

Schacht & McElroy

Michael R. McElroy
Leah J. Donaldson

Attorneys at Law

Michael@McElroyLawOffice.com
Leah@McElroyLawOffice.com

Members of the Rhode Island
and Massachusetts Bars

21 Dryden Lane
Post Office Box 6721
Providence, RI 02940-6721

(401) 351-4100
fax (401) 421-5696

February 3, 2017

Luly E. Massaro, Clerk
Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

Re: Block Island Power Company – Exemption Request under R.I.G.L. § 39-1-2(26)

Dear Luly:

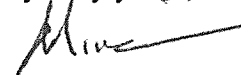
As you know, this office represents Block Island Power Company (BIPCo).

Enclosed for filing in this matter are an original and nine copies of:

1. A Petition of BIPCo pursuant to R.I.G.L. § 39-1-2(26) for a continued exemption from the retail access provisions of R.I.G.L. § 39-1-27.3 of the Utility Restructuring Act (URA), and
2. Supporting Testimony of David G. Bebyn, CPA.

If you have any questions or you need any further information, please feel free to call.

Very truly yours,



Michael R. McElroy

MRMc:tmg

cc: David G. Bebyn, CPA
Timothy Hebert
Nancy Dodge, Esq.
Katherine Merolla, Esq.
Christy Hetherington, Esq.
John Bell
Steven Scialabba
Cynthia Wilson Frias, Esq.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: BLOCK ISLAND POWER COMPANY : DOCKET No. _____
PETITION PURSUANT TO R.I.G.L. § 39-1-2(26) :

PETITION OF BLOCK ISLAND POWER COMPANY PURSUANT TO R.I.G.L. § 39-1-2(26)
FOR A CONTINUED EXEMPTION FROM THE RETAIL ACCESS PROVISIONS OF
R.I.G.L. § 39-1-27.3 OF THE UTILITY RESTRUTURING ACT (URA)

1. Block Island Power Company (BIPCo) is a vertically integrated power company that generates electricity using diesel engines and distributes that electricity in its service territory, which consists of the Town of New Shoreham (Block Island), Rhode Island.

2. It is anticipated that on or about April 1, 2017, the National Grid/Deepwater Wind project will be operational and the Town of New Shoreham will then be connected by an undersea electric cable to the mainland. This connection will make mainland electric power available to BIPCo for distribution to the Island.

3. Chapter 316 of the 1996 Public Laws, approved on August 7, 1996, created a “restructured electrical industry” in Rhode Island. (R.I.G.L. § 39-1-1(d)(7)). This same Public Law created R.I.G.L. § 39-1-27, et seq. which required electric distribution companies to file restructuring plans on or before January 1, 1997.

4. Pursuant to the R.I.G.L. § 39-1-27.3,

39-1-27.3. Electric distribution companies required to provide retail access, standard offer and last-resort service.

(1) To promote economic development and the creation and preservation of employment opportunities within the state, each electric distribution company, except Pascoag utility district, a quasi-municipal corporation, district, and subdivision of the state (“electric distribution company”), shall offer retail access from nonregulated power producers to all customers.

5. Chapter 357 of the Public Laws of 1997 enacted R.I.G.L. § 39-1-2(26), previously designated as R.I.G.L. § 39-1-2(7.9), allows certain electric utilities to request an exemption from the URA (or any provision thereof). An exemption request may be requested under this subsection if (1) “the utility is not selling or distributing electricity outside of the service territory in effect for that utility on the date of passage of the Utility Restructuring Act”; and (2) “the number of kilowatt hours sold or distributed annually by the utility to the public is less than five percent (5%) of the total kilowatt hours consumed annually by the state.” BIPCo meets these requirements.

6. Pursuant to this law, on September 26, 1997, BIPCo filed with the Commission a request for an exemption from the URA. BIPCo asked for this exemption to remain in effect until six (6) months after an undersea cable connecting the Island to the mainland electric grid was installed and operational. (Docket No. 2490).

7. This Commission agreed, and in Order No. 15461 in Docket No. 2490, the Commission ordered that “the Block Island Power Company is hereby authorized to delay implementation of the Utility Restructuring Act’s mandates until six months following the installation and operation of the undersea cable connecting the island to the mainland electric grid.” (Order No. 15461 is attached hereto as Exhibit A).

