

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

IN RE: BLOCK ISLAND UTILITY DISTRICT :
d/b/a BLOCK ISLAND POWER COMPANY : **DOCKET NO. 4690**
STANDARD OFFER SERVICE AND :
TRANSMISSION RATES :

**REPORT AND ORDER
(For rates effective June 1, 2020 and July 1, 2020)**

I. Overview

On April 2, 2020, the Block Island Utility District d/b/a Block Island Power Company (BIUD) filed with the Public Utilities Commission (PUC) its annual Standard Offer Service (SOS) and transmission rates for the period June 1, 2020 through April 30, 2021.¹ The new rates would increase the total SOS and transmission rates by \$0.004 per kWh or \$0.21 per month for a residential customer using 500 kWh per month over the relevant seasonal rate in effect for the period June 1, 2020 through April 30, 2021.² Following an exchange of discovery, a review of a memorandum from the Division of Public Utilities and Carriers (Division), and an evidentiary hearing, the PUC approved the rates as filed.

Subsequently, on June 1, 2020, BIUD filed for new SOS and transmission rates for effect July 1, 2020. The rationale for the new filing was a sudden and unexpected reduction in sales forecast because of the COVID-19 pandemic and related health, travel, and other social restrictions. The new rates would increase the total SOS and transmission rates by \$0.022 per kWh or \$11.00 per month for a residential customer using 500 kWh per month over the relevant seasonal rate in effect for the period July 1, 2020 through April 30, 2021.³ Following an exchange

¹ Bebyn Test. and Attach (Apr. 2, 2020); <http://www.ripuc.ri.gov/eventsactions/docket/4690-BIUD-2020StandardOffer%204-2-20.pdf>.

² *Id.* at 8-9.

³ Bebyn Test. at 2, 5 (June 1, 2020); <http://www.ripuc.ri.gov/eventsactions/docket/4690-BIUD-SOSreopening%20rates%20for%20July%201%202020.pdf>.

of discovery, a review of a memorandum from the Division, and an evidentiary hearing, the PUC approved the rates as filed.

II. April 2, 2020 Filing

In support of the filing, BIUD submitted testimony and exhibits of David G. Bebyn, CPA, who projected total energy, capacity, interconnection, and fuel costs for the upcoming eleven-month period to be \$1,161,689.⁴ This amount was increased by \$25,786 to refund a combined under-collection from the periods ending April 2019 and April 2020. The total to be recovered from customers through the SOS charge was \$1,187,475. When divided by the estimated 12,985,398 kWh sales to customers, the total SOS charge requested was \$0.0914/kWh.⁵

Mr. Bebyn projected total transmission costs for the upcoming eleven-month period to be \$977,474. This amount was increased by \$11,711 to credit a combined under-collection from the periods ending April 2019 and April 2020. The total to be recovered from customers through the transmission charge was \$989,184. When divided by the estimated 12,985,398 kWh sales to customers, the total transmission charge requested was \$0.1676/kWh.⁶

In his testimony, Mr. Bebyn explained that BIUD's power supply portfolio would be made up of a load following contract with Shell Energy for 90% of its load; an allocation of power from New York Power Authority (NYPA) hydro-projects; and a new rooftop solar project that has been donated from a private donor through the Rhode Island Foundation. The expense for the Shell Energy contract was consistent with the contract price as was the NYPA power. Mr. Bebyn calculated the expense of the rooftop solar project at the SOS plus transmission rate for the period

⁴ Bebyn Supp. Test. at DGB-1; Bebyn Test. at Attach. 1 and Attach. 2. The fuel expense is designed to recover the cost of fuel necessary to test BIUD's diesel back-up generators each month. Normally, BIUD files its annual SOS and transmission rates for effect May 1, 2020. In an attempt to avoid two rate changes in two months, BIUD delayed this filing to time the effective date with the effective date of its distribution rate changes approved in Docket No. 4975.

⁵ Bebyn Supp. Test. at DGB-1.

⁶ Bebyn Supp. Test. at DGB-1.

