

SMITH & DUGGAN LLP

ATTORNEYS AT LAW

TWO CENTER PLAZA
SIXTH FLOOR
BOSTON, MA 02108-1906
TEL 617.228.4400
FAX 617.248.9320

ALAN D. MANDL
AMANDL@SMITHDUGGAN.COM
DIRECT DIAL: 617.228.4464
LINCOLN OFFICE

LINCOLN NORTH
55 OLD BEDFORD ROAD
LINCOLN, MA 01773-1125
TEL 617.228.4400
FAX 781.259.1112

April 8, 2008

BY FEDERAL EXPRESS PRIORITY OVERNIGHT

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. 3900

Dear Luly:

Enclosed please find for filing in the above matter an original and nine (9) copies of the Surrebuttal Testimony of Richard La Capra on behalf of the Town of New Shoreham. A copy of this filing is being emailed to you and to the Service List.

Thank you for your assistance in this matter.

Very truly yours,

Alan D. Mandl, Bar No. 6590

Enclosures

cc: Service List
Katherine A. Merolla, Esq.
Nancy Dodge

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION**

IN RE: BLOCK ISLAND POWER)
 COMPANY GENERAL) **Docket No. 3900**
 RATE FILING)

ATTESTATION

I, Richard La Capra, swear that the attached surrebuttal testimony prepared by me on behalf of the Town of New Shoreham in this matter is true and accurate to the best of my knowledge and belief.

Dated at New York, New York, this 8th day of April, 2008.



Richard La Capra

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION**

BLOCK ISLAND POWER COMPANY)
GENERAL RATE FILING)
_____)

DOCKET NO. 3900

SURREBUTTAL TESTIMONY OF RICHARD LA CAPRA

ON BEHALF OF

THE TOWN OF NEW SHOREHAM

April 8, 2008

1 **Q1. PLEASE STATE YOUR NAME.**

2 A. My name is Richard La Capra

3 **Q2. DID YOU SUBMIT PRE-FILED TESTIMONY IN THIS CASE ON**
4 **BEHALF OF THE TOWN OF NEW SHOREHAM?**

5 A. Yes, I submitted direct testimony on February 19, 2008.

6 **Q3. HAVE YOU REVIEWED THE REBUTTAL TESTIMONY SUBMITTED**
7 **BY MR. EDGE ON BEHALF OF BLOCK ISLAND POWER COMPANY**
8 **ON MARCH 18, 2008?**

9 A. Yes, I have reviewed Mr. Edge's rebuttal testimony and the materials that he
10 submitted with his rebuttal testimony.

11 **Q4. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

12 A. My surrebuttal testimony responds to Mr. Edge's rebuttal testimony.

13 **Q5. PLEASE SUMMARIZE YOUR SURREBUTTAL TESTIMONY.**

14 A. My surrebuttal testimony replies to Mr. Edge's positions on issues raised on
15 behalf of the Town in my direct testimony. These issues include (1) the proper
16 ratemaking treatment of the net gain realized by BIPCo on its sale of property
17 included in rate base for many years and supported by ratepayers as part of the
18 Company's regulated cost of service and revenue requirements; (2) application of
19 the net gain to offset the ratemaking impacts of the badly needed upgrade of the

1 Company's distribution system; (3) the need to reduce payments and benefits
2 given by BIPCo's owners to themselves and implement forward-looking
3 guidelines on how the reasonableness of these affiliate transactions should be
4 evaluated; (4) the funding of an Energy Officer position through a continuation of
5 a surcharge mechanism, as recommended by HDR in the IRP Report filed with
6 the Commission by the IRP Working Group established under the Docket No.
7 3655 Settlement Agreement; and (5) the need for a cost allocation and rate design
8 study to promote equitable rates and conservation and load management. My
9 surrebuttal testimony, in an attached Exhibit, RLC-1, also responds to a number
10 of unwarranted attacks by Mr. Edge upon the Town's participation in Docket No.
11 3655 and this proceeding.

12 **I. REAL ESTATE SALE**

13 **The net gain of \$828,000 from the sale of BIPCo property included in rate**
14 **base for many years and charged to revenue requirements of the Company**
15 **should be credited entirely to ratepayers because they supported these assets**
16 **through electric rates. The net gain should be credited to ratepayers against**
17 **the cost of the distribution system upgrade.**

1 **Q6. HAVE YOU ADDITIONS OR ALTERATIONS TO THE**
2 **RECOMMENDATION IN YOUR DIRECT TESTIMONY IN REGARDS**
3 **TO THE USE OF THE NET GAIN ON BIPCO'S SALE OF REAL**
4 **ESTATE?**

5 A. No. In my direct testimony, I recommended that BIPCo should be directed to
6 apply an amount of \$828,000, less approved expenses, to distribution upgrades.
7 These net proceeds from the sale of a portion of its real estate, which has been
8 included in rate base and supported by ratepayers, represent customer value and
9 should be so reinvested. This method of crediting the net gain to ratepayers is
10 preferable to current rate reductions through annual credits against revenue
11 requirements and would provide both immediate and long term benefits to
12 ratepayers. This remains the Town's recommendation.

13 **Q7. DO YOU HAVE ANY COMMENTS ON MR. EDGE'S REBUTTAL**
14 **TESTIMONY REGARDING THE RATEMAKING TREATMENT OF**
15 **THE NET GAIN ON THE SALE OF REAL ESTATE DURING 2006?**

16 A. Yes. Mr. Edge's rebuttal testimony denies any customer benefit from proceeds of
17 the land sale and announces an indefinite postponement of the needed distribution
18 upgrades. This approach defies both normal ratemaking standards and
19 Company's public service obligations.

1 **Q8. WHY DOES BIPCO HESITATE TO REINVEST THESE FUNDS IN**
2 **MUCH NEEDED DISTRIBUTION IMPROVEMENTS?**

3 A. There are two general issues which BIPCo raises in Mr. Edge's rebuttal testimony
4 - first, that the stockholders should receive all benefits from the real estate sale
5 and second, that there is no money to improve the distribution system. Both of
6 these assertions are wrong. There is no logical or regulatory argument which can
7 divert the net gain on this real estate sale away from ratepayers and to the benefit
8 of shareholders. Further, because there are several ways to insure that the
9 distribution system improvements can begin immediately, Mr. Edge's statements
10 are incorrect.

11 **Q9. WHAT IS THE BASIS FOR BIPCO'S CLAIM THAT THE NET**
12 **PROCEEDS FROM THE LAND SALE BELONG ONLY TO**
13 **STOCKHOLDERS?**

14 A. Peeling away the revisions to the history of the property and its relationship to the
15 Rural Utilities Service ("RUS"), the Company argues three interrelated principles
16 which it believes require that real estate sale gains revert entirely to stockholders.
17 These arguments can be summarized as follows:

18 1) The property, although included in rate base and booked to utility plant in
19 service, was non-utility property (Edge Rebuttal pp. 20-21; 25-26);

- 1 2) Regardless of the classification of the property as rate base assets,
2 stockholders own all assets in rate base and no sharing of the net gain on
3 the sale of the property is required (Edge Rebuttal p. 22); and
- 4 3) No net gain derived from a sale land (or land rights) included in rate base
5 and revenue requirements need ever be shared with utility customers who
6 supported the asset (Edge Rebuttal p. 24).

