

CHAPTER 340
SB 577 - FINAL VERSION

03/08/2018 0721s
03/08/2018 0884s
3May2018... 1677h
05/23/2018 2079EBA

2018 SESSION

18-2889
10/06

SENATE BILL **577**

AN ACT requiring the public utilities commission to revise its order affecting the Burgess BioPower plant in Berlin, prohibiting the import of certain liquid fuels, and relative to the production of useful thermal energy.

SPONSORS: Sen. Bradley, Dist 3; Sen. Woodburn, Dist 1; Sen. Giuda, Dist 2; Sen. Avard, Dist 12; Rep. Theberge, Coos 3; Rep. Y. Thomas, Coos 3; Rep. Chandler, Carr. 1

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill:

I. Requires the public utilities commission to reopen a proceeding to revise to its order affecting the Burgess BioPower plant in Berlin.

II. Prohibits the import of certain liquid fuels and prohibits the sale of such fuels in 2019.

III. Changes the inclusion in electric renewable energy class I for methane gas.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struck through~~]
regular type. Matter which is either (a) all new or (b) repealed and reenacted appears in

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT requiring the public utilities commission to revise its order affecting the Burgess BioPower plant in Berlin, prohibiting the import of certain liquid fuels, and relative to the production of useful thermal energy.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 340:1 Findings. The general court finds that the continued operation of the Burgess
2 BioPower plant in Berlin is important to the energy infrastructure of the state of New
3 Hampshire and important for the attainment of renewable energy portfolio standard
4 goals of fuel diversity, capacity, and sustainability.

5 340:2 Public Utilities Commission; Proceedings; Authority to Amend Order.
6 Notwithstanding any other provision of the law to the contrary, the public utilities
7 commission shall reopen its Docket DE 10-195 and forthwith revise its Order No. 25,213
8 in the following manner:

9 I. Suspension of Operation of Cap. The public utilities commission shall amend
10 its Order No. 25,213 (Docket DE 10-195) to suspend the operation of the cap on the
11 cumulative reduction factor as set forth on page 97 of its Order for a period of 3 years
12 from the date the operation of the cap would have otherwise taken effect.

13 II. During the proceedings the Burgess BioPower plant shall, upon request, make
14 their cost and profitability records available to the public utilities commission, which
15 records shall be exempt from public disclosure under RSA 91-A:5, IV.

16 340:3 Sulphur Limits; Import Prohibited. Amend RSA 125-C:10-d to read as follows:
17 125-C:10-d Sulfur Limits of Certain Liquid Fuels.

18 I. *No person shall import into the state any of the following liquid fuels:*

19 (a) *No. 2 oil, also referred to as distillate oil, with a sulfur content greater*
20 *than 0.0015 percent by weight;*

21 (b) *No. 4 oil with a sulfur content greater than 0.25 percent by weight; or*

22 (c) *Nos. 5 or 6 oil, also referred to as residual oil, with a sulfur content greater*
23 *than 0.5 percent by weight.*

24 II. *Beginning on February 1, 2019 and continuing thereafter, no person shall sell,*
25 *offer for sale, supply, distribute for sale or use, except for fuel remaining in storage for a*
26 *device not requiring a permit pursuant to RSA 125-C:11, any of the following liquid fuels:*

27 (a) *No. 2 oil, also referred to as distillate oil, with a sulfur content greater*

CHAPTER 340
SB 577 - FINAL VERSION
- Page 2 -

1 than 0.0015 percent by weight;

2 (b) No. 4 oil with a sulfur content greater than 0.25 percent by weight; or

3 (c) Nos. 5 or 6 oil, also referred to as residual oil, with a sulfur content greater
4 than 0.5 percent by weight.

5 [H] III. The commissioner may temporarily allow the use of non-conforming fuels
6 with respect to paragraph [I] II if there is a demonstrated need to do so based on an
7 acute shortage of supply.

8 340:4 Electric Renewable Energy Classes; Useful Thermal Energy. Amend RSA 362-
9 F:4, I(e) to read as follows:

10 (e) Methane gas *if the methane gas energy output is in the form of useful*
11 *thermal energy provided that the unit began operation after January 1, 2013.*

12 340:5 Effective Date.

