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March 23, 2010

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

Re: RIPUC Docket No. 4111

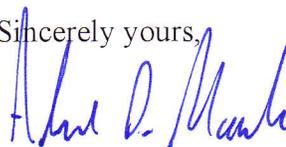
Dear Luly:

Enclosed please find for filing in the above matter an original and nine (9) copies of the Initial Brief of the Town of New Shoreham. Copies are being served by email, with a hard copy also provided to Division counsel.

Please date stamp the enclosed duplicate copy of this transmittal letter and return it to me for my file in the enclosed stamped, self-addressed envelope.

Thank you for your assistance.

Sincerely yours,



Alan D. Mandl, Bar No. 6590

Enclosures
cc: Service List by email
Leo Wold
Jon Hagopian

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: REVIEW OF PROPOSED)
TOWN OF NEW SHOREHAM)
PROJECT PURSUANT TO)
R.I. GEN. LAWS §39-26.1-7)
_____)

DOCKET NO. 4111

INITIAL BRIEF OF THE TOWN OF NEW SHOREHAM

Respectfully submitted,

TOWN OF NEW SHORHAM

By its attorneys,

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Dated: March 23, 2010

I. INTRODUCTION

The Town of New Shoreham, an intervenor in this proceeding, has deferred to the Commission's judgment regarding the commercial reasonableness of the Power Purchase Agreement ("PPA") between National Grid and Deepwater Wind, entered into pursuant to R.I.G.L. §39-26.1-7. (Town Exhibit 1 at 3). As explained by the Town's witness, Mr. La Capra, conducting a full blown evaluation of the commercial reasonableness of the PPA would have been too costly for the Town to perform and defend. (Tr. 3/11/10).¹ The Town also is not in a position to evaluate claimed long-term benefits to the State of Rhode Island, such as employment and economic growth. The Town remains hopeful that the Town of New Shoreham Project (the "Project"), which could result in Block Island Power Company ("BIPCo") or a successor obtaining mainland power supply, will provide benefits to BIPCo ratepayers and Block Island.

As part of its evaluation of the PPA, the Commission is not required by law to consider any Project-related cost allocation issues. R.I.G.L. §39-26.1-7 does not require the Commission to make any cost allocation rulings, preliminary or otherwise, at this juncture. Given the state of the record, it would be premature and speculative for the Commission to consider any cost allocation issues pertaining to the Project. Because it is uncertain that BIPCo will make the investments required to connect its facilities to the Project and receive wholesale power from the mainland, there is no evidence before the Commission that the Project will benefit BIPCo ratepayers.

Further, the extent of any such benefits also would be speculative at this time. The only evidence before the Commission relating to cost allocation is the testimony provided by Mr. La

¹ For budgetary reasons, the Town did not order the transcript in this proceeding and therefore has referred only to the transcript hearing date as a reference. The town apologizes for any inconvenience.

Capra, who explained why the Commission need not and should not address cost allocation issues at this time, during its evaluation of the PPA. (Town Exhibit 1).

Mr. La Capra also explained why it is premature for the Commission to consider cost allocation issues associated with the cable to the mainland under R.I.G.L. §39-26.1-7(b).

No party has sponsored cost allocation proposals. No quantitative basis for cost allocations is before the Commission. Under these circumstances, the Commission must defer any consideration of cost allocation issues related to the Project. The Town has requested that the Commission clarify the process for addressing cost allocation issues in future proceedings.

II. ARGUMENT

A. R.I.G.L. §39-26.1-7 Does Not Require any Cost Allocation Rulings at this Stage

The sole focus of this proceeding has been whether the PPA submitted by National Grid and Deepwater Wind is commercially reasonable under statutory standards, as interpreted and applied by the Commission. This determination can be made without consideration of cost allocation issues that may need to be addressed in a future proceeding.

The controlling statute does not mandate any cost allocation rulings with regard to any portion of the Project at this time. R.I.G.L. §39-26.1-7(a) provides, in part, “To the extent that there are benefits for customers of the Block Island Power Company or its successor, the commission shall determine an allocation of cost responsibility between customers of the electric distribution company and customers of Block Island Power Company or its successor after the cost estimates are filed with the commission....” As explained below, because the record is devoid of evidence that the Project will benefit BIPCo customers and the extent of such benefits, if any, are entirely speculative at this time, the Commission is not required to make the above determination as part of its

consideration of the commercial reasonableness of the PPA. The Commission can and should defer any cost allocation determinations referred to in R.I.G.L. §39-26.1-7(a).

In addition, R.I.G.L. §39-26.1-7(b) does not require the Commission to make any cost allocation determinations with regard to the cable to the mainland as part of its evaluation of the PPA. As explained below, cost allocation determinations regarding the cable are premature and speculative, and should be deferred to a future proceeding.