7 **Q10. WAS THE PROPERTY ACTUALLY UTILITY OR NON-UTILITY**
8 **PROPERTY?**

9 A. The property has been treated as utility property on the books of BIPCo and for
10 purposes of past rate cases. Mr. Edge's claim that the RUS regards this property
11 as non-utility property is speculative at best and has no bearing on the ratemaking
12 treatment to be given by the Commission to the net gain on the sale of this real
13 property. The RUS letter cited by Mr. Edge cannot be based on BIPCo's
14 accounting and ratemaking treatment of the real property in question. Further, it
15 is appears that the RUS was just referencing BIPCo's incorrect characterization of
16 the property, without regard for the manner in which it was treated on the
17 Company's books or for ratemaking purposes. The RUS letter which Mr. Edge
18 produces does not contain any statement about the ratemaking treatment of the net
19 gain on the sale of this property. Also, the RUS letter is dated a year after the real
20 estate sale and may well reflect BIPCo's attempt to rewrite its history of booking
21 this asset as utility plant and including it in regulated revenue requirements. RUS

1 treatment of the property for lending does not take into account that the real estate
2 has been included in rate base and supported by ratepayers.

3 My understanding, which is based upon prior engagements, is that the regulation
4 of rate base and BIPCo's rates is jurisdictional; the Rhode Island Public Utilities
5 Commission alone has the regulatory authority to make rate making
6 determinations. In past federal court decisions, RUS has been barred from
7 overriding a state commission's ratemaking authority. For context, the courts
8 denied RUS regulatory authority where there were defaults and covenant breaches
9 of hundreds of millions of dollars.¹ Neither RUS nor BIPCo has claimed that this
10 Commission lacks authority to determine the ratemaking treatment of the net gain
11 on the sale of utility property that has been included in rate base and otherwise
12 recognized as a cost of service component.

13 Mr. Edge further claims that the classification of this real property as utility plant
14 in service and its past recognition in rates was erroneous and due to lack of
15 sophistication on the part of BIPCo's owners. However, as Mr. Edge concedes,
16 the real estate purchased by the utility was put in rate base and supported by
17 customers through the revenue requirements used to set rates for BIPCo. It is

¹ Matter of Cajun Elec. Power Co-op, Inc., 100 F.3d 248 (5th Cir. 1997); Wabash Valley Power Ass'n v. Rural Electrification Admin., 988 F.2d 1480 (7th Cir. 1993). More recently, some courts have expressed the view that the RUS may only exercise approval of a borrower's rates where the borrower is not subject to state rate regulation. Southwest Transmission Cooperative, Inc., v. Arizona Corporation Commission, 142 P.3d 1240 (AZ Ct. of Appeals 2007). The United States Supreme Court has stated that the Rural Electrification Act does not expressly pre-empt state rate regulation of a borrower financed by the RUS (then REA) and contemplated that the RUS would assist borrowers with their rate structures within the constraints of existing state regulatory schemes. Arkansas Electric Cooperative Corporation v. Arkansas Public Service Commission, 461 U.S. 375 (1983).

1 astonishing that the Company is now attempting to undo all this history with the
2 argument that its management should have known better. The current owners
3 have been in charge of the Company since late 1986 and made no attempt to
4 reclassify the recently sold real estate as non-utility property. In all respects, for
5 ratemaking purposes, the real estate has been treated as regulated utility property
6 and the net gain should be treated in the same manner.

7 **Q11. DO YOU AGREE WITH THE BIPCO ARGUMENT THAT RATEPAYERS**
8 **HAVE NO OWNERSHIP WHATSOEVER IN RATE BASE?**

9 A. No, nor can I say that I have ever heard such an argument in the context of
10 determining whether and to what extent net gain on the sale of a utility-owned
11 asset should be shared with ratepayers. This Commission has examined whether
12 and to what extent the asset was supported by ratepayers in deciding how much of
13 the net gain should be credited to ratepayers. Mr. Edge ignores Commission
14 precedent completely and tries to write his own rules. In summary, BIPCo makes
15 the argument in two forms, both quite incorrect. The first pass at the argument is
16 that stockholders have provided all the funds for all rate base investment and
17 consequently customers do not own any of the assets until they “pay the
18 stockholders back.” This assertion ignores the ratepayer support standard applied
19 by the Commission and accepted by the Rhode Island Supreme Court. The term
20 “owns” as used by the Company shows its inability or knowing refusal to
21 acknowledge Commission ratemaking treatment of the gain on the sale of utility
22 property that has been included in rate base and supported by ratepayers.

1 Mr. Edge also presents a situation in which the customer does “own” the rate base
2 property, but this is only when there is no economic life remaining in the asset.
3 This argument is prima facie without merit. In my direct testimony I noted both
4 Commission rulings on the sale of rate base assets as well as two Rhode Island
5 Supreme Court rulings on how gain from the sale of rate base assets must be
6 apportioned. The Company’s position bears no resemblance to the rulings of
7 either of these authorities.

8 **Q12. WHY IS THE NET GAIN ON LEASEHOLD IMPROVEMENTS ALSO**
9 **CREDITED TO RATEPAYERS?**

10 A. As I noted in my direct testimony, the asset remained continually in rate base.
11 Any use of the land by others as it was being held as rate base property for any
12 future use does not alter the classification of the land. The rental revenues and all
13 property-related expenses remained cost of service items. Any value from
14 leasehold improvements reverts to the “owner” of the land and so accordingly
15 follows the same ratemaking treatment of the land. In the case of the lot with the
16 house, the original cost of both was included in rate base. In the case of the lot
17 where a tenant made leasehold improvements, they reverted to the Company and
18 are equivalent to the rental revenues credited to ratepayers. Mr. Edge simply
19 ignores these facts.

20 Regarding the small original house on Parcel 37A, Mr. Edge now argues decades
21 after the fact that the Commission should have thrown it out of rate base in the

1 manner that the Commission disallowed part of the BIPCo office building from
2 inclusion in rate base. The house was part of the Company's real estate purchase
3 and was booked to the Company's land account along with the land and included
4 in rate base. In recognition of this fact, the Company credited rental revenues
5 from the house and charged all expenses incurred in relation to the house to
6 regulated accounts and reflected these revenues and expenses in its cost of
7 service. Leasehold improvements made by tenants reverted to BIPCo and their
8 cost is equivalent to higher rental payments that the Company would have
9 received. To now point blame at the Commission as a way of trying to reclassify
10 the property and avoid crediting ratepayers with net gain on the sale of rate based
11 property is wholly inappropriate. Further, the fact that there were revenues
12 credited to ratepayers for use of the property, rather than showing it was not
13 utility property, indicated the opposite. As with any rate base asset, the customer
14 absorbs the costs and receives any associated revenues. Whether the cost or
15 revenues are the larger has no bearing whatsoever on the classification of the
16 asset.

