



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

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Patrick C. Lynch, Attorney General

December 28, 2009

Luly Massaro, Clerk
Public Utilities Commission
89 Jefferson Blvd.
Warwick, RI 02889

Re: Docket No. 4135

Dear Ms. Massaro,

The Division of Public Utilities and Carriers (“Division”) has reviewed the filing of the Block Island Power Company (BIPCo) dated December 4, 2009 requesting a \$.01 surcharge pursuant to G.L. § 39-26.1-7 as well as the Motion of the Town of New Shoreham for Summary Disposition. For the reasons set forth in the Town’s motion papers, the Division concurs that BIPCo’s filing should be summarily dismissed. In particular, G.L. § 39-26.1-7(c) provides in pertinent part “[a]ny charges incurred by the Block Island Power Company or its successor *pursuant to this section* shall be recovered annually in rates through a fully reconciling rate adjustment, subject to approval by the commission.” (Emphasis added). Section 39-26.1-7 does not authorize BIPCo to recover *any* costs associated with its participation in Docket No. 4135. Rather, as the Town observes, “this section,” *i.e.*, § 39-26.1-7, only permits BIPCo to recover costs for the collection of purchased power costs, § 39-26.1-7(a) and transmission cable costs, § 39-26.1-7(b). However, the costs (legal and other professional expenses (Edge Direct at 1)), which BIPCo seeks to recover through its rate filing by means of the \$.01 surcharge, do not fall under of either of these categories.

Absent statutory authority through § 39-26.1-7 to recover these claimed costs, BIPCo may only obtain their recovery through a general rate filing pursuant to the Commission’s Rules of Practice and Procedure. On its face, however, BIPCo’s filing constitutes “single-issue,” ratemaking (consideration of the single issue of the recovery of legal and other professional expenses), which is disfavored by this Commission and other commissions as well. E.g., In Re: Application of United Water Rhode Island, Inc. for an Order Authorizing Recovery in Rates of Expenses Related to SFAS 106, Docket No. 2616, Order No. 15483 at 3 (December 17, 1997); A. Finkl & Sons Co. v. Illinois Commerce Comm’n, 620 N.E.2d 1141, 1150 (Ill. App. Ct. 1993). See generally Rules of Practice and Procedure § 1.3(e) & § 2.6 (incorporating general rate filing requirements, as

opposed to single-issue ratemaking, into Commission's rules). The Commission, therefore, should grant the Town's Motion for Summary Disposition.

Respectfully submitted,

Division of Public Utilities and Carriers



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cc: Service List