13 I. Section 3 of this act shall take effect July 1, 2018 at 12:01 a.m.

14 II. Section 4 of this act shall take effect 60 days after its passage.

15 III. The remainder of this act shall take effect July 1, 2018.

Approved: June 28, 2018

Effective Date:

I. Section 3 shall take effect July 1, 2018 at 12:01 a.m.

II. Section 4 shall take effect August 27, 2018.

III. Remainder shall take effect July 1, 2018.

COMMITTEE REPORT

Committee:	Science, Technology and Energy
Bill Number:	SB 577
Title:	(New Title) requiring the public utilities commission to consider its order affecting the Burgess BioPower plant in Berlin, prohibiting the import of certain liquid fuels, and relative to the production of useful thermal energy.
Date:	May 2, 2018
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2018-1677h

STATEMENT OF INTENT

This bill, as amended, has three separate parts. Part I requires the Public Utilities Commission to suspend the operation of the cap on the cumulative reduction factor for the Burgess BioPower plant. Part II prohibits the import of certain liquid fuels and prohibits the sale of such fuels in 2019. Part III changes the requirements for inclusion in class I of the Renewable Portfolio Standard (RPS) for methane gas. Due to unexpected and continued very low natural gas prices and without the three year suspension noted in Part I, Burgess would be forced to shut down sometime in 2020. This would have affected the state's electrical capacity and fuel diversity situation in addition to numerous lost jobs in related fields. The extra time is needed to secure a more permanent solution to protect our energy infrastructure. Part II ensures that by 2019 fuel oil above the allowable sulfur content is no longer sold, delivered, or used in the state, except for quantities left in storage tanks. Part III allows methane gas energy in the form of useful thermal energy produced by facilities beginning operation after 2013 to be included in Class I of the RPS statute.

Vote 19-1.

Rep. Douglas Thomas
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Science, Technology and Energy

SB 577, (New Title) requiring the public utilities commission to consider its order affecting the Burgess BioPower plant in Berlin, prohibiting the import of certain liquid fuels, and relative to the production of useful thermal energy. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Douglas Thomas for Science, Technology and Energy. This bill, as amended, has three separate parts. Part I requires the Public Utilities Commission to suspend the operation of the cap on the cumulative reduction factor for the Burgess BioPower plant. Part II prohibits the import of certain liquid fuels and prohibits the sale of such fuels in 2019. Part III changes the requirements for inclusion in class I of the Renewable Portfolio Standard (RPS) for methane gas. Due to unexpected and continued very low natural gas prices and without the three year suspension noted in Part I, Burgess would be forced to shut down sometime in 2020. This would have affected the state's electrical capacity and fuel diversity situation in addition to numerous lost jobs in related fields. The extra time is needed to secure a more permanent solution to protect our energy infrastructure. Part II ensures that by 2019 fuel oil above the allowable sulfur content is no longer sold, delivered, or used in the state, except for quantities left in storage tanks. Part III allows methane gas energy in the form of useful thermal energy produced by facilities beginning operation after 2013 to be included in Class I of the RPS statute. Vote 19-1.

Original: House Clerk
Cc: Committee Bill File



State of
New Hampshire

HOUSE RECORD

Second Year of the 165th General Court

Calendar and Journal of the 2018 Session

Web Site Address: www.gencourt.state.nh.us

Vol. 40

Concord, N.H.

Thursday, May 3, 2018

No. 16

HOUSE JOURNAL NO. 15 (Cont'd)

Wednesday, May 2, 2018

Rep. Hinch moved that the House adjourn.
Motion adopted.

HOUSE JOURNAL NO. 16

Thursday, May 3, 2018

The House assembled at 9:30 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by Guest Chaplain, Reverend Patricia Marsden of Newmarket Community Church. Please join me in a Spirit of Prayer: Gracious God, we thank You for the opportunity to serve Your people and ask that You guide us to do so with grace, humility, and compassion. Help us to remember that we stand on the shoulders of those who came to serve NH people before us as we set out today and pave the way for those who will come after us. Yes, our time here is temporary, and we ask that in all things You help us to seek Your will and act justly, love kindness, and walk humbly. With You, all things are possible, dear God; if only we remember to seek to understand one another more than to be understood. Help us to humbly follow Your lead in all things, particularly when solutions seem to allude us and we become impatient with ourselves and each other. Strengthen us and help us to cross the lines that divide us and offer our best in all things for the people of NH, so that we truly can be Your hands and feet in this hurting world. When we are challenged and it seems like solutions are beyond our reach, may we keep sight of Your gift of hope in all things. For we know, every man and woman here has their own personal worries, concerns and the challenges of everyday life; and ask that You please grant them peace to settle their hearts and do the work You have called them to do with ease, reminding each person here that they are Your beloved and that they are never alone. Amen.