17 **Q13. IS THE LAND OR LAND RIGHTS PORTION OF RATE BASE**
18 **HANDLED DIFFERENTLY FROM OTHER RATE BASE ASSETS?**

19 A. The Company is correct that most land is not depreciated but this distinction has
20 nothing to do with rate base regulation. Essentially the Company, to deflect any
21 consideration of its actual equity level and the length of time this particular asset
22 has been in rate base (over forty years) asserts, apart from its other arguments,

1 that land under any circumstance and for all time can only be “owned” by the
2 stockholders. Ratepayers, according to BIPCo can never receive any benefits
3 from a sale of land included in rate base. Again, this distinction in the treatment
4 of gain on the sale of depreciable and non-depreciable rate base items is not
5 supported by Commission decisions or Rhode Island Supreme Court rulings.

6 **Q14. DOES MR. EDGE ALSO TAKE ISSUE WITH THE DIVISION’S**
7 **RECOMMENDATION FOR THE NET PROCEEDS OF THE LAND**
8 **SALE?**

9 A. Yes. Mr. Edge, in his rebuttal testimony, has also disagreed with the Division’s
10 recommendation for allocating the gain on the land sale 50% to customers and
11 50% to stockholders. Mr. Edge’s conclusion is reached through the same
12 reasoning - that ratepayers have no rights at all to the proceeds of rate base
13 property, although he presumably would be more favorably disposed to sharing
14 rather than fully returning the benefit to the customers.

15 **Q15. DO YOU AGREE WITH THE DIVISION’S PROPOSAL TO DIVIDE THE**
16 **NET PROCEEDS OF THE LAND SALE EQUALLY BETWEEN BIPCO**
17 **AND ITS CUSTOMERS?**

18 A. No. I do not believe that the Division’s proposed 50/50 split is a reasonable
19 alternative in light of the past treatment of the real estate for ratemaking purposes.
20 I do agree with Mr. Effron’s basic reasoning in which the value of the net gain on
21 property included in rate base accrues to the customers. Mr. Effron notes that his

1 approach was largely driven by the inability of the Division to unwind the history
2 of the property and accepts without further proof that the property had some
3 indeterminate utility and non-utility portions. The utility portion, however,
4 (presumed half) is handled exactly the same way the Town is proposing. None of
5 the Mr. Edge's rebuttal arguments for a zero credit to ratepayers for utility
6 property in rate base are used in the Division's reasoning or recommendations.

7 **Q16. HAS THE TOWN PROPOSED A DISTRIBUTION OF THE NET GAIN**
8 **TO RATEPAYERS?**

9 A. Yes. I explained in my direct testimony, the Town proposed that the net gain be
10 credited entirely to ratepayers because the property has been included in rate base
11 and all related property expenses were included in cost of service. The Town is
12 proposing that this net gain be applied to assist in funding the \$1.4 million
13 distribution upgrade program recommended by HDR, the Company's engineering
14 consultants. Mr. Edge has disputed the Town's proposal in his rebuttal testimony.
15 He claims that the Company has no money to return to ratepayers for the purpose
16 of paying a portion of the cost of the distribution system upgrade recommended
17 by HDR.

1 **Q17. IF, REGARDLESS OF THE REASON, BIPCO HAS NO PROCEEDS**
2 **FROM THE SALE OF THE LAND, MUST A CREDITING OF THE NET**
3 **GAIN TO RATEPAYERS STILL BE MADE?**

4 A. Yes. Whether or not the funds have been expended, clearly, has no bearing on
5 whose funds they were in the first place or the ratemaking treatment of the net
6 gain. The net proceeds are, for ratemaking purposes, funds that should be
7 credited to ratepayers, and BIPCo's using those funds for other purposes does not
8 alter that. If, as BIPCo, claims it has used the funds for paying various overdue
9 expenses, it has essentially created an IOU for \$828,000 to its customers. BIPCo
10 customers now are entitled to a crediting of \$828,000 in some acceptable form.
11 The Town has consistently proposed that the best use of the funds is an
12 investment in the distribution system rather than an annual offset against revenue
13 requirements over a period of years.

14 **Q18. HOW CAN THIS \$828,000 NOW BE CREDITED TO RATEPAYERS?**

15 A. There are several ways this customer credit can be treated. In Mr. Edge's rebuttal
16 testimony BIPCo proposes that any sharing of net gain with ratepayers be applied
17 as a reduction to rate base. The Division proposed a reduction to equity. The
18 Town, for the many reasons noted, does not believe these funds were ever equity
19 and should not now be considered equity. The funds would most logically seem
20 to be treated as if they were ratepayer contributed capital, i.e., booked as
21 Contributions in Aid of Construction, Account 253. Under the Town's proposal,

1 this amount would be included as a rate base offset at the time the distribution
2 upgrades are completed - or in stages if these upgrades are phased in over a period
3 of time.

4 **Q19. PLEASE EXPLAIN THE PROCESS YOU ARE PROPOSING FOR THE**
5 **FUNDING OF THE DISTRIBUTION SYSTEM UPGRADE AND THE**
6 **CREDITING OF THE NET GAIN TO BIPCO'S CUSTOMERS.**

7 A. This is an important point to address because Mr. Edge has claimed in his rebuttal
8 testimony that the Town's proposal is impossible. BIPCo should begin the
9 distribution upgrade immediately, following the HDR recommendation.
10 Presuming that the upgrades are roughly \$1.4 Million, the Company will, at the
11 completion of the work, book this \$1.4 Million to rate base. Rate base would be
12 reduced by the net gain from the real estate sale that ratepayers have contributed.

13 **Q20. DO YOU AGREE WITH MR. EDGE'S REBUTTAL TESTIMONY CLAIM**
14 **THAT THE DEBT/EQUITY RATIO HAS IMPROVED?**

15 A. Mr. Edge admits here that the net proceeds from the sale of real estate were
16 increased the Company's common equity balance. This testimony contradicts the
17 characterization in his rebuttal testimony that the net proceeds from this real estate
18 sale are "phantom" gains. Regardless of how Mr. Edge tries to avoid crediting the
19 net gain on the sale of rate-based real estate to ratepayers, the fact remains that
20 this rate base investment was sold for a large net gain and should now be credited
21 to ratepayers for ratemaking purposes. The Company cannot seriously argue both

1 that there has been a large increase in owners' equity but that there were no real
2 ("phantom") gains in the transaction.

3 **II. DISTRIBUTION SYSTEM UPGRADE**

4 **The Company should be directed to begin immediate upgrades to its**
5 **distribution system as recommended by its engineering consultant, HDR.**

6 **Q21. WHEN DOES THE COMPANY, THROUGH MR. EDGE'S TESTIMONY,**
7 **PROPOSE TO BEGIN THE DISTRIBUTION UPGRADES?**

8 A. In his rebuttal testimony, Mr. Edge states that the Company simply does not have
9 the money to proceed with the distribution upgrades recommended by their own
10 consultant. Mr. Edge reports that BIPCo "now finds itself overextended
11 regarding its borrowing capability...." and has decided to postpone the
12 distribution upgrade "for a year or so" to allow its financial position to improve.
13 In other words, BIPCo has no specific plan or time frame for upgrading its
14 distribution system, despite the fact that it does not question the need for the
15 upgrade recommended by HDR in 2004. The Town finds the Company's
16 approach to be in conflict with BIPCo's public service obligation, particularly in
17 the light of the generous distributions and benefits given to its stockholders
18 through charges to operating expenses. The efficiency and reliability of the
19 electric distribution system should be a priority of BIPCo and come ahead of
20 payments and benefits given to the Company's owners, which are in excess of any
21 reasonable level supported by objective facts.

