that will be fully explored by the parties and Commission in this case.

13. In addition, the many and varied issues that customarily arise in the investigation of a full rate filing by the Town, the Division, and the Commission will also be fully explored.

14. BIPCo therefore respectfully submits that it would be premature for the Commission, at the very outset of this case, to try to itemize with specificity all of the issues that it will hear.

15. The usual practice is for the parties to conduct discovery in the form of data requests, to file motions as needed, to file additional testimony, to submit to cross examination at the hearings, and to file briefs. At all stages in this process, any party can raise any issue which it deems relevant and material to the rate filing. By the same token, any other party, if it feels an issue is objectionable, is entitled to file an objection. The Commission will then make a determination on that specific issue.

16. For example, objections and motions can be filed to scope of data requests, objections and motions to strike can be filed regarding prefiled and oral testimony, and objections and motions to strike can be filed with regard to matters raised in post-hearing briefs. This is the usual procedure. It has worked well at the Commission for many years, and there is no reason to believe that the usual procedure is not entirely appropriate for this case.

17. BIPCo must emphasize that it concedes that a full and complete discussion of both DSM and IRP is appropriate in this case. That discussion addresses the heart of the Town's Complaints. Other issues should be dealt with on a case by case basis as this docket progresses.

18. Because BIPCo has conceded that a discussion of both IRP and DSM is appropriate in this case, BIPCo believes that the Town's request for an advance "determination of the scope of the proceeding" and an itemization of the "range of issues" is inappropriate.¹

¹Although not directly relevant to the Town's Request for Determination of the Scope of Proceedings, BIPCo must go on record that it vigorously disputes many of the allegations set forth in the Town's Complaints against BIPCo and in the Town's request for determination of the scope of this proceeding. BIPCo has consistently performed long term studies. Among other things, in April 6, 1995, an engineering firm prepared for BIPCo a "report summarizing our investigations and studies for the long term production of power on Block Island." This study investigated issues such as projected peak load growth for the island and the establishment of a viable plan for capacity additions to meet the island's projected peak load growth. A copy of this report was filed with the Commission by BIPCo on April 12, 1995, and a copy was also sent to the Office of the Attorney General. In March of 1997, in connection with BIPCo's obtaining of a \$3.2 million loan from the Rural Utilities Service (RUS), a federal agency, BIPCo's outside electrical engineer conducted "an evaluation of distribution system and long range recommendation." This long range plan was submitted to, reviewed by, and approved by the RUS as part of BIPCo's complex loan application process. BIPCo recently hired a national engineering firm to conduct another long range study. BIPCo submitted a draft of that study to the Town in November 2004, seeking comment. To date, the Town has not provided any comment on the draft study. In order to meet demand growth, BIPCo has fully considered (in Commission Docket No. 2489) installing a cable. Because all parties, including the Town, agreed the cable was too expensive, BIPCo obtained significant RUS funding, has completely repowered its plant with three new engines, has installed new air emission control units, and has installed a new substation, all without any increase in base rates since 1991. If BIPCo truly lacked long range planning, these improvements would not have been possible. The Town also alleges that BIPCo has failed "to engage in demand side management," when in fact, as this Commission knows, in a separate Docket No. 2017, the Commission established a conservation and load management (CLM) program for BIPCo which was in effect for a number of years. Unfortunately, this program ended because of lack of consumer interest.

CONCLUSION

Accordingly, BIPCo respectfully suggests that Town's request be denied.

Respectfully submitted,
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By its attorney

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CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of January 2005, I mailed a true copy of the foregoing by first class mail to the following:

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