

# Schacht & McElroy

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June 29, 2018

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)  
Docket 4606

Dear Luly:

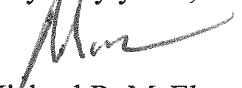
As you know, this office represents Block Island Power Company (BIPCo).

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 through October 1, 2018 from filing to fully implement the requirements of the Utility Restructuring Act.
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  
Nancy Dodge, Esq.  
Katherine Merolla, Esq.  
Christy Hetherington, Esq.  
John Bell  
Cynthia Wilson Frias, Esq.  
Margaret Hogan, Esq.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION

IN RE: BLOCK ISLAND POWER COMPANY : DOCKET No. 4606  
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 THROUGH OCTOBER 1, 2018 FROM FILING TO  
FULLY IMPLEMENT THE REQUIREMENTS OF THE UTILITY RESTRUCTURING ACT

1. On May 1, 2017, the National Grid/Deepwater Wind project became operational. The Town of New Shoreham and the Block Island Power Company (BIPCo) were at that time connected by an undersea electric cable to the mainland. This connection made mainland electric power available to BIPCo for distribution to the Island.

2. 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.

3. Chapter 357 of the Public Laws of 1997 enacted R.I.G.L. § 39-1-2(26), which was previously designated as R.I.G.L. § 39-1-2(7.9). This law allows certain electric utilities to request an exemption from the Utility Restructuring Act (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.

4. 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).

5. 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.”

6. Six (6) months from the May 1, 2017 operation date was November 1, 2017.

7. By Order issued on October 7, 2016 in Docket No. 4606, this Commission, pursuant to a March 7, 2016 Petition filed by BIPCo, also exempted BIPCo from the URA requirement in R.I.G.L. § 39-1-27(c) that BIPCo transfer its generating assets to affiliates. In addition, the Commission 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.

8. On February 3, 2017, BIPCo filed a request in Docket 4606 seeking a continued exemption period from the URA retail access provisions of R.I.G.L. § 39-1-27.3. At an Open Meeting on March 30, 2017, this Commission extended BIPCo’s URA retail access exemption until October 1, 2017. At an Open Meeting on September 8, 2017, the retail access exemption was extended to August 1, 2018. At an Open Meeting on February 2, 2018, the retail access exemption was extended again to April 30, 2020.

9. On February 10, 2017 in Docket No. 4690, BIPCo filed a proposed procurement plan and standard offer and transmission tariffs. On April 12, 2017, BIPCo submitted a supplemental/amended filing.

10. On April 14, 2017, after an evidentiary hearing, this Commission held an Open Meeting in Docket 4690 and approved BIPCo's procurement plan and amended rate filing. The new rates went into effect on May 1, 2017, when the cable connection went live. Amended rates based on the first reconciliation review of BIPCo's initial standard offer and transmission tariffs were approved by this Commission, effective on December 1, 2017. At an April 25, 2018 Open Meeting, this Commission approved BIPCo's second reconciliation review and revised standard offer and transmission tariffs for effect on May 1, 2018.

11. At an Open Meeting on September 8, 2017 in this docket, the Commission granted an extension until August 1, 2018 for BIPCo to make a full rate filing, including a cost of service study.

12. The purpose of this Petition is to request that this Commission approve a 2-month extension until October 1, 2018 for BIPCo's full rate filing and cost of service study.

13. BIPCo has a number of pending issues that would make it difficult for BIPCo to put together a full rate filing, together with a fully allocated cost of service study, by August 1, 2018. These issues include:

- On July 26, 2017, Senate Bill No. 729 Substitute A became effective without the Governor's signature. This new Act (R.I.G.L. § 45-67-1 *et seq.*) created the Block Island Utility District. It is anticipated that eventually the assets of BIPCo will be transferred to the Block Island Utility District and that BIPCo will cease functioning as an electric utility at that time. That transfer has not yet occurred. There are a number of matters that will need to take place before this transfer can occur.

- The Town owns 2/3 of the BIPCo stock. There is a pending Superior Court lawsuit brought by the 1/3 minority holder of BIPCo's stock, Sara McGinnes. (*Sara McGinnes v. Town of New Shoreham, et al.*, CA No. WC-2018-0218). This suit was filed by Sara McGinnes on April 19, 2018, against the Town, BIPCo, and the Block Island Utility District. The case is in its very early stages.
- BIPCo's rate consultants need to prepare a fully allocated cost of service study and rate case.
- The Utility District and BIPCo are in negotiations regarding a possible purchase of BIPCo's assets and the price to be paid for the assets. The Utility District is also pursuing a possible acquisition of all the BIPCo stock and the price to be paid for the stock.
- The Utility District is currently in negotiations with a lender in order to obtain financing to purchase BIPCo's stock or assets. It is anticipated that financing in the approximate amount of \$6,000,000 will be needed.

14. BIPCo believes that it would not be possible for a full rate filing and fully allocated cost of service study to be performed and filed on or before August 1, 2018, in light of the pending outstanding items that could significantly affect such a filing.

15. If BIPCo is given an extension of time until October 1, 2018 to file its rate case and cost of service study, it is hoped that many of the issues outlined above will be resolved.