Representative Dennis Fields, member from Sanbornton, led the Pledge of Allegiance.

The National Anthem was sung by the member from Keene, Representative Gladys Johnsen.

LEAVES OF ABSENCE

Reps. Alicea, Barry, Cleaver, Cote, Henle, Howard, Krans, Stephen Schmidt, Silber, Robert Walsh and Wells, the day, illness.

Reps. Chase, Cornell, Friel, Halstead, Leishman, Phinney, Gregory Smith, Stone, Testerman, Woitkun and Woolpert, the day, important business.

Rep. Murotake, the day, illness in the family.

INTRODUCTION OF GUESTS

Jill Kimball and Ed Shanshala, guests of Rep. Hennessey. Carolyn Sooner and Edna Bernier, guests of Rep. Schultz. Jackie Grote and Richard Furber guests of Rep. Murray. Richard Dowd, guest of Rep. O'Brien. The Girls Rock the Capitol Group, Girl Scouts of Green and White mountains, guests of the Women Legislators. Students from Green Valley School, guests of the Merrimack County Delegation. Fourth grade students from Epsom Central School, guests of Reps. McGuire and Klose.

REGULAR CALENDAR CONT'D

SPECIAL ORDER

SB 189-FN, requiring insurance policies to cover 3-D mammography. **MAJORITY: REFER FOR INTERIM STUDY. MINORITY: OUGHT TO PASS.**

L'Heureux, Robert
Lisle, David
Martin, Joelle
O'Brien, Michael
Ober, Russell
Sanborn, Laurie
Somero, Paul
Vann, Ivy

Lascelles, Richard
MacKenzie, Mark
Martineau, Jesse
O'Leary, Richard
Roberts, Carol
Seidel, Carl
Smith, Timothy
Williams, Kermit

LeBrun, Donald
Mangipudi, Latha
McNamara, Richard
Long, Patrick
Rosenwald, Cindy
Shaw, Barbara
Wolf, Terry

Lewicke, John
Manley, Jonathan
Newman, Sue
Pierce, David
Harvey, Suzanne
Sofikitis, Catherine
Van Houten, Connie

MERRIMACK

Turcotte, Alan
Doherty, David
Kenison, Linda
Richards, Beth
Schultz, Kristina
Wallner, Mary Jane

Bartlett, Christy
Gile, Mary
Luneau, David
Rodd, Beth
Shurtleff, Stephen
Walz, Mary Beth

Carson, Clyde
Moffett, Howard
Myler, Mel
Rogers, Katherine
Soucy, Timothy

Long, Douglas
MacKay, James
Patten, Dick
Schuett, Dianne
Walsh, Thomas

ROCKINGHAM

Abrami, Patrick
Bove, Martin
Costable, Michael
DiLorenzo, Charlotte
Francese, Paula
Janigian, John
Lovejoy, Patricia
Matthews, Carolyn
Messmer, Mindi
Gordon, Pamela
Somssich, Peter
Vose, Michael

Altschiller, Debra
Cahill, Michael
Cushing, Robert Renny
Edgar, Michael
Gilman, Julie
O'Connor, John
Pearson, Mark
McBeath, Rebecca
Milz, David
Packard, Sherman
Sytek, John
Ward, Gerald

Barnes, Arthur
Cali-Pitts, Jacqueline
Thomas, Douglas
Elliott, Robert
Hoelzel, Kathleen
Khan, Aboul
Major, Norman
McKinney, Betsy
Murray, Kate
Pantelakos, Laura
Le, Tamara
Webb, James

Berrien, Skip
Chirichiello, Brian
DeSimone, Debra
Farnham, Betsey
Edwards, Jess
Lerner, Kari
Malloy, Dennis
McMahon, Charles
Nigrello, Robert
Read, Ellen
Tripp, Richard