8. BIPCo continues to operate under this exemption.

9. By Order No. 22565 in Docket No. 4606, this Commission, pursuant to a Petition filed by BIPCo, exempted BIPCo from the URA requirement in R.I.G.L. § 39-1-27(c) that BIPCo transfer its generating assets to affiliates. In Order No. 22565, the Commission also exempted BIPCo from the URA provisions of R.I.G.L. § 39-1-27(d), which prohibit selling electricity within BIPCo’s service territory. These exemptions serve the purpose of allowing BIPCo to maintain its diesel generation as a backup power supply. Order No. 22565 is attached as Exhibit B.

10. BIPCo now respectfully requests that the Commission grant an additional 1-year URA exemption period from the URA retail access provisions of R.I.G.L. § 39-1-27.3 for the reasons set forth below. Because it is expected that the cable will be operational on or about April 1, 2017, BIPCo's current exemption would otherwise expire on October 1, 2017. The purpose of this Petition is to ask the Commission to extend this exemption for one (1) year, through October 1, 2018, because such an extension would be in the best interest of BIPCo's ratepayers.

11. BIPCo has retained Energy New England (ENE) to advise it regarding the transition from a vertically integrated power company that both generates electricity and distributes that electricity to what will essentially be an electric distribution company that will obtain its electricity (except in emergency situations) from the bulk New England wholesale power system.

12. In connection with the arrangements that need to be made in order to effectuate this transition, BIPCo has been advised by ENE that it would be unduly expensive to ratepayers to provide retail access.

13. BIPCo's billing and computer system is unable to handle the demands of offering retail access without a significant upgrade that is estimated to cost between \$50,000 and \$70,000 to set up, plus an estimated \$5/month per ratepayer for a software license.

14. To offer retail access, there would need to be a per meter charge imposed on all meters on Block Island, whether the customer elected retail access or not. The per meter charge would be about \$5 per month for all customers on Block Island.

15. ENE has also advised BIPCo that it is likely that there would only be a handful of ratepayers interested in utilizing retail access, or considered attractive potential customers by competitive suppliers. The acquisition cost for the competitive suppliers will be higher given the more remote location of Block Island relative to larger commercial and industrial load elsewhere

in the state. However, the costs of offering retail access would need to be borne by the entire Block Island ratepayer population.

16. Because retail competition is only on the energy price, not on capacity or other portions of the retail bill, and because the current energy price is about \$0.035 to \$0.040 per kilowatt hour, it is unlikely that retail access would provide any savings to Block Island ratepayers.

17. According to ENE, retail energy prices offered by competitive suppliers would need to be \$0.025 per kilowatt hour or less to make switching worthwhile. ENE has advised BIPCo that it is not reasonable to anticipate that any competitive retail electric suppliers would be in a position to offer competitive supply at a price as low as \$0.025 per kilowatt hour.

18. BIPCo will be purchasing wholesale energy from the same market at the same commodity prices as competitive suppliers. Given BIPCo's small size, the benefit of keeping the island load aggregated together allows all BIPCo customers to benefit from the fact that nearly 70% of the annual electricity consumption on the island occurs during the summer months, which serves to provide BIPCo with a lower average energy cost than many loads in the region. This is due to the fact that commodity power prices are higher in the winter than summer.

19. ENE's analysis of BIPCo's top 10 customers shows the largest customer consuming approximately 420,000 kWh annually, with the second largest customer at less than 200,000 kWh. This means that any customer on Block Island seeking competitive supply would be subject to "rack rate" profile pricing, which is among the higher retail rates available.

20. In seeking supply for all of BIPCo's customers on an aggregated basis, ENE has found three major, creditworthy wholesale suppliers who are interested in providing competitively priced quotes for all BIPCo customers as a whole. This allows all ratepayers on the island to benefit from the lower average energy pricing available to them as a whole.

21. If BIPCo is required to offer retail access, ENE has advised BIPCo that there will be a “risk premium” added by wholesale suppliers who will bid on providing standard offer service to BIPCo. ENE has advised us that they anticipate that suppliers would add approximately \$0.0025 to \$0.005 per kilowatt hour on the wholesale rate in order to take into account the possible “flight risk” of customers if retail access is offered. This premium would be eliminated if retail access is not offered.

22. BIPCo is one of two small electric utilities in Rhode Island. The other is Pascoag Utility District. Pascoag Utility District has already been exempted by law from the requirement of offering retail access. See R.I.G.L. § 39-1-23.3(a).