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 a continued exemption until October 1, 2018 to file a full rate case and cost of service study.

Respectfully submitted,  
BLOCK ISLAND POWER COMPANY  
By its attorneys



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Dated: June 29, 2018

**CERTIFICATE OF SERVICE**

I hereby certify that on the 29<sup>th</sup> day of July, 2018, I sent a copy of the foregoing to the following:

David G. Bebyn, CPA	<a href="mailto:dbebyn@beconsulting.biz">dbebyn@beconsulting.biz</a>
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Theresa Gallo

**Docket No. 4606 – Block Island Power Co. – Waiver/Exemption Requests  
under R.I.G.L. § 39-1-27**

**Service List as of 4/21/17**

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<b>File an original &amp; nine (9) copies w/:</b> Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick, RI 02888	<a href="mailto:Luly.massaro@puc.ri.gov">Luly.massaro@puc.ri.gov</a> ;	401-780-2107
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**Direct Testimony**  
**of**  
**David G. Bebyn CPA**  
**Regarding exemption request under**  
**R.I. General Laws 39-1-2(26)**

**Block Island Power Company**  
**Docket**  
**No. 4606**

**June 29, 2018**

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 accounting testimony, and accounting  
8 services. I am the regulatory accountant for Block Island Power Company  
9 (BIPCo).  
10

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

12 A. I was asked by BIPCo to provide testimony in support of BIPCo's request under  
13 R.I. General Laws 39-1-2(26) for a continued exemption through October 1, 2018  
14 from filing to fully implement the requirements of BIPCO's utility restructuring  
15 plan.  
16

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

18 A. Certainly. Pursuant to this law, on September 26, 1997, BIPCo filed with the  
19 Commission a request for an exemption from the Utility Restructuring Act  
20 (URA). BIPCo asked for this exemption to remain in effect until six (6) months  
21 after an undersea cable connecting the Island to the mainland electric grid was  
22 installed and operational. (Docket No. 2490). This Commission agreed, and in  
23 Order No. 15461 in Docket No. 2490, ordered that "the Block Island Power  
24 Company is hereby authorized to delay implementation of the Utility  
25 Restructuring Act's mandates until six months following the installation and  
26 operation of the undersea cable connecting the island to the mainland electric  
27 grid."  
28

29 Because on May 1, 2017, the National Grid/Deepwater Wind project became  
30 operational and the Town of New Shoreham and the Block Island Power  
31 Company (BIPCo) were at that time connected by an undersea electric cable to

1 the mainland, BIPCo's exemption would otherwise expire on November 1, 2017.  
2 Due to several outstanding issues, including but not limited to transition of BIPCo  
3 to the Block Island Utility District, BIPCo filed for an extension until August 1,  
4 2018 for BIPCo to make a full rate filing, including a cost of service study. The  
5 Division supported BIPCo's request in a memo filed with the Commission, and at  
6 an Open Meeting on September 8, 2017 in this Docket, the Commission granted  
7 the extension until August 1, 2018.

8  
9 In addition to the full rate filing requirement, on February 3, 2017, BIPCo filed a  
10 request seeking a continued exemption period from the URA retail access  
11 provisions of R.I.G.L. § 39-1-27.3. At an Open Meeting on March 30, 2017, this  
12 Commission extended BIPCo's URA retail access exemption until October 1,  
13 2017. At an Open Meeting on September 8, 2017, the retail access exemption  
14 was extended to August 1, 2018. At an Open Meeting on February 2, 2018, the  
15 retail access exemption was further extended to April 30, 2020.

16  
17 In addition, on February 10, 2017, in Docket No. 4690, BIPCo filed a proposed  
18 procurement plan and standard offer and transmission tariffs. On April 12, 2017,  
19 BIPCo submitted a supplemental/amended filing. On April 14, 2017, after an  
20 evidentiary hearing, this Commission held an Open Meeting and approved  
21 BIPCo's procurement plan and amended rate filing. The new rates went into  
22 effect on May 1, 2017 when the cable connection went live.

23  
24 Amended rates based on the first reconciliation review of BIPCo's initial standard  
25 offer and transmission tariffs were approved by this Commission, effective on  
26 December 1, 2017. At an April 25, 2018 Open Meeting, this Commission  
27 approved BIPCo's second reconciliation review and revised standard offer and  
28 transmission tariffs for effect on May 1, 2018.