May 1, 2019 through April 30, 2020 multiplied by the expected output of the project in accordance with the agreement with the donor.⁷

The unexecuted agreement with the donor was filed during discovery.⁸ Under the agreement, the donor, a not for profit corporation, would fund the purchase and installation of solar photovoltaic panels and related equipment on BIUD's property. All costs directly related to the installation of the solar equipment would be the responsibility of the donor. Effective as of the commercial operation date, ownership of the equipment automatically transfers to BIUD. Thereafter, all generation produced by the equipment and all renewable energy certificates associated with renewable energy produced by the equipment will be owned by BIUD. The agreement imposed the following conditions on the operation of the solar photovoltaic equipment: (1) that it be separately metered; (2) that generation be valued at the prior year's net metering rate (currently SOS plus transmission); (3) value attributable to generation produced by the equipment be paid into a restricted account with the money deposited to a decommissioning fund for the project, a maintenance fund for the project, and to a fund for other BIUD capital investments.⁹ At the hearing, Mr. Wright testified that he expected the commercial operation date to be September 2020, noting that it was originally expected to be June 2020 prior to disruptions caused by COVID-19.¹⁰

On April 29, 2020, the Division of Public Utilities and Carriers (Division) submitted a memorandum from Al Contente, one of its rate analysts, summarizing the filing and stating that the costs were properly classified and calculated. Referencing the solar project, Mr. Contente indicated that on the surface, this project appears beneficial to BIUD and its ratepayers, but

⁷ Bebyn Test. at 4 (Apr. 2, 2020).

⁸ BIUD Response to PUC 2020-1.

⁹ *Id.* at JMW-1 (Solar Initiative Project Agreement).

¹⁰ Hr'g. Tr. at 33 (May 5, 2020).

reserved his right to comment further after reviewing outstanding discovery responses. The Division did not oppose including BIUD's estimate of \$15,132 in the standard offer calculation as a placeholder since this amount can be trued up with the next filing.¹¹

On April 26, 2020, the PUC conducted an evidentiary hearing to consider testimony from both parties. BIUD presented Mr. Wright and Mr. Bebyn while the Division presented Al Contente, a rate analyst. Under the solar agreement, BIUD will own the equipment and the energy produced. It will be selling the energy to its customers. At the hearing, BIUD's witness agreed that BIUD would need a waiver from the prohibition against electric distribution companies selling electric energy at retail within their service territory.¹² The solar project will offset BIUD's total load, thus reducing the amount of energy purchased from the Shell contract. Mr. Wright estimated that the offset would be small. While he and Mr. Bebyn both indicated that it would be more straightforward to simply use the energy to offset the SOS expense, Mr. Wright explained that the donor had agreed that the value from the solar project was to be used to improve the system infrastructure. The donor specifically did not want to provide rate relief to all customers on the island, but rather, to either provide a benefit to those with limited means or assist in accelerating BIUD's capital plan. Mr. Bebyn explained because this project was generation, it made the most sense to him to pass the expense through the SOS rate while Mr. Wright testified that this proposal effectuates the donor's intent to advance the capital project and not reduce costs to all ratepayers.¹³

¹¹ Contente Mem. at 2 (Apr. 29, 2020).

¹² Hr'g. Tr. at 17. BIUD filed a request for exemptions from certain generation-related requirements and prohibitions codified at R.I. Gen. Laws § 39-1-27(g). On May 26, 2020, prior to ruling in this case, the PUC ruled that Block Island Utility District's request for an exemption from the requirement to transfer generation to an affiliated entity and from the prohibition against selling electricity generated by the utility at retail within the service territory to allow BIUD to enter into an agreement with a donor for a solar project identified in its 2020 Standard Offer Service procurement plan and rate filing is hereby approved. (PUC Minutes Ma 26, 2020; Order No. (June X, 2020)).

¹³ Hr'g. Tr. at 36-38, 47-52

BIUD also agreed that in the future, it would be reasonable to modify the pricing structure of the solar project to include the current, rather than using a prior, net metering rate. Mr. Contente also agreed this would be reasonable.¹⁴ Mr. Contente also confirmed that the Division supported the solar project and cost calculations for this case. He recommended approval of the filed SOS and transmission rates.¹⁵

At the hearing, BIUD also discussed a concern with its sales projections. Mr. Wright explained that when the filing was made in April, the sales had been tracking historical averages. However, in March 2020, Governor Raimondo declared a state of emergency in Rhode Island due to the COVID-19 pandemic. She placed several travel and other restrictions on Rhode Island residents and on residents of other states. Mr. Wright testified that sales usually rise in May. They were not rising as expected. He and Mr. Bebyn expressed concern that there may be a need for an interim rate increase. BIUD and the Division had agreed to return in September 2020 if sales were off by 5% or more. BIUD's attorney clarified that September was not a fixed time period and an earlier filing could be possible.¹⁶