23. ENE has also advised BIPCo that municipal utilities in Massachusetts are exempt from offering retail access. Of these 41 utilities, all but two serve two to seventeen times the amount of energy BIPCo serves annually, and nearly all those entities would be similarly challenged to provide retail competition without unnecessarily burdening all ratepayers.

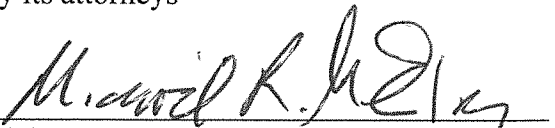
24. It is BIPCo’s hope that legislation may be passed in the Rhode Island General Assembly that will provide authority to exempt BIPCo from retail access similar to the way Pascoag Utility District obtained a legislative exemption.

25. Until that time, however, and for the reasons set forth above, BIPCo respectfully requests that the Commission provide a continued exemption to BIPCo from the requirement set forth in R.I.G.L. § 39-1-27.3 of offering retail access until at least October 1, 2018.

WHEREFORE, BIPCo respectfully requests that, in the public interest, and pursuant to the authority granted in R.I.G.L. § 39-1-2(26), BIPCo be granted an exemption from the retail access provisions of R.I.G.L. § 39-1-27.3 of the Utility Restructuring Act until at least October 1, 2018.

Respectfully submitted,
BLOCK ISLAND POWER COMPANY
By its attorneys

Dated: February 3, 2017


Michael R. McElroy, Esq. #2627
Leah J. Donaldson, Esq. #7711
Schacht & McElroy
21 Dryden Lane
P.O. Box 6721
Providence, RI 02940-6721
Tel: (401) 351-4100
Fax: (401) 421-5696
Michael@McElroyLawOffice.com
Leah@McElroyLawOffice.com

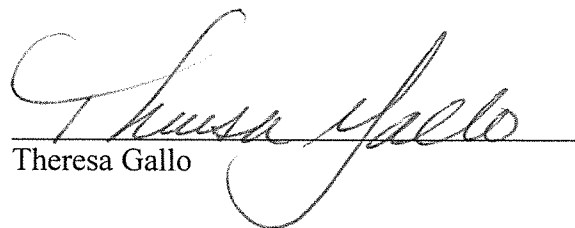
Dated: February 3, 2017


Katherine Merolla, Esq. #2627
Merolla, Accetturo, D'Ovidio & Lough 
Kent Office Building
469 Centerville Road – Suite 206
Warwick, RI 02886
Tel: (401) 739-2900
Fax: (401) 739-2906
kamlaw2344@aol.com

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of February, 2017, I sent a copy of the foregoing to the following:

David G. Bebyn, CPA	dbebyn@beconsulting.biz
Timothy Hebert	thebert@energynewengland.com
Nancy Dodge, Esq.	kpson@aol.com
Katherine Merolla, Esq.	KAMLAW2344@aol.com
Christy Hetherington, Esq.	chetherington@riag.ri.gov
John Bell	John.Bell@dpuc.ri.gov
Steven Scialabba	steve.scialabba@dpuc.ri.gov
Cynthia Wilson Frias, Esq.	Cynthia.WilsonFrias@puc.ri.gov


Theresa Gallo

Direct Testimony
of
David G. Bebyn CPA
Regarding petition pursuant to
R.I. General Laws 39-1-2(26)

Block Island Power Company
Docket No. _____

February 2017

1 **Q. Please state your name and business address for the record.**

2 A. My name is David G. Bebyn CPA and my business address is 21 Dryden Lane,
3 Providence, Rhode Island 02904.

4
5 **Q. By whom are you employed and in what capacity?**

6 A. I am the President of B&E Consulting LLC. (B&E). B&E is a CPA firm that
7 specializes in utility regulation, expert rate and accounting testimony, school budget
8 reviews and accounting services.

9
10 **Q. What is the purpose of your testimony in this docket?**

11 A. I was asked by Block Island Power Company (BIPCo) to provide testimony and if
12 necessary schedules in support of BIPCo's request under R.I. General Laws 39-1-2(26)
13 for a continued exemption from the retail access provisions under R.I. General Laws 39-
14 1-27.3 of the Utility Restructuring Act (URA).

