



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

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*Peter F. Kilmartin, Attorney General*

August 31, 2017

*VIA HAND DELIVERY & ELECTRONIC MAIL*

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

**Re: Docket 4606 – In Re Block Island Power Company Petition pursuant to  
R.I.G.L. § 39-1-2(26)**

Dear Ms. Massaro:

Enclosed please find an original and nine (9) copies of the Division of Public Utilities and Carriers' position memorandum related to Block Island Power Company's ("BIPCo") request for a continued exemption through August 1, 2018 from filing its new rate case and cost of service study as required by the Utility Restructuring Act ("URA"). In short, the Division supports BIPCo's request for a continued exemption in light of the unique circumstances and unresolved nature of BIPCo's operations and governance at the present time. The Division finds BIPCo's petition request to be reasonable and in the public interest.

An electronic copy shall be served upon the service list. Thank you for your attention in this matter.

Very truly yours,

Christy Hetherington  
Special Assistant Attorney General

Enclosure

cc: Service List

## Memorandum

To: Public Utilities Commissioners

From: Division of Public Utilities and Carriers

Re: Division's Position in Docket 4606 - In Re Block Island Power Company Petition Pursuant to R.I.G.L. § 39-1-2(26) for continued exemption until August 1, 2018 from the URA requirements of filing full rate case and cost of service study.

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The Division of Public Utilities and Carriers ("Division") supports Block Island Power Company's ("BIPCo") Petition for Exemption pursuant to Rhode Island General Laws § 39-1-2(26) as filed on August 15, 2017. The Division accepts as reasonable BIPCo's rationale for seeking to delay until August 1, 2018 a full rate filing and a fully allocated cost of service study and agrees that this limited time delay is in the ratepayers' best interest. In support herein, the Division highlights the following considerations:

The travel of Docket 4606 demonstrates that BIPCo is an electric utility experiencing unique structural and operational transition, all which continue requiring special regulatory timing considerations. By the instant petition and supporting testimony, BIPCo provides legitimate reasons to postpone filing a full rate case until August 1, 2018. BIPCo faces several ongoing unresolved issues that the utility is working toward resolving, the totality of which makes BIPCo's requested extension reasonable. Among these are the election of the Board of Utility Commissioners, the anticipated transference of BIPCo's assets to the Block Island Utility District recently created by Senate Bill No. 729 Substitute A (effective July 26, 2017) and ongoing negotiations in settlement of ownership litigation and insurance coverage for damage sustained in the 2016 fire/explosion. See Petition at pp.3-4.

As explained by BIPCo's regulatory accountant David G. Bebyn, CPA, in his direct testimony, these unresolved factors directly impact the accuracy and analysis required for a full rate case. Rate filing projections can logically be expected to be more accurate once outstanding

expenses, liabilities, ownership structure and company identity become more defined. Once the Board of Utility Commissioners is seated and settled, it can make decisions effecting rate design, such as seasonal rates, net metering and demand charges. See Bebyn Testimony at p.3. As explained, it is far preferable and prudent to perform a fully allocated cost of service study only after these important decisions have been made. The Division agrees. Moreover, even were a rate design consultant to begin this process today, a November 1, 2017 deadline would be difficult to accomplish. Further, the Board of Directors are expected to transform the company from for-profit investor owned to a non-profit company as it transfers assets into the Block Island Utility District, thereby changing the ratemaking principles by which the operation will be regulated. See Bebyn Testimony at p.3. Conducting a full rate review prior to completion of this process is imprudent.

In light of BIPCo's representations that it aims to resolve many of its unresolved issues over the course of the upcoming year, the Division believes that a delayed filing would benefit the ratepayers. A costly rate case filed in haste will yield far fewer returns than one prepared with the benefit of a more accurate forecast of BIPCo's present and future. Moreover, without question, the filing of a full rate case before November 1, 2017, diverts energy and resources away from BIPCo's current efforts and may prove unduly burdensome.

Based on the reality that BIPCo's governance and operations are presently in flux, the Division views postponement of a full rate filing until August 1, 2018 as not only prudent, but necessary. The Division states this position with confidence given that the Division has worked closely with the utility throughout this transitional process and is familiar with the logistical and regulatory challenges that BIPCo is undertaking. That said, the Division is confident in BIPCo's representations that the utility is making great progress in redefining itself for the future as it

already achieved great progress in little time.<sup>1</sup> The Division believes a reasonable time delay will benefit the ratepayers by avoiding the cost of a premature rate case and that, ultimately, it will afford the ratepayers the benefit that a fully informed and focused analysis will bring to the table once this process is undertaken. Further, BIPCo's current challenges fit squarely within the exemption provided by R.I.G.L. § 39-1-2(26), insofar as the General Assembly recognized that special circumstances do sometimes exist. This statutory exemption is appropriately applied to this case.

Accordingly, the Division supports BIPCo's Petition and recommends that the Commission grant BIPCo's request for a time-limited extension to complete its cost of service study and file a full rate case by August 1, 2018.

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<sup>1</sup> Some notable accomplishments include: BIPCo has hired interim President Jeffery Wright, has gone "live" with the undersea cable electric supply as of May, 2017, has enjoyed passage of a new law creating the Block Island Utility District, and has significantly recovered from structural and operational damage suffered in 2016. Elections for a Board of Utility Commissioners is underway (a public "board candidate's night" was held on Block Island on August 14<sup>th</sup>; most recently on August 28<sup>th</sup> the Town Council addressed the issue of re-crafting the candidate list and ballot voting) and the funding and plans for fuel tank replacement are going forward.