1 Additionally, the Company while now claiming a \$1.4 million investment is
2 beyond them, made a grant application to the RUS which would have required it
3 to borrow at least \$13 million to fund a \$21 million project, with other funds
4 coming from a requested \$5 million grant and net proceeds from the sale of other
5 real estate also in rate base.

6 **Q22. ARE THE RECOMMENDED DISTRIBUTION IMPROVEMENTS**
7 **LIKELY TO SEVERELY STRESS THE COMPANY FINANCIALLY?**

8 A. The Company has not treated the upgrades as a major priority. Also, it has made
9 no attempt to critically view the self-dealing that has continued to occur and
10 impair the financial condition of the Company over a period of years. Both the
11 amounts of the distributions and benefits given to the owners through increased
12 operating expenses, as well as the net gain from the land sale represent significant
13 portions of the monies needed to complete the upgrades. As a perspective, the net
14 gain from the land sale was approximately \$828,000 or almost 60% of the cost of
15 the recommended construction cost for the upgrade. Considering the annual costs
16 yields a similar picture. The total annual payments and benefits given to
17 stockholders is over \$260,000, while the total annual cost of the distribution
18 upgrade is roughly \$190,000.²

² The HDR report estimates the cost of the needed upgrades at \$1,400,000. Assuming financing and return cost of 6.0%; depreciation at 3.3%, O&M at 3% and taxes, insurance and A&G at 1.5%, the annual carrying cost of the distribution investment would be roughly 13.80% or \$193,200.

1 **Q23. WHAT COULD BE A SOURCE OF THE INITIAL CASH NEEDED FOR**
2 **THE UPGRADES?**

3 A. First, it's important to recognize that the Company has, by spending the proceeds
4 from the land sale, created a regulatory debt to its customers. The expenditures
5 made with funds to be credited to ratepayers have had the effect of increasing the
6 Company's equity because this regulatory debt has not been recognized on the
7 balance sheet. The stockholders of BIPCo, however, should not be rewarded for
8 diverting the net gain and claiming that customers are entitled to no portion of the
9 net gain.

10 The depletion of current cash is a different issue. As noted, ultimately, the net
11 gain to be credited to ratepayers should be treated like a contribution in aid of
12 construction, but until the completion of the distribution upgrade or stages of a
13 phased in upgrade BIPCo will need a cash source which can only come from a
14 stockholder infusion of cash, additional customer contributions or additional debt.
15 The first two sources may be impractical, which leaves additional borrowing. The
16 ability of BIPCo to borrow additional amounts at this time, however, may be
17 compromised due to its inability to increase its equity; however, this is not at all
18 certain, given BIPCo's plan in its RUS grant proposal to take on about \$13
19 million in additional debt. Assuming that the Company's borrowing capability is
20 an issue, there would be an extraordinary situation which is likely to require some
21 extraordinary measures. One extraordinary measure would be an inclusion of
22 CWIP in rate base and a pre-approval of the distribution upgrades with a

1 dedicated revenue stream. The debt needed to complete the distribution upgrade
2 can essentially be securitized, with approval of the Commission, thereby creating
3 a safe harbor for a lender.

4 **Q24. ARE YOU PROPOSING A FULLY DEBT FINANCED DISTRIBUTION**
5 **UPGRADE?**

6 A. Unless the Company has plans to issue additional stock or otherwise raise equity,
7 the distribution upgrade may need to be primarily debt financed. Some small part
8 is likely able to be funded through internally generated cash, thus raising equity
9 somewhat. Internally generated funds available to help finance the distribution
10 system upgrade would be increased if the excessive payments and benefits given
11 to shareholders were reduced for both ratemaking and actual operating purposes.
12 Based on the Company's RUS grant proposal, it appears to have additional rate
13 base assets that it was prepared to sell to help fund a distribution upgrade and
14 cable to the mainland.

15 **Q25. HOW WOULD THE COMPANY ACCOUNT FOR THE CONSTRUCTION**
16 **OF DISTRIBUTION UPGRADES?**

17 A. The Town would propose having ratepayers guarantee the "isolated" debt stream
18 from the distribution upgrades and fund construction concurrently through
19 construction work in progress. The customer funding of the construction,
20 approximately \$828,000, would be treated as if a contribution in aid of
21 construction and permanently removed from rate base. This approach is

1 comparable to what Mr. Edge suggested as an alternative to the Division's
2 proposal to reduce the Company's common equity balance, but on a going
3 forward basis as an offset against the distribution upgrade rather than existing
4 rate base. In the alternative, the credit to ratepayers could be considered a
5 regulatory asset which would be amortized over the life of the asset. In either
6 case, the customers will have the appropriate value returned to them without
7 creating an immediate cash demand on the Company. Similarly, there would be
8 no immediate reduction in the Company's common equity, which was a concern
9 voiced by Mr. Edge.

10 Most importantly, what is clear is that the net gain of \$828,000 should be credited
11 to ratepayers and a crediting mechanism that supports the upgrading of the
12 distribution system provides the most benefit to ratepayers. The Commission
13 should direct BIPCo to submit a plan for funding the distribution system upgrades
14 in a manner that results in an \$828,000 rate base reduction against the cost of the
15 upgrade.

16 **III. PAYMENTS AND BENEFITS GIVEN TO OWNERS AND TREATED AS**
17 **OPERATING EXPENSES**

18 **The Commission should set a reasonable cost of service limit on payments**
19 **and benefits given to owners based upon one full-time executive salary plus**
20 **associated benefits, and direct reform of the owners' affiliate transaction**
21 **practices.**

1 **Q26. DO YOU AGREE WITH MR. EDGE'S REBUTTAL TESTIMONY**
2 **ASSERTION THAT THE OWNER COMPENSATION ISSUE WAS**
3 **RESOLVED IN DOCKET 3655 FOR PURPOSES OF FUTURE RATE**
4 **CASE FILINGS?**

5 A. No. First, at page 3 of his rebuttal testimony, Mr. Edge operates from the false
6 premise that the Town is re-litigating an issue that was settled in Docket No.
7 3655. He has misstated the facts. The settlement in Docket 3655 was limited to
8 that single proceeding and was a part of a number of tradeoffs included in the
9 overall settlement, such as the implementation of an IRP study process. Rate case
10 settlements do not, in general, establish principles. The rate case settlement in
11 Docket No. 3655 is no different. In fact, the Commission recognized that the
12 issue of payments and benefits given to the owners out of operating expenses
13 would likely be revisited and it cautioned the Company about its proposed
14 classification of the owner/officers as independent contractors. Mr. Edge told the
15 Commission that he would study that classification issue, but he has presented no
16 analysis of that issue.