STRAFFORD

Berube, Roger
Conley, Casey
Grassie, Chuck
Mullen, John
Sandler, Catt
Wall, Janet

Bixby, Peter
Fontneau, Timothy
Horrigan, Timothy
Opderbecke, Linn
Southworth, Thomas

Burton, Wayne
Frost, Sherry
Keans, Sandra
Schmidt, Peter
Spang, Judith

Cilley, Jacalyn
Gourgue, Amanda
Smith, Marjorie
Salloway, Jeffrey
Vincent, Kenneth

SULLIVAN

Cloutier, John
Irwin, Virginia

Gagnon, Raymond
Oxenham, Lee

Gottling, Suzanne
Sullivan, Brian

Grenier, James
Tanner, Linda

and floor amendment (1826h) failed.

Committee report adopted and ordered to third reading.

SB 577, requiring the public utilities commission to consider its order affecting the Burgess BioPower plant in Berlin, prohibiting the import of certain liquid fuels, and relative to the production of useful thermal energy. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Douglas Thomas for Science, Technology and Energy. This bill, as amended, has three separate parts. Part I requires the Public Utilities Commission to suspend the operation of the cap on the cumulative reduction factor for the Burgess BioPower plant. Part II prohibits the import of certain liquid fuels and prohibits the sale of such fuels in 2019. Part III changes the requirements for inclusion in class I of the Renewable Portfolio Standard (RPS) for methane gas. Due to unexpected and continued very low natural gas prices and without the three year suspension noted in Part I, Burgess would be forced to shut down sometime in 2020. This would have affected the state's electrical capacity and fuel diversity situation in addition to numerous lost jobs in related fields. The extra time is needed to secure a more permanent solution to protect our energy infrastructure. Part II ensures that by 2019 fuel oil above the allowable sulfur content is no longer sold, delivered, or used in the state, except for quantities left in storage tanks. Part III allows methane gas energy in the form of useful thermal energy produced by facilities beginning operation after 2013 to be included in Class I of the RPS statute. Vote 19-1.

Amendment (1677h)

Amend the title of the bill by replacing it with the following:

AN ACT requiring the public utilities commission to revise its order affecting the Burgess BioPower plant in Berlin, prohibiting the import of certain liquid fuels, and relative to the production of useful thermal energy.

Amend the bill by replacing sections 1 and 2 with the following:

PLEASE COMPLETE ALL SHADED AREAS IN THE WORKSHEET. IF YOU HAVE ANY QUESTIONS, PLEASE REFER TO THE LBA GUIDELINES FOR FISCAL NOTE WORKSHEETS OR CONTACT OUR OFFICE (271-3161).

Agency Name:	Public Utilities Commission
LSR #:	18-2889
Bill #:	SB 577
Amendment #(s):	2018-0721s

Date of LBA Request	03/09/2018
Date Due to LBA	ASAP
Date Sent to LBA	04/05/18
Corrected Worksheet?	No

A. Fiscal Impact Summary

- Specify the total impact on revenues and expenditures for each level of government and fund(s) impacted.
- Only the *incremental change* from the current law or budget should be included.
- If there is no fiscal impact, enter a zero (“\$0”). If the fiscal impact cannot be estimated, enter “Indeterminable” (with a range if possible) and indicate if the impact may increase or decrease revenues or expenditures.
- The amounts in the table below should correspond with the calculations in Section C of this worksheet.
- Decreases should be presented within parenthesis.
- If there is a fiscal impact before or after FY 2019 through FY 2022, please include in section C.
- Provide account/fund for revenue impacts and/or source of funds for estimated expenditures (i.e., general fund, highway fund, federal funds, name of restricted dedicated fund, etc.)

