

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: BLOCK ISLAND POWER COMPANY :
WAIVER REQUEST UNDER R.I. GEN. LAWS : DOCKET NO. 4606
§ 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 (Act) 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 has since been constructed and became operational in December 2016.³ BIPCo began taking energy from the mainland over the cable on or around May 1, 2017.⁴

In this docket, by a filing made on February 6, 2017, BIPCo sought a continued waiver from one requirement of the Act. Specifically, BIPCo sought a one-year extension of the exemption from the requirement to allow retail access.⁵ *See* R.I. Gen. Laws § 39-1-27(g). Therefore, instead of offering retail access on October 1, 2017, BIPCo sought to delay

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 Act that would give the PUC authority to grant the exemption allowed in the November 26, 1997 order.

³ https://www9.nationalgridus.com/aboutus/a3-1_news2.asp?document=10744.

⁴ BIPCo. Pet. at 1; [http://www.ripuc.org/eventsactions/docket/4606-BIPCo-ExemptPetition\(2-3-17\).pdf](http://www.ripuc.org/eventsactions/docket/4606-BIPCo-ExemptPetition(2-3-17).pdf).

⁵ BIPCo Pet. at 3. The Act was designed to open competition in the marketplace, requiring electric utilities to provide retail access from competitive energy suppliers to all customers. The PUC may exempt electric distribution companies otherwise subject to this paragraph from requirements of the Act. To do so, the PUC must determine that any such exemptions are in the public interest. R.I. Gen. Laws § 39-1-27(g).

implementation of retail access until October 1, 2018.⁶ On March 30, 2017, the PUC granted BIPCo's request for an exemption, finding it to be in the public interest.⁷

On August 15, 2017, BIPCo filed another petition for a continuing exemption from the Act's retail access provisions through August 1, 2018. BIPCo cited a host of pending issues that would make it difficult to put together a full rate filing, together with a fully allocated cost of service study, by November 1, 2017. These issues included: (1) implementation of the newly enacted legislation that created the Block Island Utility District; (2) pending Superior Court litigation brought by the one-third minority stockholder; (3) the after-effects of a fire and explosion that occurred during the summer of 2016; (4) the pendency of a short and long term capital plan; and (5) the need to complete a federally mandated replacement of fuel tanks by December 2017.

In support of its petition, BIPCo filed the testimony of David Bebyn, its rate consultant. Mr. Bebyn explained that prior to November 2016, all of BIPCo's shares were held by three individual owners who each held a one-third ownership interest. On November 7, 2016, the Town of New Shoreham purchased all outstanding shares from two of the three individual stockholders. The new BIPCo Board of Directors proceeded with a plan to create a Utility District and transfer the Company's assets into the Utility District. The new Board of Utility Commissioners need to be elected and make rate design determinations. Thereafter, BIPCo's rate design consultant will need to perform a fully allocated cost of service study which will not be completed prior to November, 2017. Mr. Bebyn testified that it would be in ratepayers' best interest to extend the exemption so that the rate filing projection process will not be hampered by so many unresolved issues.

⁶ BIPCo Pet. at 3.

⁷ http://www.ripuc.org/eventsactions/docket/4606-BIPCo-Ord23019_1-31-18.pdf

On August 31, 2017, the Division of Public Utilities and Carriers (Division) filed a memorandum supporting BIPCo's petition and recommending that the Commission grant the requested extension. The Division characterized BIPCo as experiencing a unique structural and operational transition that continued to require special regulatory timing considerations.⁸ The Division found that the various operational challenges highlighted in Mr. Bebyn's testimony would all directly impact the accuracy and analysis required for a full rate case.⁹ The Division noted that once the Board of Utility Commissioners was seated, it could then make decisions effecting rate design, such as seasonal rates, net metering, and demand charges.¹⁰ The Division emphasized that the BIPCo Board of Directors is expected to transform the Company from a for-profit, investor-owned company to a non-profit company and concluded that conducting a full rate review prior to the completion of this process would be imprudent.¹¹ The Division reasoned that postponement of filing a rate case until August 2018 was not only prudent, but necessary. It would benefit ratepayers by avoiding the cost of a premature rate case and, ultimately, the delay would afford ratepayers the benefit of a fully informed and focused rate making analysis, once the company's transformation is complete.¹² Finally, the Division stated that BIPCo's special circumstances satisfied the exemption eligibility requirements contained in R.I. Gen Laws §39-1-2(26).

⁸ Division Mem. at 1; [http://www.ripuc.org/eventsactions/docket/4606-DPU-Position\(8-31-17\).pdf](http://www.ripuc.org/eventsactions/docket/4606-DPU-Position(8-31-17).pdf).

⁹ *Id.*

¹⁰ *Id.* at 2.

¹¹ *Id.*

¹² *Id.* at 3.

At an Open Meeting on September 8, 2017, the PUC considered the filings and found BIPCo's request for a continued exemption from offering retail choice to be in the public interest.

Accordingly, it is hereby

(23065) ORDERED:

The Block Island Power Company is granted a continued exemption from the Utility Restructuring Act, R.I. Gen. Laws § 39-1-27(c), requirement that it offer retail access. This exemption shall end on August 1, 2018, unless the Public Utilities Commission takes further action before that time.

EFFECTIVE AT WARWICK, RHODE ISLAND PURSUANT TO A BENCH DECISION ON SEPTEMBER 8, 2017. WRITTEN ORDER ISSUED MARCH 26, 2018.

PUBLIC UTILITIES COMMISSION



Margaret E. Curran

Margaret E. Curran, Chairperson

Marion S. Gold

Marion S. Gold, Commissioner

Abigail Anthony

Abigail Anthony, 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.