17 The Commission's ruling on the Company's compliance filing in Docket No.
18 3655 recognized that the Town's concerns about unsubstantiated payments and
19 benefits given by the owners to themselves could be properly raised in the
20 Company's next rate case - the present proceeding. Mr. Edge's rebuttal testimony
21 (p. 4) is incorrect and does not track what the Commission actually stated in
22 acting on the Company's Docket No. 3655 compliance filing. Second, Mr. Edge

1 is wrong in claiming that the Town is seeking another compensation study. My
2 direct testimony made it clear that the Town is looking for objective and
3 transparent record-keeping by the Company regarding payments and benefits
4 given to the owners, who are affiliates of the Company. More importantly, the
5 Town would like the Commission to establish a standard for the appropriate level
6 of payments to owners which can be includable in cost of service. Without such
7 action by the Commission, this issue, which my own research indicates dates back
8 to at least the early 1990's, will continue to be contested in rate case after rate
9 case.

10 **Q27. HOW WOULD YOU RESPOND TO MR. EDGE'S REBUTTAL**
11 **TESTIMONY CLAIM THAT THE TOWN IS TRYING TO ORDER THE**
12 **COMPANY TO CHANGE ITS COMPENSATION MODEL?**

13 A. Mr. Edge is incorrect. The Town does not regulate BIPCo. However, the
14 Company cannot have any legitimate expectation that the Commission would
15 accept as reasonable the level of payments and benefits given by owner/officers to
16 themselves if they failed to demonstrate that they provide a level of work and skill
17 to justify the payments and benefits. I know of no company that has classified its
18 owner/officers as independent contractors and know of no company that would
19 allow independent contractors to establish their own compensation and benefits
20 without demonstrating what actual work they had performed. Other independent
21 contractors, such as legal advisors and distribution system workers, submit
22 invoices for the performance of specific services and the Company can determine

1 whether those services were actually performed with a suitable level of expertise.

2 No similar standards seem to apply to the owner/officers of BIPCo.

3 For all of these reasons, the Town is recommending that the Commission limit the
4 amount of payments and benefits given by the owners to themselves on an interim
5 basis, pending the Commission's establishing a standard for assessing the
6 reasonableness of these affiliate transactions. I have recommended that the
7 owners be treated no differently than other independent contractors if they claim
8 to be independent contractors. Time records should be maintained and the
9 qualifications of the owners to perform work on behalf of the Company must be
10 established. If it is Mr. Edge's position that the Company can charge any amount
11 it wishes to cost of service to give payments and benefits to its owners, whether or
12 not they perform an equivalent amount and quality of work, then the Town is,
13 indeed, seeking a change in BIPCo's compensation model.

14 **Q28. DOES MR. EDGE'S REFERENCE TO AN UPDATED COMPENSATION**
15 **REPORT PREPARED BY PROFESSOR BODAH, ATTACHED TO HIS**
16 **TESTIMONY AS EXHIBIT WEE-1-REBUTTAL, SUPPORT THE**
17 **COMPANY'S OWNER COMPENSATION PRACTICES?**

18 A. No. Mr. Edge's reliance on work performed by Professor Bodah is erroneous.
19 The report explains current salaries for different executive levels. The salaries are
20 reasonable and, in fact, acceptable for what they intend to portray. What
21 Professor Bodah does not address is the essential issue of the reasonableness of

1 payments and benefits that BIPCo's owners give to themselves, at ratepayer
2 expense.

3 **Q29. IN WHAT WAY WOULD YOU RECOMMEND APPLYING PROFESSOR**
4 **BODAH'S SALARY FINDINGS?**

5 A. Although most of the companies listed by Professor Bodah are much larger than
6 BIPCo, his report can be helpful, as I discuss below. The parameters of the
7 payments and benefits issue in this case, however, are not what a full time
8 executive would make in a larger utility. The essential questions are:

- 9 1) Given a full time General Manager and extensive reliance upon outside
10 financial and accounting services, how many additional senior executive
11 positions are needed at BIPCo?;
- 12 2) What is the appropriate compensation for a senior executive who attends
13 to the position on part-time and often very limited schedule?;
- 14 3) What is an appropriate level of total management compensation for a small
15 utility as a function of total payroll or total non-fuel operating expenses?;
- 16 4) How are the normal corporate checks and balances assured when the
17 Board of Directors and the Company's officers are the same people?; and
- 18 5) Does the current system of payments and benefits given to the owners
19 have a direct and detrimental impact on the quality and reliability of
20 service and performance of the Company's public service obligations?

1 My direct testimony on behalf of the Town has focused on each of these issues
2 and offered a fair balance between the need for the Company to meet its public
3 service obligations and appropriate compensation for owners who claim to act as
4 management. In fairness, Professor Bodah apparently was not asked to address
5 these questions and consequently his study can offer no guidance to the Town or
6 the Commission on these issues.

7 **Q30. DOES PROFESSOR BODAH'S REVISED REPORT SUPPORTS YOUR**
8 **RECOMMENDATION THAT PAYMENTS AND BENEFITS TO THE**
9 **OWNERS BE CAPPED AT \$130,000, PENDING A DEMONSTRATION**
10 **OF THE AMOUNT OF WORK ACTUALLY PERFORMED BY THE**
11 **OWNERS?**

12 A. Yes. In my direct testimony I recommended several limitations on current
13 payments on an interim basis and offered a long term approach which uses a time
14 and materials as a basis for payments to the owners, given their claim of
15 independent contractor status. This approach was not rejected in the rebuttal
16 testimony of Mr. Edge, although he appears unwilling to apply the same
17 independent contractor standards to the owners as is commonly applied to
18 independent contractors.

19 Using Professor Bodah's revised report, if the Company maintains a general
20 manager's position at a compensatory salary with full benefits (not at issue here)
21 and funds a single full-time executive position or its equivalent, with benefits, the

1 amount recognized in cost of service for this single full-time equivalent position,
2 the level of payments that I have recommended would be consistent with the
3 salary and benefits level that Professor Bodah determined for this type of position.

4 **Q31. WHAT PAYMENT LEVEL WOULD BE APPROPRIATE FOR A SINGLE**
5 **MANAGEMENT POSITION OTHER THAN THE GENERAL**
6 **MANAGER?**

7 A. The general manager is an existing position and since it is not filled with an
8 owner of the company, whatever the current practice used for assessing the
9 performance and compensation level for this position should remain as is. The
10 general manager's compensation is not at issue. A fair compensation for a second
11 management position would be \$100,000 plus benefits. Based on the current
12 benefit package, the annualized cost of fringe benefits would be roughly \$30,000
13 per year.³ This amount could be considered overly generous because it covers
14 significant automobile expenses that may be personal in nature. In addition to
15 these payments and benefits, the amounts for directors' fees plus travel expenses
16 would continue at their present level.

³ Based on the Company's response to PUC DR 1-8, the benefits for a chief operations officer are roughly \$30,000 per year. The specific amounts listed by the Company are: Health Insurance \$14,767; Electric Service \$4,620; and Automobile Expenses \$10,289 total \$29,676.