29  
30 Also, by Order issued on October 7, 2016 in Docket No. 4606, this Commission,  
31 pursuant to a March 7, 2016 Petition filed by BIPCo, exempted BIPCo from the

1 URA requirement in R.I.G.L. § 39-1-27(c) that BIPCo transfer its generating  
2 assets to affiliates, and exempted BIPCo from the URA provisions of R.I.G.L. §  
3 39-1-27(d), which prohibit selling electricity within BIPCo's service territory.  
4 These exemptions serve the purpose of allowing BIPCo to maintain its diesel  
5 generation as a backup power supply.  
6

7 **Q. What is BIPCo requesting an extension for?**

8 A. BIPCo is requesting an extension for the requirement to file a full rate filing  
9 together with a fully allocated cost of service study by August 1, 2018.  
10

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

12 A. BIPCo is requesting a 2-month extension from August 1, 2018 to October 1,  
13 2018.  
14

15 **Q. Why is BIPCO requesting this extension of time?**

16 A. There are a few pending issues that would make it difficult for BIPCo to put  
17 together a full rate filing together with a fully allocated cost of service study by  
18 August 1, 2018. First, the ultimate transition of the for profit BIPCo to non-profit  
19 Utility District has not been resolved. Another consideration is the Utility District  
20 is in negotiations for the purchase of either BIPCo's assets or stock. Lastly, the  
21 Utility District is in negotiation for the ultimate financing of the purchase of  
22 BIPCo's stock or assets.  
23

24 **Q. Can you provide some background on the change of ownership and status of  
25 the transition to the utility district?**

26 A. Prior to November 2016 all of the shares of BIPCo were held by three individual  
27 owners who each held one third of the outstanding shares of the company. On  
28 November 7<sup>th</sup>, the Town of New Shoreham purchased all of the shares from two  
29 of the owners. This provides the Town with a 2/3 majority ownership in the  
30 company and has resulted in a change in the Company's Board of Directors. The  
31 new Board of Directors is moving towards transferring BIPCo to a utility district.

1 On July 26, 2017, Senate Bill No. 729 Substitute A became effective without the  
2 Governor's signature. This new Act created the Block Island Utility District. It is  
3 anticipated that eventually the assets of BIPCo will be transferred to the Block  
4 Island Utility District and that BIPCo will cease functioning as an electric utility.  
5 That transfer has not yet occurred. There are a number of matters that will need  
6 to take place before this transfer can occur.

7  
8 **Q. Now that the Utility District has been created, what are the matters that need**  
9 **to take place before transferring the assets?**

10 A. While the Town owns 2/3 of BIPCo stock, there is a pending Superior Court  
11 lawsuit brought by the 1/3 minority holder of BIPCo's stock, Sara McGinnes.  
12 (*Sara McGinnes v. Town of New Shoreham, et al.*, CA No. WC-2018-0218). This  
13 suit was filed by Sara McGinnes on April 19, 2018, against the Town, BIPCo, and  
14 the Block Island Utility District. This case is in its very early stages.

15  
16 In addition, the Utility District and BIPCo are in negotiations regarding a possible  
17 purchase of BIPCo's assets and the price to be paid for the assets. The Utility  
18 District is also pursuing a possible acquisition of all BIPCo stock and the price to  
19 be paid for the stock.

20  
21 **Q. What impact does the transition to the Utility District have on the extension**  
22 **requested?**

23 A. The new Act creating the Block Island Utility District anticipates that eventually  
24 the assets of BIPCo will be transferred to the Block Island Utility District and that  
25 BIPCo will cease functioning as an electric utility. BIPCo will therefore change  
26 from a for-profit investor owned company to a non-profit public company. These  
27 are regulated on different rate making principles. Since the transition is not likely  
28 to occur before August 1, 2018, if BIPCo was to file by August 1, 2018 it would  
29 have do so as an investor owned utility. It is hoped that many of the issues will be  
30 resolved by October 1, 2018. If that happens these different rate making  
31 principles could materially change what has been filed.

1 **Q. Are there any additional Utility District matters that will have an impact on**  
2 **the timing of a full rate filing?**

3 A. Yes. The ultimate purchase of either BIPCo assets or stock and financing of the  
4 purchase. As mentioned above, the transition to the Utility District will change  
5 what rate making principles will be used. No longer will BIPCo use depreciation  
6 and return on rate base to finance assets but actual principal and interest paid on  
7 debt service. This will ultimately have an impact on the rate year revenue  
8 requirement of the filing. The Utility District and BIPCo are in negotiations  
9 regarding a possible purchase of BIPCo's assets and the price to be paid for the  
10 assets. The Utility District is also pursuing a possible acquisition of all BIPCo  
11 stock and the price to be paid for the stock. In addition, the Utility District is  
12 currently in negotiations with a lender in order to obtain financing to purchase  
13 BIPCo's stock or assets. It is anticipated that financing in the approximate  
14 amount of \$6,000,000 will be needed. This financing will also be paying off the  
15 RUS loan which is secured by BIPCo assets and the Line of Credit BIPCo used to  
16 fund the tank replacement project. In addition to the financing there are other  
17 issues regarding capital. The Utility District will have to formulate pay-as-you-go  
18 plans for both short and long-term capital improvements that were previously  
19 covered by depreciation. This will need significant input from the new Board.

20  
21 **Q. Mr. Bebyn, in your professional opinion will it benefit the BIPCo rate payers**  
22 **if BIPCo receives the extension of time?**

23 A. Yes. Given that there are still some issues which most likely will not be resolved  
24 until after August 1<sup>st</sup>, in my opinion, it would be in the best interest of the  
25 ratepayers if this extension is approved. This would keep the rate filing  
26 projections much more accurate as opposed to having to make rate projections  
27 with many unresolved issues.

28  
29 **Q. Does that conclude your testimony?**

30 A. Yes.