B. Consideration of Cost Allocation Issues Would be Premature and Speculative

It would be premature and speculative for the Commission to consider cost allocation issues at this stage. First, it is uncertain whether or when BIPCo might make purchases of wholesale power from the mainland. Substantial investments need to be made in order for BIPCo to interconnect to the Project and attain the ability to purchase power from the mainland. Witness Nickerson identified some of the investment that would be needed, such as transformers, circuit breakers and switches. Without providing detail, he stated that these few items would cost between \$1.0million- \$1.5million, a substantial amount for a small utility which has failed to upgrade its antiquated and unreliable distribution system. (Tr. 3/11/10). The Town expects that more investment would be needed, such as fiber optics, in order to regulate power flows under different scenarios: (1) all power coming from the wind farm; (2) all power coming from the mainland; and (3) a portion of load met from the wind farm and from the mainland.

As illustrated in Deepwater's response to Commission Record Request 10, a one line diagram shows that power from the wind farm can pass through the National Grid delivery

point on Block Island and on to the mainland without flowing into the BIPCo distribution system, unless investments are made to enable power flows into the BIPCo distribution system. The one line diagram also shows some BIPCo facilities that may be needed for interconnection of its system to the Project. However, because the one line diagram is preliminary only, nearly one year old and not based upon a detailed engineering analysis usable for construction purposes, it does not reflect all investments that need to be made to enable BIPCo to interconnect its system to the Project and thereby attain the capability of receiving wholesale power from the mainland .² The cost of facilities needed for BIPCo to connect the BIPCo system to the Project have not been identified.

Without evidence of a BIPCo interconnection, it cannot be said that BIPCo's diesels will be backed down and displaced by mainland power. Thus, it remains uncertain whether or to what extent BIPCo ratepayers will benefit from the Project.

Other uncertainties preclude cost allocation determinations at this time. First, BIPCo's source of wholesale power and the amount of wholesale power purchased, if any, have not been determined. As Mr. La Capra explained, the Town expects that BIPCo will evaluate supply and demand side choices through an Integrated Resource Plan of the type recognized by the Commission in Docket No. 3655. Through that process, BIPCo will take into account mainland options, on-island supply resources and demand side potential. Such an analysis also must consider the cost of interconnection to the Project, transmission-

² The one line diagram included in response to Commission Record Request 10 contained a legend indicating that BIPCo investment would be identified in green. No investment coded in green appears in the one line diagram. Mr. Nickerson testified that requests for information had been submitted to BIPCo, but do not appear to have been answered, and that he was unaware of any discussion of interconnection with BIPCo. (Tr. 3/11/10).

related costs and the cost of alternatives. Second, cost allocation determinations might be altered if BIPCo were acquired by a successor.³ For these reasons, cost allocation issues are premature.⁴

With regard to transmission, cost allocation cannot be addressed at this time. The future ownership of the transmission investment is unknown. No FERC filings have been made with respect to cost recovery of the cable to the mainland. The various transmission agreements contemplated under the PPA have not been submitted to or reviewed by the Commission. Transmission cost allocations are premature and speculative as a result and should not be addressed in this matter at this time. (Town Exhibit 1 at 6-8).

C. The Commission Should Clarify the Process for Considering Cost Allocation Issues in Future Proceedings

The Town requests that the Commission clarify the process for considering cost allocation issues in future proceedings. (Town Exhibit 1 at 4). Because any consideration of cost allocation issues relating to Project is of critical importance to BIPCo ratepayers, including the Town, it is important that the Town be afforded advance notice of any proceeding regarding Project cost allocation issues. The Town is concerned, for example, that BIPCo might enter into arrangements with a Project participant that affect cost allocation determinations by the Commission. Those arrangements should require prior review and approval, only after a hearing.

³ For example, if BIPCo were acquired by National Grid, cost allocation determinations might differ from those that would be made if BIPCo remains under current ownership.

⁴ The Town has reserved its legal rights regarding any cost allocations made to BIPCo ratepayers. (Town Exhibit 1 at 4; Town Motion to Intervene).

III. CONCLUSION

The Town of New Shoreham is hopeful that the Town of New Shoreham Project will provide benefits to Block Island and BIPCo ratepayers. At this time, the Commission is not required by statute to address cost allocation issues related to the Project. Moreover, for the reasons stated above, it would be both premature and speculative, based on the hearing record, to make any rulings regarding these cost allocation issues.

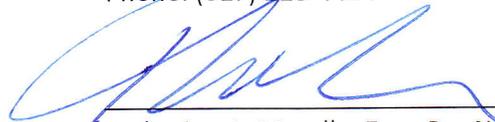
Respectfully submitted,

TOWN OF NEW SHOREHAM

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Dated: March 23, 2010