15
16 **Q. Can you provide a summary of the current exemption?**

17 A. Certainty. Pursuant to this law, on September 26, 1997, BIPCo filed with the
18 Commission a request for an exemption from all provisions of the URA. BIPCo asked
19 for this exemption to remain in effect until six (6) months after an undersea cable
20 connecting the Island to the mainland electric grid was installed and operational (Docket
21 No. 2490). This Commission agreed, and in Order No. 15461 in Docket No. 2490,
22 ordered that "the Block Island Power Company is hereby authorized to delay
23 implementation of the Utility Restructuring Act's mandates until six months following
24 the installation and operation of the undersea cable connecting the island to the mainland
25 electric grid." Because it is expected that the cable will be operational on or about April
26 1, 2017, BIPCo's current exemption would otherwise expire on October 1, 2017.

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28 **Q. Mr. Bebyn, what period of time are you requesting extension for?**

29 A. BIPCo is requesting an extension for October 1, 2017 to October 1, 2018 from the
30 retail access provisions of the URA.

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Q. Why is BIPCO requesting this extension of time?

A. There are a few reasons for requesting this extension. First, within the past few months there has been a major change in the company's ownership. The Town of New Shoreham now owns 2/3 of BIPCo's stock. In addition, BIPCo has been advised by its energy consultant Energy New England (ENE) that it would be unduly expensive to ratepayers to provide retail access. Lastly, the BIPCo is working on a full rate case which will be filed during the fall of 2017.

Q. Can you provide some background on the change of ownership?

A. Prior to November 2017, all of the shares of BIPCo were held by three individual owners who each held one third of the outstanding shares of the company. On November 7th the Town of New Shoreham purchased all of the shares of two of the owners. This provides the Town with majority ownership and control of the company and resulted in a change in all of the Company's Board of Directors.

Q. What is the impact of the change in company ownership?

A. The Town is moving towards transferring BIPCo into either a cooperative or a utility district (similar to the Pascoag Utility District). There are some significant issues involving investigating the pros and cons of the two options, the handling of selling the stock or the assets, tax issues, issues related to the minority owner (who filed a law suit against the Town and the Board of Directors seeking to rescind the stock purchase) and passage of legislation authorizing creation of the new entity. In addition, the proposed legislation for the new entity may provide for authority to exempt BIPCo from retail access similar to what the Pascoag Utility District has already successfully done.

Q. Mr. Bebyn why would it be unduly expensive to ratepayers to provide retail access?

A. BIPCo has retained Energy New England (ENE) to advise it regarding the transition from a vertically integrated power company that both generates electricity and distributes that electricity to what will essentially be an electric distribution company that will obtain

1 its electricity (except in emergency situations) from the bulk New England wholesale
2 power system. BIPCo has been advised by ENE that BIPCo's current billing and
3 computer system is unable to handle the demands of offering retail access without a
4 significant upgrade that is estimated to cost between \$50,000 and \$70,000 to set up, and
5 an estimated \$5/month per ratepayer for a software license. These costs would have to be
6 covered by all ratepayers instead only the ones seeking retail access. Assuming the
7 upgrades were recovered over three years and given that BIPCo has an average 1,900
8 accounts the annual cost would be almost \$135,000 per year.

9

10 **Q. Mr. Bebyn how would such charges be recovered?**

11 A. Typically meter and billing related charges are allocated to the customer service
12 charge. If this was the case, the monthly increase to the customer service charge would be
13 around \$6.00. This would be nearly a 50% increase in the customer service charge for a
14 residential customer who currently pays \$12.38 per month.

15

16 **Q. Would the average user see any savings?**

17 A. It's doubtful. Because retail competition is only on the energy price, not on capacity
18 or other portions of the retail bill, and because the current energy price is about \$0.035 to
19 \$0.040 per kilowatt hour, it is unlikely that retail access would provide any savings to
20 Block Island ratepayers. Assuming the customer service charge is increased by \$6.00 per
21 month, even if the ratepayer seeking retail access could get a current energy price cheaper
22 by \$0.005 per kilowatt hour, that ratepayer would have to average 1,200 kWh of monthly
23 usage to just to break even. The average BIPCo residential ratepayer uses much less.
24 Moreover, ENE has advised BIPCo that it is not reasonable to anticipate that any
25 competitive retail electric supplier would be able to offer competitive supply at a price
26 that would generate any savings

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1 **Q. Would there be any other costs as a result of offering retail access?**

2 A. Yes. ENE has advised BIPCo that there will be a “risk premium” added by
3 wholesale suppliers who will bid on providing standard offer service to BIPCo. ENE has
4 advised us that they anticipate that suppliers would add approximately \$0.0025 to \$0.005
5 per kilowatt hour on the wholesale rate to take into account the possible “flight risk” of
6 customers if retail access is offered. This premium would be eliminated if retail access is
7 not offered.