1 **Q32. IS THIS PROPOSAL CONSISTENT WITH THE PROFESSOR BODAH'S**
2 **STUDY?**

3 A. Yes, I note that the basic executive salary information in the report presented by
4 Mr. Edge and developed by Professor Bodah would suggest an executive salary of
5 around \$100,000. The report, for example, lists various salary statistics for full
6 time senior executive positions. The tabulated statistics show executive salaries
7 in Rhode Island with a mean \$102,000 and median of \$90,000 (Table 2, p. 9) and
8 the greater Generation, Transmission and Distribution industry values of a mean
9 at \$104,000 and a median at \$99,000 (Table 1 p. 9). As a final benchmark, the
10 Pascoag executive salary is listed at \$100,000 (Table 5, p 13).

11 **Q33. IS THE TOWN PROPOSING A PARTICULAR MANAGEMENT**
12 **STRUCTURE?**

13 A. No. The Town's proposal is very similar to the action taken by the Commission
14 in a prior BIPCo rate case where it found that there was little, if any evidence to
15 support the proposed level of management payments to the owners. In that case,
16 the Commission reduced these payments and left it to the owners to decide how
17 the amount allowed for rate case purposes should be divided among them.
18 Currently, the owners each receive payments and benefits. This arrangement is
19 purely at the discretion of the Company's owners. The allocation of the \$130,000
20 full time equivalent salary plus benefits among the owners is up to the Company's
21 owners.

1 **Q34. DOES THIS PROPOSAL ADDRESS EACH OF THE ISSUES YOU**
2 **RAISED FOR EXECUTIVE COMPENSATION?**

3 A. Yes. Each issue is addressed with an arrangement which is both is fair and
4 unambiguous. Taken in turn, Item 1 is addressed by a management structure
5 which has a general manager and a single full-time executive position for
6 determining payments and benefits to the owners. This model for a small utility
7 like BIPCo is both common and intuitive. The proposal addresses Item 2 by
8 establishing a full time equivalent position to determine compensation and
9 benefits for the owners in the absence of any objective information on the amount
10 of work that the owners perform as independent contractors. The proposal leaves
11 the allocation of payments and benefits recognized for ratemaking up to be the
12 owners. Item 3 is satisfied by a two managerial position structure that is common
13 in the case of smaller utilities. This approach also brings into line the relationship
14 between management salaries and benefits and non-fuel operating and
15 maintenance expenses, which is currently distorted, as I noted in my direct
16 testimony. My proposal also serves as a substitute for the lack of checks and
17 balances within BIPCo, where owners pay themselves and no independent Board
18 of Directors oversight exists. The issue raised in Item 4 is solved by setting a cost
19 of service level cap for owner-executive compensation with any additional
20 payments to be made from earnings. Lastly, Item 5 removes the current drain on
21 earnings caused by the current level of payments and benefits that the owners

1 have given to themselves and increases the availability of funds needed to carry
2 out basic public service obligations.

3 **Q35. HOW WOULD YOU QUANTIFY THE DRAIN ON EARNINGS THAT**
4 **THE TOWN'S PROPOSAL WOULD ELIMINATE?**

5 A. The drain on the earnings and the effect of this drain on quality of service is
6 apparent from Mr. Edge's rebuttal testimony. In both his direct and rebuttal
7 statements, Mr. Edge presents situations where the Company agrees or their
8 consultant recommends sound utility programs which simply, he claims, cannot
9 be afforded by BIPCo. Getting a bridle on the runaway payments to owners from
10 operating expenses goes a very long way toward enabling the Company to better
11 carry out its public service obligations. For example, the current above the line
12 payouts and benefits given to the owners are in excess of \$260,000 per year. The
13 proposal put forth here would be approximately \$130,000 per year. For a
14 company the size of BIPCo, this would have a huge impact on the availability of
15 funds to perform activities that Mr. Edge says the Company cannot afford. For
16 example, this difference would more than pay for the meter study, the rate design
17 study and the Energy Officer position recommended by HDR and supported by
18 the Town - all programs the Company says it lacks the funds to conduct.
19 Considered another way, as explained in my discussion of the distribution
20 upgrade needed by the Company, this difference of \$130,000 would pay for 2/3 of
21 the annual costs of the HDR recommended distribution upgrade that the Company

1 admits is necessary and that the Town believes should be phased in as soon as
2 possible.

3 **IV. ENERGY OFFICER**

4 **The Commission should allow the Company to continue to collect the**
5 **surcharge of \$0.01/kWh on the summer usage and apply to funds to a**
6 **conservation program headed by an independent Energy Officer.**

7 **Q36. HAS THE COMPANY THROUGH THE TESTIMONY OF MR. EDGE**
8 **SUPPORTED THE DEVELOPMENT OF CONSERVATION PROGRAMS**
9 **AND AN OFFICER TO COORDINATE THE VARIOUS PROGRAMS?**

10 A. No. The Company has shown an indifferent attitude toward conservation and
11 funding HDR's recommendation through a surcharge. First, Mr. Edge raises the
12 argument that Block Island has the highest rates in Rhode Island. Oddly, that
13 should lead him to a totally different conclusion. The higher the electric rates, the
14 more demand side management programs become cost-effective. Also, the high
15 rates should compel the Company to attempt to lower overall bills through
16 conservation. Similarly, this same high rate concern should motivate the
17 Company to keep a careful eye on its rate structure.

1 **Q37. WHAT ARGUMENT HAS THE COMPANY PUT FORTH TO SUPPORT**
2 **ITS BELIEF THAT THERE IS LITTLE IF ANY COST-EFFECTIVE DSM**
3 **ON BLOCK ISLAND?**

4 A. This conclusion is based on a misinterpretation of the HDR Study. The study
5 actually recommends installing a conservation effort which it concludes will be
6 cost-effective. The Company observes some survey responses in the HDR report
7 in which various Town residents provide some well-informed comments about
8 conservation. Despite the main conclusion of the study, the Company seizes on
9 these surveys to argue that the study shows that Town residents are fully versed in
10 all potential cost effective conservation and have or will have made all
11 appropriate conservation efforts. The Company's conclusion is wholly unfounded
12 since most informed people, particularly in high cost energy areas like the
13 Northeast, are aware of and sensitive to avoiding wasteful energy practices. This
14 is quite different from the conservation effects which can be realized from a
15 professional delivery program of current products and services, a removal of
16 many institutional barriers to conservation and the assistance in distribution of
17 conservation enhancing products.

18 **Q38. WHAT IS THE COMPANY'S PROPOSED ALTERNATIVE TO A**
19 **PROFESSIONAL ENERGY OFFICER?**

20 A. The Company has proposed to provide the services of one of the owners, Mr.
21 Cliff McGinnes, as a green officer. This proposal is disingenuous. HDR had

1 recommended an independent Energy Officer because it found that the Company
2 did not have the internal capability and expertise to perform the Energy Officer
3 functions that it recommended. Aside from the questionable expertise Mr.
4 McGinnes can offer in conservation services, he is an owner of the Company and
5 cannot serve in an objective capacity. Commission approved programs have
6 traditionally been very sensitive to the fox guarding the henhouse approach to
7 conservation management. The BIPCo proposal is a classic example of this
8 approach. Additionally, the Company's approach conflicts with HDR's
9 recommendation regarding the creation of an Energy Officer position to promote
10 and help implement and fund conservation and load management. Mr. Edge's
11 objection to the HDR recommendation, supported by the Town, should be
12 rejected by the Commission. Instead, the Commission should order the
13 implementation of the HDR Energy Officer recommendation contained in the IRP
14 Report filed with the Commission by the IRP working group.

