

#3755

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June 21, 2006

Luly Massaro  
Clerk  
Public Utilities Commission  
Division of Public Utilities and Carriers  
89 Jefferson Boulevard  
Warwick, RI 02888

Re: Block Island Power Company

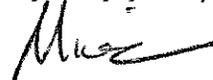
Dear Luly:

As you know, this office represents Block Island Power Company (BIPCo).

Enclosed for filing in this matter is an original and 9 copies of the Appeal by Block Island Power Company Pursuant to R.I.G.L. § 39-1-30.

If you have any questions, please feel free to call.

Very truly yours,



Michael R. McElroy

MRMc/kmc  
BIPCo/Sale-Massaros 3  
cc: BIPCo owners (via e-mail only)  
Walter Edge  
Elliot Taubman, Esq.  
Packer & O'Keefe  
Block Island Town Clerk (CMRRR)

RECEIVED  
2006 JUN 22 PM 2:21  
PUBLIC UTILITIES COMMISSION

STATE OF RHODE ISLAND  
AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION

IN RE:           BLOCK ISLAND POWER COMPANY   :           Docket No.

APPEAL BY BLOCK ISLAND POWER COMPANY PURSUANT TO R.I.G.L. § 39-1-30

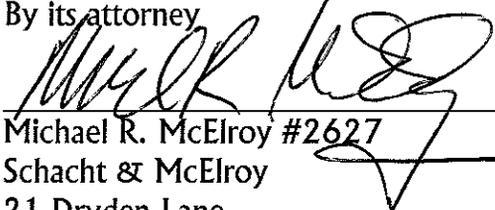
1.   Block Island Power Company (BIPCo) is a company under the supervision of this Commission.
2.   On June 14, 2006, the Building Inspector/Official of the Town of New Shoreham rendered a decision and issued a Notice of Violation ordering BIPCo to take certain action as detailed in Exhibit 1 attached hereto and incorporated by reference herein.
3.   Pursuant to R.I.G.L. § 39-1-30, "Every ruling, decision, and order of ... a building ... inspector of any municipality affecting the placing, erection, and maintenance of any plant, building, wires, conductors, fixtures, structures, equipment, or apparatus of any company under the supervision of the commission, shall be subject to the right of appeal by any aggrieved party to the commission within ten (10) days from the giving of notice of the ruling, decision, or order."
4.   In addition, under this statute, "The commission, after hearing, upon notice to all parties in interest, shall as speedily as possible determine the matter in question, weighing the consideration of public convenience, necessity, and safety against the consideration of public zoning, and shall have jurisdiction to affirm or revoke or modify the ruling, decision, or order to make any order in substitution thereof."

5. BIPCo believes that in light of considerations of public convenience, necessity, and safety, the Notice of Violation set forth in Exhibit A attached hereto should be revoked by this Commission. An informational filing outlining the transaction which prompted the Building Inspector/Official to issue the Notice of Violation was previously filed with this Commission by BIPCo on or about May 24, 2006, and is incorporated by reference herein.
6. BIPCo is also appealing the Notice of Violation to the New Shoreham Zoning Board of Review.
7. Accordingly, BIPCo is filing this appeal with the Commission so that it will be in compliance with the ten (10) day appeal period set forth in R.I.G.L. § 39-1-30, but BIPCo has no objection to the Commission holding this appeal in abeyance pending a decision from the Zoning Board on BIPCo's appeal to the Zoning Board.
8. If the Zoning Board grants BIPCo's appeal and overturns the Notice of Violation, then no Commission hearing on this matter will be necessary, and BIPCo will voluntarily dismiss this appeal at that time. If, however, the Zoning Board fails to overturn the Notice of Violation, then at that time BIPCo will ask the Commission to, as speedily as possibly, determine the matter.

WHEREFORE Block Island Power Company respectfully requests that the Commission determine the matter in question, weigh the considerations of public convenience, necessity, and safety against the consideration of public zoning, and revoke or modify the Notice of Violation issued by the Town of New Shoreham.

Respectfully submitted,  
Block Island Power Company  
By its attorney

Date: 6/21/06

  
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CERTIFICATE OF SERVICE

I hereby certify that on the 21<sup>st</sup> day of June, 2006, I mailed a true copy of the foregoing by first class mail to the following:

Packer & O'Keefe  
1220 Kingstown Road  
Peace Dale, RI 02883

Block Island Town Clerk  
PO Box 220  
Block Island, RI 02807

Paul Roberti, Esq.  
Attorney General's Office  
150 South Main Street  
Providence, RI 02903

  
Kimberly A. McNulty

BIPCo/Sale/PUC Appeal



TOWN of NEW SHOREHAM  
DEPARTMENT of BUILDING INSPECTION  
OFFICE of BUILDING OFFICIAL

EXHIBIT 1  
MARC A. TILLSON  
TELEPHONE (401) 466-3206  
FAX (401) 466-3219  
TTY (800) 745-5546

Block Island Power Company  
PO Box 518  
Block Island, RI 02807

Clifford R. McGinnes, Sr., Administrator  
PO Box 403  
Block Island, RI 02807

Re: Assessors Plat 17, Lot 37

### NOTICE OF VIOLATION

**YOU ARE HEREBY NOTIFIED** that the Plan recorded in the Land Evidence Records on May 12, 2006 in Volume 359, Pages 039 and 040, and the documents recorded with it, which purports to create a new Lot 37B on Tax Assessor's Plat 17, situated southerly of Beach Avenue in New Shoreham, Rhode Island, without Planning or Zoning Board approvals, is in violation of Rhode Island General Laws Title 45, Chapter 23, the New Shoreham Land Development and Subdivision Regulations and the New Shoreham Zoning Ordinance. Any subdivision of land must be approved by the Planning Board. Lot 37 supports a Use permitted by Special Use Permit and any change in that Lot would require Zoning Board approval as well as Planning Board approval.

**YOU ARE HEREBY ORDERED** to bring the violation into compliance with the Land Use Ordinances of the town within thirty (30) days of the date of this notice. Building permits shall not be issued for Lot 37 (or the purported Lots 37A and 37B) as long as the property remains in violation.

The Town may initiate legal proceedings to restrain the violation and compel compliance with the provisions of the Ordinances together with fines allowed by law. Each day the violation continues, shall be deemed a separate offense.

If you should feel aggrieved by this decision, you may appeal to the Zoning Board of Review within twenty (20) days of the date of this Notice.

Dated this 14<sup>th</sup> day of JUNE, 2006, at New Shoreham, Rhode Island.

Marc A. Tillson  
Building Official  
Town of New Shoreham

Fiona Fitzpatrick, Town Clerk  
Town Council  
Nancy O. Dodge, Town Manager  
Margaret Comings, Planning Board Chairman

Elizabeth Connor, Zoning Board of Review, Chairman  
Lisa Ommerle, Tax Assessor  
Elliot Taubman, Attorney  
Michael McElroy, Attorney