8

9 **Q. Mr. Bebyn you detailed the costs of offering retail access, but would there be**
10 **any benefits from not offering retail access?**

11 A. Yes. BIPCo will be purchasing wholesale energy from the same market at the same
12 commodity prices as potential competitive suppliers. Given BIPCo’s small size, there is
13 benefit to keeping the island load aggregated together. Aggregation allows all of
14 BIPCo’s customers to benefit from the fact that nearly 70% of the annual electricity
15 consumption on the island occurs during the summer months, which serves to provide
16 BIPCo with a lower average energy cost than many loads in the region. This is because
17 commodity power prices are higher in the winter than summer. ENE’s analysis of
18 BIPCo’s top 10 customers shows the largest customer consumes approximately 420,000
19 kWh annually, and the second largest customer consumes less than 200,000 kWh. This
20 means that any customer on Block Island seeking competitive supply would be subject to
21 “rack rate”, profile pricing, which is among the higher retail rates available. In seeking
22 supply for all of BIPCo’s customers on an aggregated basis, ENE has found three major,
23 creditworthy wholesale suppliers who are interested in providing competitively priced
24 quotes for all BIPCo’s customers as a whole. This allows all ratepayers on the island to
25 benefit from the lower average energy pricing available to them as an aggregated whole.

26

27 **Q. How does the future full rate filing impact this request for an extension?**

28 A. Given that there are some issues regarding the formation of a new entity and how
29 changes in operation and overall rate structure will turn out, this has shifted the full rate
30 filing to the fall of 2017. As mentioned when discussing the cost of offering retail access,
31 the necessary cost recovery in rates would be best addressed in the full filing. Since rates

1 would not go into effect until after October 1, 2017 this also a reason for requesting the
2 extension.

3

4 **Q. Mr. Bebyn, in your professional opinion will the BIPCo ratepayers be better off**
5 **with receiving the extension of time?**

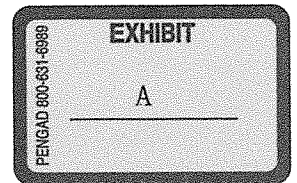
6 A. Yes. ENE has also advised BIPCo that smaller municipal utilities in Massachusetts
7 are exempt from offering retail access. Of these 41 utilities, all but two serve two to
8 seventeen times the amount of energy BIPCo serves annually. Nearly all those entities
9 would be similarly challenged to provide retail competition without unnecessarily
10 burdening all ratepayers with costs to provide retail competition.

11

12 **Q. Does that conclude your testimony?**

13 A. Yes.

14



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: BLOCK ISLAND POWER COMPANY
REQUEST FOR EXEMPTION FROM
UTILITY RESTRUCTURING ACT

DOCKET NO. 2490

ORDER

WHEREAS, On September 26, 1997, the Block Island Power Company ("Company") filed with the Public Utilities Commission ("Commission") a request for exemption from the Utility Restructuring Act of 1996 ("Act"), to remain in effect until six months after an undersea electric cable,¹ connecting the island to the mainland grid, is installed and operational; and

WHEREAS, The Commission had previously granted the Company a one-year delay in implementation of the Act, to permit the Company to seek legislative relief from the General Assembly, Order No. 15175 (issued January 6, 1997); and

WHEREAS, The Company successfully lobbied for amendments to the Act which authorize the Commission to grant exemptions under certain specific circumstances, R.I.G.L. § 39-1-2(7.9); and

WHEREAS, The Division of Public Utilities and Carriers ("Division") responded on November 13, 1997, that "based upon current geographic circumstances and the information provided by the Company, it is the Division's belief that an exemption is appropriate"; and

¹ See Docket No. 2489.