15 **Q39. WHAT IS AN APPROPRIATE TERM FOR THE ENERGY OFFICER**
16 **PROGRAM?**

17 A. Given the initial start up and delivery times for various services as well as the
18 time needed to accurately assess effectiveness, I would propose that the program
19 be funded for at least 36 months prior to any permanent changes. During this
20 time period, some program review by the Commission would be appropriate, so
21 long as the program is not overburdened by extensive reporting requirements.
22 The IRP Working Group stakeholders should have an opportunity for input. The

1 Town is very willing to listen to any recommendations from the Division
2 regarding the level and type of regulatory oversight that would be appropriate for
3 the Energy Officer program recommended by HDR and supported by the Town.
4 For example, the program could be subject to a sunset evaluation to assure that it
5 remains in the best interests of ratepayers.

6 **V. RATE DESIGN**

7 **The Company should be directed to perform a rate design study under the**
8 **overall direction of the IRP working group.**

9 **Q40. PLEASE COMMENT ON MR. EDGE'S REMARKS REGARDING YOUR**
10 **RECOMMENDATION THAT THE COMPANY BE DIRECTED TO**
11 **PERFORM A COST ALLOCATION/RATE DESIGN STUDY.**

12 A. The Company apparently does not regard it as important that its rates be based
13 upon cost causation principles or promote the efficient consumption of energy.
14 Even small utilities perform this type of study. Based upon my own experience in
15 having conducted or supervised several dozens of cost allocation studies, I believe
16 that it may be done for not more than \$24,000 - the amount that the Company
17 owners elected to pay annually to an inactive owner at a time when it claims to be
18 struggling financially.

19 Mr. Edge (p. 2) states that a rate design issue could have been raised without any
20 discovery. On the other hand, at page 33 of his rebuttal testimony, Mr. Edge
21 stated that he thought that the Town's use of discovery led him to believe that the

1 Town would perform a cost allocation/rate design study. Mr. Edge thus
2 recognizes that discovery would be needed both to perform an initial investigation
3 of the adequacy of a current rate structure as well as a full cost allocation/rate
4 design study. Lastly, Mr. Edge suggests that I should have done such a study,
5 essentially saying to the Town – if you want a study, do it yourself.

6 **Q41. CAN YOU EXPLAIN, IN RESPONSE TO MR. EDGE’S COMPLAINT,**
7 **WHY THE TOWN DID NOT CONDUCT ITS OWN COST**
8 **ALLOCATION/RATE DESIGN STUDY?**

9 A. I have requested information from the Company to understand its rate design,
10 customer classifications and gross loads. I did not, however, seek to compile all
11 the data for a fully developed cost of service/rate design study, nor did the Town
12 intend to simply proceed with performing utility functions. I recommended that
13 the Company be directed to perform a cost allocation/rate design study in my
14 direct testimony. The Town has sufficient information through its discovery to be
15 an active participant in the study as part of the IRP working group and in my
16 direct testimony I note the several areas in which rate design should be updated at
17 this time.

18 While the Division should be commended for making an effort to move the
19 Company’s rates in a cost-based direction, my reading of Mr. Oliver’s testimony
20 in Docket No. 3655 indicated that there is still much work to be done. The
21 Company cannot shift its public utility obligations to other parties. The

1 Commission should not expect the Division to fill voids caused by the Company's
2 neglect, nor should the Company expect the Town to perform its rate cost
3 allocation/rate design studies. The Company can afford to fund the necessary
4 study and should be directed to do so. Reasonable costs incurred should be
5 recoverable through rates and the costs of any study can themselves be allocated
6 among rate classes, time periods and levels of demand. Given the Company's
7 negative attitude, I recommend that the Commission direct that an independent
8 third party be selected by the IRP Working Group to conduct a cost allocation and
9 rate design study at the Company's expense, not to exceed \$24,000.

10 **VI. ADDITIONAL ISSUES**

11 **Q42. ARE THERE OTHER ISSUES RAISED BY THE COMPANY ON WHICH**
12 **THE TOWN WOULD LIKE TO OFFER A REPLY?**

13 A. Yes. Mr. Edge has appended to his testimony exhibit WEE-4-rebuttal, titled
14 "other inaccurises [sic] in the town's testimony." Without belaboring Mr. Edge's
15 litany of complaints, I believe it's appropriate that the Town respond to some of
16 the Company's more outlandish charges and complaints as presented through Mr.
17 Edge's Rebuttal testimony. The Town's interest here, however, is as factually
18 stated - the appropriate ratemaking treatment for the gain on land sales and an
19 attention to quality of service issues. The Town has the right to be concerned and
20 does not feel that raising these concerns should invite the sort of criticism in
21 which Edge has engaged. None of these criticisms weigh in on the essential focus

1 of this case but the Town does wish to respond to them without distracting from
2 the real issues of this case. Consequently, I have included responses to Mr.
3 Edge's complaints in the appended Exhibit RLC-1.

4 **Q43. DOES THE TOWN HAVE ANY POSITION ON ISSUES RAISED SOLELY**
5 **BY THE DIVISION?**

6 A. The Town focused on a small number of issues of great importance to the Town
7 and its residents, and my engagement was limited to these issues. The Town will
8 review all of the testimony presented, including any surrebuttal testimony filed by
9 the Division, as well as other evidence. It is beyond the scope of my engagement
10 to take positions on these issues. The Town may elect to address issues raised
11 only by the Division at a later stage of this case.

12 **Q44. DOES THAT COMPLETE YOUR TESTIMONY?**

13 A. Yes it does.

**RESPONSES TO THE CRITICISMS OF THE TOWN OF NEW SHOREHAM
PRESENTED IN THE REBUTTAL TESTIMONY OF WALTER EDGE**

1. **ASSERTION:** MR EDGE HAS CLAIMED IN HIS REBUTTAL TESTIMONY (P. 1) THAT THE COMPANY HAS MADE EVERY EFFORT TO KEEP THE COST OF ITS RATE FILING INEXPENSIVE BUT THIS HAS BEEN THWARTED BY THE TOWN OF NEW SHOREHAM.

RESPONSE: That claim is certainly not apparent from the Town's vantage point. The Company knew that several issues were of concern to the Town, but made no serious effort to address those issues in its direct case. For example, despite the fact that owner payments to themselves and related benefits remained an open issue for this rate case and despite the fact that the Company's payments to the owners have significantly increased above the amount reflected in the Docket No. 3655 settlement, the Company made no effort to address core concerns of the Town. The Company does not have written contracts with its owners on file with the Division or a description of such contracts, if orally made, as is required of affiliates. As in the prior rate case and rate cases that occurred years ago, the Company failed to establish that each owner receiving payments and benefits provides a volume and quality of work that merits the payments and benefits made by the owners to themselves. For example, the owners knew that Dr. Pezzimenti is a practicing physician in Connecticut four days per week, but made no effort to justify the level of payments and benefits given to him - the same issue that existed in Company rate cases in the 1990s and that led the Commission to reduce and cap payments to these owners. All the studies in the world that compare these Company payments to payments made to trained, full-time employees of other organizations, who actually provide full-time services, are useless where there is no reviewable evidence regarding the amount of time that each owner dedicates to Company business.

