

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re BURGESS BIOPOWER, LLC, <i>et al.</i> <sup>1</sup>  Debtors.	Chapter 11  Case No. 24-10235 (LSS) (Jointly Administered)  <b>Re: D.I. 22</b>
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**NOTICE OF FILING OF REVISED PROPOSED ORDER (I) AUTHORIZING THE DEBTORS TO REJECT THE POWER PURCHASE AGREEMENT AND OPTION AGREEMENT WITH PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE (D/B/A EVERSOURCE ENERGY) *NUNC PRO TUNC* TO THE PETITION DATE AND (II) GRANTING RELATED RELIEF**

**PLEASE TAKE NOTICE** that, on February 9, 2024, the debtors and debtors in possession in the above-captioned cases filed the *Motion of the Debtors for Entry of an Order (I) Authorizing the Debtors to Reject the Power Purchase Agreement and Option Agreement with Public Service Company of New Hampshire (d/b/a Eversource Energy) Nunc Pro Tunc to the Petition Date and (II) Granting Related Relief* [D.I. 22] (the “Motion”). Attached to the Motion as **Exhibit A** was a proposed form of order approving the relief requested in the Motion (the “Proposed Order”).

**PLEASE TAKE FURTHER NOTICE** pursuant to *the Amended Omnibus Notice of First Day Motions, Rejection Motion, and Hearing Thereon* [D.I. 97] any objections to the relief requested in the Motion were to be filed and served so as to be received by February 20, 2024 at 12:00 p.m. (ET) (the “Objection Deadline”).

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<sup>1</sup> 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.

**PLEASE TAKE FURTHER NOTICE** that, prior to the Objection Deadline, the Debtors received informal comments to the Proposed Order from the United States of America and Public Service Company of New Hampshire filed a formal objection to the Motion.

**PLEASE TAKE FURTHER NOTICE** that attached hereto as **Exhibit A** is a revised proposed form of order (the “Revised Proposed Order”) addressing the informal comments from the United States of America and granting the relief requested in the Motion. For the convenience of the Court and all parties in interest, a blackline of the Revised Proposed Order against the Proposed Order is attached hereto as **Exhibit B**.

**PLEASE TAKE FURTHER NOTICE** that the Debtors intend to seek entry of the Revised Proposed Order at the hearing (the “Hearing”) scheduled for **February 21, 2024 at 9:30 a.m. (ET)** before the Honorable Laurie Selber Silverstein at the United States Bankruptcy Court for the District of Delaware. The Debtors reserve all rights to modify the Revised Proposed Order at or prior to the Hearing.

Dated: February 20, 2024  
Wilmington, Delaware

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

**EXHIBIT A**

**(Revised Proposed Order)**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re

BURGESS BIOPOWER, LLC, *et al.*<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-10235 (LSS)  
(Jointly Administered)

**Re: D.I. 22**

**ORDER (I) AUTHORIZING THE DEBTORS TO REJECT THE POWER PURCHASE AGREEMENT AND OPTION AGREEMENT WITH PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE (D/B/A EVERSOURCE ENERGY) NUNC PRO TUNC TO THE PETITION DATE AND (II) GRANTING RELATED RELIEF**

Upon the *Motion of the Debtors for Entry of an Order (I) Authorizing the Debtors to Reject the Power Purchase Agreement and Option Agreement with Public Service Company of New Hampshire (d/b/a Eversource Energy) Nunc Pro Tunc to the Petition Date and (II) Granting Related Relief* (the “Motion”);<sup>2</sup> and upon the *Declaration of Dean Vomero Pursuant to 28 U.S.C. § 1746 in Support of the Debtors’ Chapter 11 Petitions and First Day Pleadings*; and the Court finding that: (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (c) the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and (d) the Court may enter a final order consistent with Article III of the United States Constitution; and upon the record herein; and after due deliberation thereon; and it appearing that sufficient notice of the Motion has been given and that no other further notice is necessary; and good cause appearing therefor; it is hereby

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<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The PPA and the Option Agreement (collectively, the “Rejected Contract”) is hereby rejected effective as of the commencement of the Chapter 11 cases. For the avoidance of doubt, the Large Generator Interconnection Agreement is not a Rejected Contract.
3. If the Court later determines that the Debtors terminated the Rejected Contract prior to the Petition Date, such termination supersedes the rejection allowed pursuant to this Order.
4. Eversource must file a proof of claim by the later of (i) the date that is thirty (30) days following entry of this Order and (ii) the deadline established for creditors other than governmental units to file proofs of claims in the Chapter 11 Cases.
5. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (i) an admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors’ or any appropriate party in interest’s rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, including with respect to any claim or cause of action that the Debtors may have against Eversource resulting from, among other things, its prepetition breach of the PPA; (iv) an admission that a contract is, in fact, executory and/or not terminated; (v) an approval, assumption, or adoption of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code; or (vi) a waiver or limitation of any of Debtors’ rights under the Bankruptcy Code or any other applicable law.
6. The Debtors are authorized to take all actions that may be necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

7. Eversource is hereby ordered to cooperate with the Debtors to effectuate the rejection of the Rejected Contract, including without limitation by completing and executing any and all forms necessary to transfer the Lead Participant or Lead Market Participant role (as those terms are defined in the PPA and by New England Power Pool or ISO New England Inc. (“ISO-NE”)) for Berlin’s participation in ISO-NE as both an energy and a capacity resource to a new Lead Market Participant of Berlin’s choosing, including but not limited to executing ISO-NE’s Resource Lead Market Participant Change Request form and arranging for transfer of the Lead Participant listed for Berlin within ISO-NE’s online Customer and Asset Management System, and cooperating with Berlin and ISO-NE to effect such transfer.

8. ISO-NE and all applicable government authorities are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion. To the extent provided by Bankruptcy Code section 525, no governmental unit (as defined in Bankruptcy Code section 101(27)) may “deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant” to the Debtors, or any person associated with the Debtors, based on these Chapter 11 Cases. All government recording offices are authorized to accept notices and/or other documents reflecting termination of the Option Agreement.

9. Nothing herein shall relieve, or be construed to have relieved, Eversource of its obligation to attend the multi-day capacity auction that began on February 5, 2024.

10. This Order is effective immediately upon its entry.

11. The Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

**EXHIBIT B**

**(Blackline)**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re

BURGESS BIOPOWER, LLC, *et al.*<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-10235 (LSS)

~~(Joint Administration Requested)~~

~~Ref. Dkt. No. \_\_\_\_\_~~ (Jointly Administered)

Re: D.I. 22

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<b>Summary report:</b>	
<b>Litera Compare for Word 11.3.0.46 Document comparison done on 2/20/2024 1:53:24 PM</b>	
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<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>13</b>