WHEREAS, Any exemption granted by the Commission is subject to review if the circumstances change in any material manner; and

WHEREAS, Company ratepayers cannot avail themselves of the Act's retail access until such time as the undersea cable is completed, making it possible for Block Island customers to obtain power from the electric generation market;

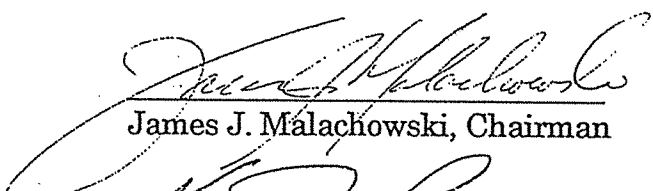
Accordingly, it is

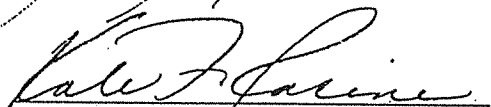
(15461) ORDERED:

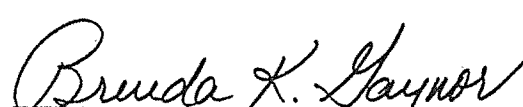
The Block Island Power Company is hereby authorized to delay implementation of the Utility Restructuring Act's mandates until six months following the installation and operation of the undersea cable connecting the island to the mainland electric grid.

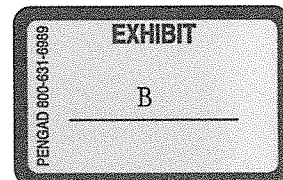
EFFECTIVE AT PROVIDENCE, RHODE ISLAND, ON NOVEMBER 19, 1996, PURSUANT TO AN OPEN MEETING DECISION; WRITTEN ORDER ISSUED NOVEMBER 26, 1997.

PUBLIC UTILITIES COMMISSION


James J. Malachowski, Chairman


Kate F. Racine, Commissioner


Brenda K. Gaynor, Commissioner



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: BLOCK ISLAND POWER COMPANY :
WAIVER REQUEST UNDER TO R.I. GEN. : DOCKET NO. 4606
LAWS § 39-1-27(g) :

REPORT AND ORDER

In Public Utilities Commission (PUC) Order No. 15461, the PUC authorized the Block Island Power Company (BIPCo or Company) to delay implementation of the 1996 Utility Restructuring Act's (URA) mandates until six months following the installation and operation of an undersea cable connecting the island to the mainland electric grid.¹ In seeking an exemption, BIPCo argued that its location, on an island twelve miles offshore and unconnected to the mainland electric grid, made it impossible for Block Island ratepayers to access the electric generation market.² An undersea electric cable is expected to be operational on or about December 31, 2016.

In this docket, in a filing made on March 7, 2016, BIPCo sought a waiver from certain requirements of the URA under R.I. Gen. Laws § 39-1-27(g). Specifically, BIPCo sought exemptions from: (1) the requirement to transfer ownership of generation facilities to an affiliated company; (2) the prohibition against selling electricity at retail; and (3) certain standards of conduct.³ If the waiver were granted, BIPCo declared, it will continue to own its generation

¹ Order No. 15461 (Nov. 26, 1997).

² Order No. 15175 (Jan. 14, 1997). In this order, the PUC authorized BIPCo a one-year exemption to allow the Company to seek amendments to the URA that would give the PUC authority to grant the exemption allowed in the November 26, 1997 order.

³ BIPCo Pet. at 7; http://www.ripuc.org/eventsactions/docket/4606-BIPCo-WaiverRequest_3-7-16.pdf. The URA was designed to open competition in the marketplace, requiring electric utilities to provide retail access from competitive energy suppliers to all customers. The URA required each electric distribution company to transfer ownership of its generation facilities to a separate affiliate of the electric distribution company or to sell its generation to an unaffiliated entity. Following the transfer of ownership, electric distribution companies are prohibited from selling electricity at retail and from owning, operating, or controlling generating facilities, although such facilities may be owned by affiliates. Each electric distribution company is required to arrange for a standard offer energy supply for its customers, and that is not to be construed as selling electricity at retail. An affiliate or nonaffiliated owner of generation becomes a nonregulated power producer allowed to sell electricity generated from each of its facilities on either the wholesale or retail markets at market prices. After notice and public hearing, the PUC may exempt electric distribution companies otherwise subject to this paragraph from both the requirement to divest ownership of

facilities and use them to provide backup and reliability in the case of any discontinuance or loss of power from the mainland.⁴ On July 14, 2016, after notice, a public comment hearing, and an evidentiary hearing, the PUC granted BIPCo's request for an exemption, finding it to be in the public interest.

