

STATE OF NEW HAMPSHIRE

CONSUMER ADVOCATE  
D. Maurice Kreis

ASSISTANT CONSUMER ADVOCATE  
Pradip K. Chattopadhyay



TDD Access: Relay NH  
1-800-735-2964

Tel. (603) 271-1172

Website:

[www.octn.gov](http://www.octn.gov)

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OFFICE OF CONSUMER ADVOCATE

21 S. Fruit St., Suite 18  
Concord, NH 03301-2441

December 6, 2019

Ms. Debra A. Howland  
Executive Director  
New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, New Hampshire 03301

Re: Docket No. DE 19-142  
Public Service Company of New Hampshire d/b/a Eversource Energy  
Rate Recovery of Costs in re Berlin Station, LLC  
Motion of Burgess Biopower to Strike

Dear Ms. Howland:

Please treat this letter as the response of the Office of Consumer Advocate (OCA) to the motion filed earlier today by Burgess Biopower, LLC to strike certain portions of the pleading we submitted on November 26, 2019. The pleading in question is the OCA's opposition to the relief requested by Public Service Company of New Hampshire d/b/a Eversource Energy ("Eversource") in this docket.

The Burgess Biopower motion is devoid of merit. There is no provision in either the Commission's procedural rules or the Administrative Procedure Act that authorizes the Commission to silence a party by striking a pleading duly filed and served by that party.

In support of its request, Burgess Biopower cites a variety of federal and state judicial opinions, none of them from New Hampshire or the First Circuit, that concern civil procedure and have no application in the context of administrative proceedings. We have not taken the time to analyze these cases because they are irrelevant. Likewise, the rules cited by Burgess Biopower of the U.S. District Court for the District of New Hampshire, and the New Hampshire Superior Court, are inapplicable.

As its next step, the Commission should consider the pending request of Eversource as well as the arguments raised by the OCA and then either reject the request of Eversource for approval of

its contract amendment or conduct further proceedings consistent with the Commission's procedural rules. The Burgess Biopower motion can be safely ignored as an unhelpful attempt to inject sharp pleading and useless complexity into a straightforward administrative adjudication.

Please do not hesitate to contact me if there are any questions or concerns about the foregoing.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Maurice Kreis', written in a cursive style.

D. Maurice Kreis  
Consumer Advocate

cc: Service list, via e-mail