At an Open Meeting conducted on May 26, 2020, the PUC approved the SOS and transmission rates as proposed. The PUC directed BIUD to use the proposed SOS and transmission rates to calculate the projected expense for the solar project. BIUD was also required to use the Block Island Transmission System charge included in National Grid's Annual Retail Rate Filing as part of its transmission expense as the basis for BIUD's retail charge in future annual SOS and transmission filings.

¹⁴ Hr'g. Tr. at 26, 65-66 (May 5, 2020).

¹⁵ *Id.* at 53-54 (May 5, 2020).

¹⁶ *Id.* at 8-11, 51-54.

The PUC received public comments from Christopher Warfel in the form of a complaint. Mr. Warfel expressed concern with the process of choosing a vendor to install the solar project and with the fact that the panels were being stored on BIUD's property "rent free." He alleged that BIUD had not complied with open meetings laws. In response, BIUD provided links to open meeting notices and minutes, explained that BIUD was not subject to state bidding laws, noting that it had not chosen the vendor, and finally, reiterating that ratepayer dollars were not being used to purchase or install the equipment. Storage of the solar panels on the property is no different from a roofing company delivering the roofing materials before the installers arrive at someone's property.

Many of Mr. Warfel's complaints fall outside of the PUC's jurisdiction. While the PUC will inquire as to the reasonableness of a procurement, it does not have jurisdiction to determine whether an entity is subject to state procurement laws. The PUC reviews utility filings to determine whether the costs included in rates are just and reasonable. In this case, the capital investment cost to ratepayers was zero. Furthermore, because of the way this transaction was designed, the ratepayer costs are the same regardless of the identity of the vendor or the underlying cost of the solar project. No expense was included in rates for the capital investment. Because there is no investment expense to recover, the cost of the project is irrelevant to ratepayers and falls outside of the PUC's jurisdiction. As to the use of ratepayer funds for a decommissioning account, maintenance account, and capital investment account, the PUC finds that these expenses, along with the manner in which these expenses will be charged to ratepayers, are reasonable. Finally, if Mr. Warfel believes BIUD is out of compliance with open meeting laws, the PUC is the wrong forum.

III. June 1, 2020 Filing

In support of the filing, BIUD submitted testimony and exhibits of Messrs. Wright and Bebyn. Mr. Wright explained that BIUD had experienced reduced sales in April and in May 2020, with May resulting in a 23% reduction. He explained that in forecasting revised sales for the summer period, he sought input from owners/operators of several of BIUD's top ten demand customers, which include the thirteen marinas, the National Hotel, the Town of New Shoreham Water and Sewer Departments, Block Island Grocery, Seaside Market and Boat Basin Grocery. He calculated the estimated reduction in sales for these major accounts based on their summer projections. The estimated reduction in sales is nearly 40%, just from these few major demand customers. Mr. Wright stated that he also gathered feedback on projected rental home occupancy from realtors and rental homeowners. Most of them remain confident that a lift in out of state travel restrictions within the next few weeks might salvage their summer season. However, he indicated that the Block Island Tourism Council is not so confident and has adjusted their 2020 budget projections for rooms and meals receipts based on only 50% occupancy rates compared to the nearly 100% occupancy normally expected in the summer. Based on this research, he projected a 30% sales reduction in June, a 20% reduction in July, and an 18% reduction in each August and September.¹⁷

Mr. Bebyn indicated that without a rate change, BIUD projected a \$213,039 under-collection. Based on Mr. Wright's research and analysis, Mr. Bebyn reduced the sales forecast by 1,651,827 kWh from the original 12,985,398 kWhs to 11,333,571.¹⁸ In addition to this adjustment, Mr. Bebyn included recovery of an estimated under-collection of SOS and transmission expense for the month of June 2020. In this filing, he projected total energy, capacity, interconnection, and

¹⁷ Wright Test. at 3-4 (June 1, 2020).