In support of its petition, BIPCo filed testimony of David Bebyn, its rate consultant. Mr. Bebyn concluded that allowing BIPCo to retain ownership and control of its generation would be "better, simpler, less costly, and will provide [Block] Island with safety and the best likelihood of reliable and adequate service" at reasonable rates.⁵ Focusing on potential loss of service from the mainland, Mr. Bebyn asserted that in such an event, generation would be immediately available just as it is now. He noted that if an unregulated entity were to own the generation, it would have no incentive to keep rates reasonable. For example, if the new owner was the only electric generation supplier on the island and there was a loss of service from the mainland, there would be no competition to keep the rates to a remote population of electric customers reasonable. Under the waiver request, BIPCo's tariffs would still remain subject to the PUC's review.

In further support of the public interest in maintaining one single company, Mr. Bebyn asserted that there would be additional ratepayer costs associated with divestiture that would not exist if ownership remained with BIPCo. For example, he opined that the Company would have a difficult time finding a buyer for the generation at fair market value. Selling at a cost below fair

generation and transmission facilities and the prohibition against selling electricity at retail with respect to sales within its service territory. To do so, the PUC must determine that any such exemptions are in the public interest.

⁴ *Id.* at 4-5. In its petition, BIPCo also opined that it may be able to participate in the wholesale energy market, allowing it to receive payments for being available to provide energy to the mainland of Rhode Island if called upon. However, as the docket progressed, it became apparent that BIPCo was far from determining whether participation in the wholesale market would be feasible or practical. The proposal was also subject to opposition from some islanders and concern from the Town of New Shoreham. Therefore, it was determined, and agreed to by the parties, that the PUC would consider the waiver request based solely on the ability to provide backup service and not consider whether participation in the wholesale market might be in the public interest at this time.

⁵ Bebyn Test. at 1, 4.

market value would result in stranded costs to the seller (BIPCo). BIPCo would then be entitled to recover those costs from its ratepayers. This would be avoided by keeping a single entity. In addition, Rural Utility Services through whom BIPCo financed its generators, has several regulatory requirements that would also add costs to any divestiture. Therefore, he maintained, granting the waiver would result in a more favorable economic situation for ratepayers.

On May 12, 2016, the PUC conducted a hearing on Block Island for the purpose of hearing from the public on BIPCo's request. Seven members of the public plus BIPCo's chief operating officer spoke. None of the speakers opposed the waiver. One commenter questioned whether there had been any review of the magnitude and effect of any future capital expenses related to replacing the generation equipment in the future.

On June 17, 2016, the Division of Public Utilities and Carriers (Division) filed a Memorandum indicating that it had reviewed BIPCo's rationale and considered the unique circumstances surrounding BIPCo's request, namely its location twelve miles off the coast of the mainland of Rhode Island. The Division opined that the possibilities are real that there could be service interruptions from the mainland. The Division stated that "BIPCo is uniquely situated and uniquely interested in serving the needs of its customers, therefore, its continued ownership of generation assets makes sense."⁶ Furthermore, the Division agreed with Mr. Bebyn that the costs associated with divestiture could be higher than maintaining a single company. Finally, the Division noted that the underlying purpose of the URA was to avoid interference by local utilities in the competitive wholesale market. The Division argued that these concerns are less germane to BIPCo's operations. Thus, the Division concluded that BIPCo's request for a waiver was reasonable and in the public interest.⁷ Also on June 17, 2016, the Town of New Shoreham's

⁶ Division Mem. at 2; http://www.ripuc.org/eventsactions/docket/4606-DPU-Position_6-17-16.pdf.

⁷ *Id.* at 2-3.

Solicitor filed a position statement indicating that the New Shoreham Town Council had voted on May 18, 2016 not to oppose the waiver request.⁸

On July 14, 2016, the PUC conducted an evidentiary hearing at its offices in Warwick, Rhode Island. Mr. Bebyn responded to the concerns about future capital costs associated with the generating units, indicating that maintaining one regulated company with the generation assets would require PUC review of any future capital costs in the same manner as the current practice. In other words, if BIPCo were to approach the PUC in the future with a proposal to take on debt in order to replace a generating unit, nothing would change in terms of the PUC's jurisdiction over the rate recovery of costs incurred by the generation aspect of the business.⁹ Similarly, the Department of Environmental Management (DEM) will still maintain its oversight role of the permitting process for the generation. Mr. Bebyn thought it was likely DEM would consider BIPCo's changed operational circumstances when issuing future permits.¹⁰

Mr. Bebyn testified that BIPCo would be required to develop new rates to provide for standard offer service and last resort service to customers who choose not to purchase generation from competitive suppliers. However, unlike with divestiture, the company will not be required to separate all of the assets into two separate sets of books with separate employees. Mr. Bebyn expressed concern with the complexity associated with divestiture given the nature of the conditions in the Rural Utility Services loan documents.¹¹

At the conclusion of the hearing, the PUC considered the evidence and approved BIPCo's request, finding it to be in the public interest to allow BIPCo to retain ownership and control of its

⁸ Position of the Town of New Shoreham; http://www.ripuc.org/eventsactions/docket/4606-Town-Position_6-16-16.pdf.