The Company also filed its case before it had prepared an annual report for its test year, even though it selected the test year and filed its rate case months after the close of the test year. I understand that the Company did not wait for Commission review of the IRP report prepared by the working group's consultant, HDR, but instead embarked on a RUS grant application to partly fund a cable to the mainland, something that HDR did not recommend based upon the information available. To my knowledge, HDR performed no analysis of the cost effectiveness of the grant scenario. I understand that the Company refused to provide the Town with a copy of a RUS grant application, forcing the Town to request a copy of that grant application in discovery and visit Company counsel's office to copy the grant application. Recently, the Company supplemented a response to a Town data request that its RUS grant application has been turned down, but never volunteered such information in Mr. Edge's rebuttal testimony, although that testimony was filed after the grant application was turned down. The existence and nature of the Company's grant application were, of course, important to the Town as a member of the IRP working group and to the Commission, based on the terms of the Docket No. 3655 settlement relating to the IRP report filed with the Commission.

Before the case even started up, I understand that the Company's President, Mr. Casazza notified the Town that it would not compensate its counsel or Mr. Edge for time spent on phone calls or emails from or to the Town's counsel. As a result, there was no realistic opportunity for the Town to engage Company representatives informally and possibly reduce the volume of discovery requests and related rate case expenses. In short, there has been a lack of cooperation and communication which required a corresponding vigilance and investigative mindset on the part of the Town.

2. **ASSERTION:** MR. EDGE HAS CRITICIZED, IN HIS REBUTTAL TESTIMONY, THE TOWN BECAUSE IT DID NOT PRESENT A BOTTOM LINE CALCULATION OF THE COMPANY'S REVENUE DEFICIENCY (IF ANY) BASED UPON THE ISSUES RAISED BY THE TOWN.

RESPONSE: Mr. Edge's criticism first appears on page 2, lines 11-14. Later in his rebuttal testimony, Mr. Edge states that as to a number of cost of service issues raised by the Division through Mr. Effron's testimony, "The Town did not opine on this issue." The Town did not attempt to address each and every cost of service issue raised by the Company's rate filing or duplicate the efforts of the Division. The Town largely relied upon the Division to address many cost of service issues, which it has done. It would have been premature for the Town to prepare a revenue deficiency calculation based solely upon the issues that it raised and before reviewing the testimony of Mr. Effron on behalf of the Division. The Town is not required to prepare a revenue requirement calculation, as adjustments ordered by the Commission will ultimately be reflected in the Company's compliance filing. Further, it is a prime concern of the Town to manage its own costs in attempting to reign in the excesses of the BIPCo.

3. **ASSERTION:** THE TOWN DID NOT NEED DISCOVERY FOR THE ISSUES ASSOCIATED WITH MAINTAINING THE SURCHARGE FOR A CONSERVATION OFFICER OR THE COMPANY POSITION ON THE ADOPTION OF HDR'S ENERGY OFFICER RECOMMENDATION (EDGE REBUTTAL TESTIMONY P. 1).

RESPONSE: The Town asked whether the Company supported HDR's recommendation regarding the establishment and funding of an Energy Officer position, consistent with HDR's recommendation. Obtaining the Company's position on this HDR recommendation, which the Town supports, was reasonable to do through discovery in order to obtain a formal statement of position from the Company for use in this case. In January, the Division filed the HDR IRP report

with the Commission on behalf of the three-party working group, as required under the Docket No. 3655 settlement.

4. **ASSERTION:** MR. EDGE'S STATEMENT CLAIMS THAT THE TOWN CONCERN ABOUT AN UPGRADE OF THE COMPANY'S DISTRIBUTION SYSTEM DID NOT REQUIRE ANY DISCOVERY.

RESPONSE: The only distribution upgrade study in the Town's possession was a November 2004 draft study conducted by HDR, which contained 3 alternative upgrade scenarios. In the IRP study, HDR assumed that one of these alternatives would be implemented. Mr. Edge's direct testimony stated that a distribution upgrade would occur (Edge Direct Testimony p. 15). Because a distribution upgrade is important to the Town and its residents from a cost and a reliability standpoint, it was necessary to determine whether the HDR draft provided to the Town had been finalized, changed or updated. Given the inability of the Town to obtain such information through informal channels and in order to assure that the information provided to the Town was current, it was necessary to make data requests on this subject. Mr. Edge's vague and disconcerting statements on the timetable for a distribution system upgrade also triggered a need for discovery in order to understand the Company's plans. Finally, the Town needed line loss data from the Company in order to provide the Commission with a reasonable level of fuel cost savings that ratepayers would enjoy if the Company's distribution upgrade resulted in line losses that it has projected following a distribution system upgrade. The distribution upgrade is a very important issue for the Town and its residents for the reasons stated in my direct testimony and because the Company seemed to have taken a take a step backward from the HDR IRP report and recommendations. Discovery also was needed because of Dr. Casazza's testimony regarding the Company's RUS grant proposal, which the Company had refused to provide to the Town.

5. **ASSERTION:** MR. EDGE IN HIS EXHIBIT WEE-4-REBUTTAL CLAIMS THE TOWN THROUGH THE TESTIMONY OF RICHARD LA CAPRA IS INCORRECT IN STATING THE THAT THEIR OBSERVATION IS THAT THE COMPANY ALSO HAD (HAS) PLANS TO SELL PROPERTY TO RAISE FUNDS FOR NEW RATE BASE CONSTRUCTION.

RESPONSE: The Company has proposed exactly that scenario. The Town has merely read from the Company's own statements. The Company in its filing for High Energy Cost Grant dated October 1, 2007, and signed by C.R. McGinnes, contains a source of funds for the proposed project in Section 4 of the grant. In this section the Company projects that it would be able to raise \$4,800,000 from the sale of its land with new improvements (construction of houses on existing real estate that is in rate base) which will cost \$1,800,000 netting the Company \$3,000,000 for use in utility capital construction. It is Mr. Edge who is incorrect. My testimony is accurate.

6. **ASSERTION:** MR. EDGE IN HIS EXHIBIT WEE-4-REBUTTAL CLAIMS TO HAVE NO KNOWLEDGE OF ASSET SALES WHICH HAVE FALLEN SHORT OF BOOK VALUE AND HAVE BECOME THE RESPONSIBILITY OF THE CUSTOMER.

RESPONSE: Mr. Edge is apparently unaware of changes in utility regulation based on the movement of utility generation into unregulated markets. In all jurisdictions, including Rhode Island, utility assets which had a lesser market than book value were sold with the obligation of the customer to "make whole" the utility on the difference between book and market. Mr. Edge claims to have no knowledge of this symmetry. Mr. Edge also has overlooked the standard treatment of rate base assets. For example, he apparently did not consider the system of accounts provision for net losses on the sale of utility property or the role of negative salvage in setting depreciation rates.