¹⁸ Bebyn Test. at 2 (June 1, 2020).

fuel costs to be recovered from customers through the SOS charge was \$1,133,066. When divided by the updated estimated 11,333,571 kWh sales to customers, the total SOS charge requested was \$0.10/kWh.¹⁹

Mr. Bebyn projected total transmission costs to be recovered from customers through the transmission charge was \$1,015,853. When divided by the updated estimated 11,333,571 kWh sales to customers, the total transmission charge requested was \$0.1896/kWh.²⁰

On June 18, 2020, the Division submitted a memorandum from Mr. Contente summarizing the filing and recommending approval. Mr. Contente indicated that it is unfortunate that this proposed rate change will be effective so soon after new SOS and transmission rates went into place. However, without a rate change at this time, he indicated that BIUD will experience a significant under recovery of costs which could lead to an even larger rate increase in the future.²¹

On June 23, 2020, the PUC conducted an evidentiary hearing. Mr. Wright testified that while BIUD projected a 30% reduction in June sales from what had been estimated in the April 2020 filing, as of the date of the hearing, sales were only down by 8%.²² Mr. Wright testified that several businesses had reopened in the prior two weeks. The weekend weather had been hot and sunny, and there was an uptick in day trip tourists. This had not, however, translated to an influx in overnight or boat traffic. The Fourth of July festivities and race week have been canceled. Based on information he received related to upcoming marina activity, he expressed confidence in his July projections. Finally, the Block Island Tourism Council had not changed its forecast for hotel capacity.

¹⁹ Bebyn Test. at DGB-1, DGB-2 (June 1, 2020).

²⁰ *Id.*

²¹ Contente Mem. at 2 (June 18, 2020).

²² BIUD's Response to PUC Information Request (June 23, 2020).

Mr. Bebyn testified that even if sales were down a consistent 8% for each of the summer months, BIUD would still expect a \$116,000 under-collection through September. A delay in adjusting the rates would result in higher per kWh rates to the winter ratepayers. He explained that BIUD sets its rates to a zero balance as of April 30th. To accomplish this, rates are set to result in a surplus by October of each year which is reduced over the winter. There are less kWh sales in the winter but fixed costs are in place all year. BIUD's recovery of the fixed costs spread over higher kWh sales allow for lower annualized per kWh rates. Mr. Bebyn testified that BIUD projects a \$94,000 surplus as of the end of October. If that projected surplus is higher by \$50,000 or more, he agreed it would be reasonable to return for a rate adjustment.

Mr. Contente confirmed the Division's support for BIUD's filing.

At an Open Meeting held on June 25, 2020, the PUC approved BIUD's SOS and transmission rates as filed for effect July 1, 2020. While BIUD's June sales projections may have been too conservative, it is clear that Block Island's economy, while showing some signs of summer tourism, is not at full capacity. In addition, it is not yet known exactly what Phase 3 of the Governor's reopening plan will entail. There will still likely be restrictions on ferry capacity and other social distancing requirements. Furthermore, many of the activities that draw visitors to the island have been canceled. Mr. Wright also testified that without overnight tourists, the weekend spikes do not result in sustained increases in sales. Finally, this is a reconciling charge and BIUD shall closely monitor sales. In the event the projected reductions do not materialize, BIUD should consider returning to the PUC for a reduction in rates, particularly if the projected October 2020 over-collection exceeds \$94,000 by \$50,000 or more.

Accordingly, it is hereby

(23867) ORDERED:

1. Block Island Utility District d/b/a Block Island Power Company's Standard Offer and Transmission Cost Rates, filed on April 2, 2020, are hereby approved to apply to usage on and after June 1, 2020.
2. Block Island Utility District d/b/a Block Island Power Company's Standard Offer and Transmission Cost Rates, filed on June 1, 2020, are hereby approved to apply to usage on and after July 1, 2020.

EFFECTIVE AT WARWICK, RHODE ISLAND ON JUNE 1, 2020 AND JULY 1, 2020
PURSUANT TO OPEN MEETING DECISIONS ON MAY 26, 2020 AND JUNE 25, 2020.
WRITTEN ORDER ISSUED JULY 15, 2020.

PUBLIC UTILITIES COMMISSION

*Margaret E. Curran, Chairperson



Marion S. Gold, Commissioner



Abigail Anthony, Commissioner

*Chairperson Curran concurs with the decision but is unavailable for signature.

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 seven days from the date of the order, petition the Rhode Island Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.