⁹ Tr. at 11-12 (July 14, 2016).

¹⁰ *Id.* at 16-17.

¹¹ *Id.* at 14-16.

generating facilities for the purposes of selling emergency generation at retail within its service territory. Should BIPCo seek to participate in the wholesale market it must first return to the PUC for a review of its waiver request. Because the PUC is granting the request of BIPCo to retain generation, the standards of conduct requirements of R. I. Gen. Laws § 39-1-27.6(b)(1) do not apply.

Reliability of utility service is of utmost importance to ratepayers and this request by a utility on an island twelve miles from the mainland squarely addresses reliability. In the event power is interrupted because of a fault on the mainland, the undersea cable, or a piece of equipment on the island between the cable and the distribution system, BIPCo will be in the position of supplying the generation. For such an isolated population, it is clearly in the public interest to maintain a redundant power supply where the assets are already in place and in rates. The costs and rate recovery of such generation would continue to be subject to the jurisdiction of the PUC, ensuring continued just and reasonable rates.

The uncontroverted testimony was that divestiture would be extremely complex and costly for a company with only a \$5.2 million annual revenue requirement.¹² This cost might be justified if continued ownership of generation by the electric distribution company would interfere with the competitive supply market. However, the PUC is not now approving a plan that would allow the electric distribution company to compete with nonregulated power producers. Rather, BIPCo will only provide generation to retail distribution customers when supply is unavailable from the mainland, at a time when nonregulated power producers on the mainland would not be able to supply power. Therefore, the PUC finds that the competitive supply market will not be impeded by allowing BIPCo to retain its generation.

¹² 2015 FERC Form 1, Annual Report of Major Electric Utilities at 114.

The PUC finds that maintaining the diesel generation will not adversely impact the goals of the Resilient Rhode Island Act because the generation will still be subject to DEM air quality permits. Given the emergency nature of the backup supply, it is inconceivable that DEM would not reduce the quantity of emissions once BIPCo is connected to the mainland and customers are receiving their energy supply over that line. Therefore, on balance, the PUC finds that the emissions from the BIPCo generation should be significantly reduced and not cause an adverse impact on the State's green energy goals.

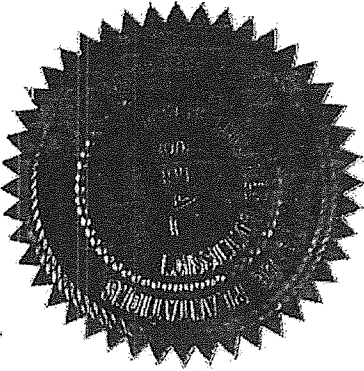
Accordingly, it is hereby

(22565) ORDERED:

1. In its restructuring plan, the Block Island Power Company will be exempted from the Utility Restructuring Act, R.I. Gen. Laws § 39-1-27(c), requirement that it transfer its generating assets to affiliates.
2. In its restructuring plan, the Block Island Power Company will be exempted from the Utility Restructuring Act, R.I. Gen. Laws § 39-1-27(d), prohibition against selling electricity within its service territory for the purpose of providing emergency generation.
3. The Block Island Power Company shall not engage in the wholesale market without first seeking a review and modification from the Public Utilities Commission to the waiver granted by this Order.

EFFECTIVE AT WARWICK, RHODE ISLAND PURSUANT TO A BENCH
DECISION ON JULY 14, 2016. WRITTEN ORDER ISSUED OCTOBER 7, 2016.

PUBLIC UTILITIES COMMISSION



Margaret E. Curran

Margaret E. Curran, Chairperson

Herbert F. DeSimone

Herbert F. DeSimone, Commissioner

Marion S. Gold

Marion S. Gold, Commissioner

Notice of Right of Appeal: Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the PUC may, within 7 days from the date of the Order, petition the Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or Order.