

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re

BURGESS BIOPOWER, LLC, *et al.*¹

Debtors.

Chapter 11

Case No. 24-10235 (LSS)

(Joint Administration Requested)

THIRD AMENDED² NOTICE OF (I) FILING OF BANKRUPTCY PETITIONS AND RELATED DOCUMENTS AND (II) AGENDA FOR HEARING ON FIRST DAY MOTIONS SCHEDULED FOR FEBRUARY 13, 2024 AT 2:00 P.M. (ET) BEFORE THE HONORABLE LAURIE SELBER SILVERSTEIN OF THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE³

This hearing will be conducted in-person, any exceptions must be approved by chambers. Parties may observe the hearing remotely by registering with the Zoom link below no later than February 12, 2024 at 4:00 p.m. To attend a hearing remotely, register using the eCourtAppearance tool ([available here](#)) or on the court's website at www.deb.uscourts.gov. *The deadline to register for remote attendance is 4:00 p.m. (prevailing Eastern Time) the business day before the hearing unless otherwise noticed.* After the deadline has passed an electronic invitation, with the relevant audio or video link, will be emailed to you prior to the hearing.

PLEASE TAKE NOTICE that, on February 9, 2024, the debtors and debtors in possession in the above-captioned cases (the “Debtors”) filed voluntary petitions (the “Petitions”) for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), and the related pleadings with the Clerk of the United States Bankruptcy Court for the District of Delaware. The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession, pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

PETITIONS AND RELATED PLEADINGS

1. Voluntary Petitions

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, are Burgess BioPower, LLC (0971) and Berlin Station, LLC (1913). The Debtors’ corporate headquarters are located at c/o CS Operations, Inc., 631 US Hwy 1, #300, North Palm Beach, FL 33408.

² *Amended Items Appear in Italic.*

³ All motions and other pleadings referenced herein are available on the following website maintained by the Debtors’ proposed claims and noticing agent, Epiq: <https://dm.epiq11.com/Burgess>.

- a. Burgess BioPower, LLC [Case No. 24-10235, [D.I. 1](#); Filed 2/9/2024].
 - b. Berlin Station, LLC [Case No. 24-10236, [D.I. 1](#); Filed 2/9/2024].
2. Declaration of Dean Vomero Pursuant to 28 U.S.C. § 1746 in Support of the Debtors' Chapter 11 Petitions and First Day Pleadings [[D.I. 4](#); Filed 2/9/2024].

PLEASE TAKE FURTHER NOTICE that a hearing with respect to the following first day motions (collectively, the “First Day Motions”) is scheduled for **February 13, 2024 at 2:00 p.m. (ET)** (the “First Day Hearing”) before The Honorable Laurie Selber Silverstein, United States Bankruptcy Judge for the District of Delaware.

FIRST DAY MOTIONS GOING FORWARD

3. Motion of the Debtors for Order (I) Directing Joint Administration of Chapter 11 Cases Pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure and (II) Granting Related Relief [[D.I. 3](#); Filed 2/9/2024].

Status: This matter is going forward.

4. Application of Debtors for Entry of an Order (I) Approving the Retention and Appointment of Epiq Corporate Restructuring, LLC as the Claims and Noticing Agent to the Debtors Effective *Nunc Pro Tunc* to the Petition Date, and (II) Granting Related Relief [[D.I. 5](#); Filed 2/9/2024].

Status: This matter is going forward.

5. Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing Payment of Certain Prepetition Taxes and Related Obligations and (II) Authorizing Financial Institutions to Honor All Related Checks and Electronic Payment Requests [[D.I. 6](#); Filed 2/9/2024].

Status: This matter is going forward.

6. Motion of the Debtors for Entry of Interim and Final Orders (I) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Utility Services; (II) Determining Adequate Assurance of Payment for Future Utility Services; (III) Establishing Procedures for Determining Adequate Assurance of Payment; and (IV) Granting Related Relief [[D.I. 9](#); Filed 2/9/2024].

Status: This matter is going forward.

7. Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Continue Their Insurance Policies and (B) Pay All Obligations with Respect Thereto, (II) Modifying Automatic Stay, and (III) Granting Related Relief [[D.I. 10](#); Filed 2/9/2024].

Status: This matter is going forward.

8. Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay Prepetition Claims of Critical Vendors and (II) Granting Related Relief [[D.I. 11](#); Filed 2/9/2024].

Related Documents:

- A. *Objection of Public Service Company of New Hampshire to (1) Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay Prepetition Claims of Critical Vendors and (II) Granting Related Relief; and (2) Debtors' Motion for Interim and Final Orders (I) Authorizing the Debtors to Continue Performing Under Certain Shared Services Agreements and Honor Obligations Related Thereto; and (II) Granting Related Relief* [[D.I. 46](#); Filed 2/12/2024].

