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January 5, 2006

Luly Massaro  
Commission Clerk  
Rhode Island Public Utilities Commission  
89 Jefferson Blvd.  
Warwick, RI 02888

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

Dear Luly:

The Town of New Shoreham (the "Town") submits this brief reply to the January 3, 2006 letter of the Division of Public Utilities and Carriers (the "Division") regarding Block Island Power Company's ("BIPCO") December 12, 2005 compliance filing and the Town's December 21, 2005 requests to the Commission in this matter.<sup>1</sup>

The Town agrees with the Division in three respects. First, the Town concurs that BIPCO should be directed to inform the Commission of and document all efforts made to date to search for a permanent replacement for Mike Wagner. Second, BIPCO should be required to explain and document how and by whom the day to day operations of the Company (e.g., generation, distribution) are being supervised and carried out. Third, the Town agrees with the Division that the Commission determines whether BIPCO's December 12, 2005 compliance filing is satisfactory.

Given the importance of a reliable, long term mix of resources and measures to meet the demand for electricity and of reasonable rates to the well-being of the Town, the Town remains very concerned that BIPCO appears to lack a permanent replacement for Mr. Wagner and may not have even taken reasonable steps to seek his replacement. During the rate proceedings, BIPCO indicated that it had not advertised the availability of this position and had "asked around" the Town for interest. At a minimum, BIPCO should be advertising this opening and conducting a search within the electric power industry in New England (including the over 40

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<sup>1</sup> BIPCO also has responded to the Town's December 21, 2005 request that the Commission summarily rule that BIPCO's compliance filing is deficient and direct a new filing or, in the alternative, immediately commence an investigation of the issues raised by that compliance filing.

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municipal utilities). BIPCO should be seeking out individuals with expertise in generation and distribution operation and maintenance.

BIPCO's compliance filing was devoid of any information on how it is managed on a day to day basis and the level of management work being performed. Whether such management is properly classified as outside consultants or employees is of secondary concern to the Town, and it leaves that issue for the Commission to evaluate.<sup>2</sup> Of much greater concern is that ratepayer funds not be expended on payments to owners who have not demonstrated their qualifications or the level of work that they have performed, and which may not comply with applicable affiliate transaction laws.

The Town strongly disagrees with the Division's statement that the level of payments to owners should remain unchanged until BIPCO's next rate filing. Had the Commission shared this view, it would not have directed BIPCO to submit a compliance filing prior to next general rate case. Given that the Commission itself directed BIPCO to file a justification for payments made to the owners within 90 days of its rate order, it would make no sense to ignore serious issues regarding the reasonableness of these payments until such time that BIPCO elects to file another rate case.<sup>3</sup>

The Town also strongly disagrees with the Division's statement that the pendency of the IRP process is reason for the Commission to defer its review of the reasonableness of BIPCO's management payments (most of which is directed by the owners to be paid to themselves). The Commission cannot allow its review of the reasonableness of these payments to be held hostage to a lengthy IRP process. The Commission's rate order does not contemplate such a result. Under the Division's logic, it would have the Commission ignore the serious issues raised by BIPCO's compliance filing and essentially negate the purpose for requiring BIPCO to submit a justification for management payments within 90 days after the issuance of the rate order.<sup>4</sup>

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<sup>2</sup> This issue may implicate Internal Revenue Code issues. Also, these payments may need to be vetted by the Rural Utilities Service. The payment of dividends also may compromise BIPCO's already thin common equity ratio.

<sup>3</sup> Moreover, the Settlement between the parties did not foreclose the town from filing a Complaint regarding BIPCO's payments to its owners and other affiliate transactions.

<sup>4</sup> BIPCO has been under an obligation to present a justification for payments to owners and management and for other affiliate transactions. It did not demonstrate that the owners who are receiving payments are qualified, actually perform the types of work contained in job descriptions developed by a third party and actually perform the hours of work that would warrant the payments being made to them. Nor did BIPCO establish its compliance with affiliate transaction requirements. BIPCO can avoid the "highly contentious process" that concerns the Division by committing to (1) implement a system of compensation that is based upon actual work being performed by qualified individuals on a documented, reviewable basis (after all, independent consultants generally must demonstrate their qualifications in comparison to other service providers and submit invoices to clients that document how much time has been devoted to specific work activity during a specific reporting period); (2) comply with applicable affiliate transaction laws and submit proof of such compliance within a reasonable time (i.e., 30 days); and (3) commence and document steps being taken to hire a permanent replacement or replacements for Mr. Wagner, with a target date for completion of the hiring process.

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For these reasons and for the reasons stated in the Town's December 21, 2005 filing, the Commission should take immediate action regarding BIPCO's compliance filing, as requested by the Town.

Nine copies of this filing are included for the Commission and copies are being mailed and emailed to the Commission and the Service List.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alan D. Mandl". The signature is fluid and cursive, with a large initial "A" and "M".

Alan D. Mandl, Bar No. 6590

Enclosures  
cc: Service List