



State of Rhode Island and Providence Plantations

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Peter F. Kilmartin, Attorney General

June 17, 2016

VIA HAND DELIVERY & ELECTRONIC MAIL

Luly E. Massaro, Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, Rhode Island 02888

**Re: Docket 4606 – In Re Block Island Power Company Petition pursuant to
R.I.G.L. § 39-1-27(g)**

Dear Ms. Massaro:

Enclosed please find an original and nine (9) copies of the Division of Public Utilities and Carriers' position memorandum related to Block Island Power Company's ["BIPCo"] request for statutory waiver/exemption. In short, the Division supports BIPCo's request for waiver based on the Division's assessment that the petition request is reasonable and in the public interest.

An electronic copy shall be served upon the service list. Thank you for your attention in this matter.

Very truly yours,

Christy Hetherington
Special Assistant Attorney General

Enclosure

cc: Service List

Memorandum

To: Public Utilities Commissioners

From: Division of Public Utilities and Carriers

Re: Division's Position in Docket 4606 - In Re Block Island Power Company Petition
Pursuant to R.I.G.L. § 39-1-27(g)

On March 7, 2016, the Block Island Power Company ("BIPCo") filed with the Public Utilities Commission a petition pursuant to R.I.G.L. § 39-1-27(g) seeking exemption from the statutory (1) requirement to transfer ownership of generation facilities to an affiliated company, (2) prohibition against selling electricity at retail, and (3) from certain standards of conduct. Nearing the end of the Commission's allowance for BIPCo to delay implementation of the Utility Restructuring Act's mandates provided for in Order No. 15461,¹ BIPCo seeks to avail itself of the exemption provisions of R.I.G.L. § 39-1-27(g) (a 1997 addition to the Utility Restructuring Act) on the basis that the grant of these exemptions to BIPCo would be in the public interest. In its Petition, BIPCo maintains that a waiver will allow the company to continue to own its generation facilities and use them to provide backup and safety in the case of any discontinuation or loss of power from the mainland. BIPCo maintains that consumer rates, tolls and charges will remain reasonable. In support of its Petition, BIPCo provided direct testimony from Mr. David G. Bebyn, CPA.

On May 12, 2016, the Commission conducted a public hearing on Block Island to solicit comments on BIPCo's Petition. All told, the public voiced no objections to BIPCo's request. The Town of New Shoreham, by and through its town council, recently voted not to oppose

¹ The Commission authorized BIPCo "to delay implementation of the Utility Restructuring Act's mandates until six months following the installation and operation of the undersea cable connecting the island to the mainland electric grid." Commission Order No. 15461.

BIPCo's Petition. Additionally, National Grid submitted an informational memorandum addressing several issues related to this matter; with respect to the Petition, National Grid remains "neutral." An evidentiary hearing has been advanced on the calendar for August 9, 2016.

The Division has had the opportunity to carefully review the entirety of BIPCo's filing, mindful of the unique facts and circumstances presently at issue. Moreover, the Division reviewed the past, present and future structure of BIPCo, and considered the history and intent of the Utility Restructuring Act "(URA") in order to better understand whether exemption from the URA is warranted, appropriate, reasonable and in the public interest. In the course of this process, the Division found BIPCo's stated reasons in support of its Petition to hold merit. In particular, the Division agrees that BIPCo serves an insular population of consumers living 12 miles off the coast and that the possibilities are real that discontinuance from the mainland, loss of the cable from the mainland, or any problems relating to the National Grid substations and transformers may result in a prolonged loss of power for the residents. BIPCo is uniquely situated and uniquely interested in serving the needs of its customers, therefore, its continued ownership of the generation assets makes sense. Further, maintaining the status quo will avoid the possibility of consumers bearing the potentially high financial and/or environmental costs that divestment could potentially bring. Moreover, the Division understands that the underlying purpose of the URA included the limitation of utility interference in competitive markets. Given that these concerns are less germane to BIPCo's operations, the remedy of divestment of ownership provided in the URA is less warranted or necessary. Instead, the exemptions provided by R.I.G.L. § 39-1-27(g), which recognizes that special circumstances do sometimes exist, fit squarely with BIPCo's operations and are appropriately applied.

Based on the totality of the facts and circumstances unique to this utility, and given that interested parties do not object, the Division finds that BIPCo's request for a waiver is reasonable and in the public interest. Accordingly, the Division supports BIPCo's Petition and recommends that the Commission grant its request for exemption from the URA requirements so that BIPCo will not be required to divest itself of its generation assets once the cable from the mainland is connected to Block Island.