Status: This matter is going forward.

9. Debtors' Motion for Interim and Final Orders (I) Authorizing the Debtors to Continue Performing Under Certain Shared Services Agreements and Honor Obligations Related Thereto; and (II) Granting Related Relief [[D.I. 17](#); Filed 2/9/2024].

Related Documents:

- A. *Objection of Public Service Company of New Hampshire to (1) Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay Prepetition Claims of Critical Vendors and (II) Granting Related Relief; and (2) Debtors' Motion for Interim and Final Orders (I) Authorizing the Debtors to Continue Performing Under Certain Shared Services Agreements and Honor Obligations Related Thereto; and (II) Granting Related Relief* [[D.I. 46](#); Filed 2/12/2024].

Status: This matter is going forward.

10. Debtors' Motion for Interim and Final Orders (I) Approving Entry into a New Lead Market Participant Agreement and (II) Granting Related Relief [[D.I. 18](#); Filed 2/9/2024].

Related Documents:

- A. Notice of Filing of Exhibit C to the Debtors' Motion for Interim and Final Orders (I) Approving Entry into a New Lead Market Participant Agreement and (II) Granting Related Relief [[D.I. 42](#); Filed 2/12/2024].
- B. *Objection of Public Service Company of New Hampshire to Debtors' Motion for Interim and Final Orders (I) Approving Entry into a New Lead Market Participant Agreement and (II) Granting Related Relief* [[D.I. 44](#); Filed 2/12/2024]

Status: This matter is going forward.

11. Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Maintenance of Bank Accounts and Continued Use of Existing Business Forms and Checks, (II) Authorizing the Continued Use of Existing Cash Management System, (III) Granting Limited Relief from the Requirements of Bankruptcy Code Section 345(b), and (IV) Granting Related Relief [[D.I. 23](#); Filed 2/9/2024].

Status: This matter is going forward.

12. Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Prepetition Secured Parties, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief [[D.I. 33](#); Filed 2/9/2024].

Status: This matter is going forward.

13. Motion of Debtors Pursuant to 11 U.S.C. §§ 105 and 107, Fed. R. Bankr. P. 9018 and De. Bankr. L.R. 9018-1 for Entry of an Order (I) Authorizing Debtors to File Fee Letter Under Seal and (II) Granting Related Relief [[D.I. 37](#); Filed 2/11/2024].

Related Documents:

- A. Notice of Filing of Proposed Redacted Version of the Debtor in Possession Financing Fee Letter [[D.I. 36](#); Filed 2/11/2024].
- B. Notice of Filing of Confidential Fee Letter Under Seal [D.I. 35; Filed 2/11/2024].

Status: This matter will be going forward at a date and time to be determined.

Dated: February 12, 2024
Wilmington, Delaware

/s/ Katharina Earle

Chantelle D. McClamb (No. 5978)
Katharina Earle (No. 6348)
GIBBONS P.C.
300 Delaware Avenue, Suite 1015
Wilmington, Delaware 19801
Telephone: (302) 518-6300
E-mail: cmcclamb@gibbonslaw.com
 kearle@gibbonslaw.com

-and-

Alison D. Bauer (*pro hac vice* pending)
William F. Gray, Jr. (*pro hac vice* pending)
Jiun-Wen Bob Teoh (*pro hac vice* pending)
FOLEY HOAG LLP
1301 Avenue of the Americas, 25th Floor
New York, New York 10019
Telephone: (212) 812-0400
E-mail: abauer@foleyhoag.com
 wgray@foleyhoag.com
 jteoh@foleyhoag.com

Robert K. Malone (*pro hac vice* pending)
Kyle P. McEvelly (*pro hac vice* pending)

GIBBONS P.C.

One Gateway Center
Newark, New Jersey 07102
Telephone: (973) 596-4500
E-mail: rmalone@gibbonslaw.com
kmcevilly@gibbonslaw.com

*Proposed Co-Counsel for Debtors Burgess
BioPower, LLC and Berlin Station, LLC*

-and-

Kenneth S. Leonetti (*pro hac vice* pending)
Christian Garcia (*pro hac vice* pending)
Jonathan Bard (*pro hac vice* pending)

FOLEY HOAG LLP

155 Seaport Boulevard
Boston, Massachusetts 02210
Telephone: (617) 832-1000

E-mail: ksl@foleyhoag.com
cgarcia@foleyhoag.com
ybard@foleyhoag.com

*Proposed Co-Counsel for Debtors Burgess
BioPower, LLC and Berlin Station, LLC*