	FY 2019	FY 2020	FY 2021	FY 2022
State Revenues	\$0	\$0	\$0	\$0
<i>Revenue Account Fund</i>	<i>Account Fund</i>	<i>Account Fund</i>	<i>Account Fund</i>	<i>Account Fund</i>
State Expenditures	Indeterminate	Indeterminate	Indeterminate	Indeterminate
<i>Source of Funds</i>	<i>Source</i>	<i>Source</i>	<i>Source</i>	<i>Source</i>

County Revenues	\$0	\$0	\$0	\$0
County Expenditures	indeterminate	indeterminate	indeterminate	indeterminate

Local Revenues	indeterminate	indeterminate	indeterminate	indeterminate
Local Expenditures	indeterminate	indeterminate	indeterminate	indeterminate

B. Assumptions

- Clearly explain your understanding of the proposed legislation, how it would be implemented or impact current operations, and any other important cost-related assumptions.
- Assumptions should be clear and not chosen to influence one’s opinion of the proposed legislation.
- Assumptions used should relate directly to your agency’s estimate of the fiscal impact on the revenues, expenditures, or fiscal liability of the state, or a city, town or county.

Sections 1 and 2 of this amended Bill deal with the Burgess BioPower plant in Berlin. Section 3 covers sulfur limits for certain liquid fuels regulated by the Department of Environmental Services (DES). Section 4 clarifies that certain methane gas energy output may qualify as useful thermal energy and be eligible for renewable energy certificates under RSA 362-F. DES is submitting a separate Fiscal Impact Statement Worksheet for Section 2. This worksheet will cover Sections 1, 2 and 4.

The sections dealing with the Burgess BioPower plant (Burgess) instruct the Public Utilities Commission (PUC) to consider whether to raise the level of the cumulative reduction factor in the contract between Eversource and Burgess. If the cumulative reduction factor were higher it would allow Burgess to continue to charge Eversource for its output which would increase Eversource's costs related to the contract. Because the costs of the Burgess contract are paid by Eversource's customers, if such an increase occurred it would increase costs to customers above the \$100 million cap on the energy component of the contract currently in effect. To the extent that the State, Counties and Local Governments are Eversource ratepayers, increasing the cumulative reduction fund would increase their electricity bills as all over-market costs associated with the contract are recovered through the stranded cost reduction charge. Because it is not possible to know the outcome of a future PUC docket, such increases are speculative and therefore the impact on costs is indeterminate.

If the PUC were to raise the cumulative reduction factor, that could potentially allow the Burgess plant to operate longer than under the current contract. Increased operation would likely increase plant value and potentially increase local tax revenues. Because such an increase in tax revenues is speculative, we have indicated that the effect on local revenues is indeterminate.

Under this amendment, eligible facilities using methane gas to produce useful thermal energy would create Class I Thermal renewable energy certificates (RECs), thereby increasing the supply of Class I Thermal RECs. That increase in Class I Thermal REC supply would help New Hampshire meet its renewable portfolio standard (RPS) goals and could put downward pressure on Class I Thermal REC prices. REC prices are included in electricity rates, and therefore impact the costs to State, County and Federal governmental units, to the extent they are electricity consumers. We cannot predict the amount of these cost impacts and therefore have indicated that cost impacts are indeterminate.

C. Calculations and Methodology

- Using the assumptions provided in Section B, calculate the estimated fiscal impact of the proposed legislation.
- Calculations should be detailed with the methodology clearly stated.
- If calculating position costs please use and attach the appropriate position cost calculator worksheet found [here](#).
- If the fiscal impact is zero (\$0) or indeterminable, please explain why.
- The calculations for FY 2019 through FY 2022 should agree with summary table in Section A. **Please also include information on fiscal impacts estimated outside of this period in this section.**

See discussion in Section B above.

D. Technical or Mechanical Defects

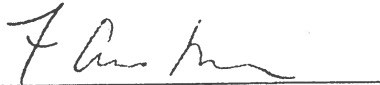
- Identify any conflicts between this bill and current law, either state or federal, and identify possible technical errors. This information is provided to the Office of Legislative Services where it is evaluated and may be discussed with the bill's sponsor.
- If no technical or mechanical defects are identified, please state "None Identified" below.
- Do not comment on the merits of the legislation.

To the extent this bill directs the Commission to amend the terms of the existing contractual relationship between the owner of the Burgess Biomass facility and the regulated electric distribution utility, it may interfere with the contracting parties' rights and lead to claims that it improperly deprives the parties of vested contractual benefits.

E. Fiscal Note Worksheet Contact Information

Prepared by:
F. Anne Ross
NHPUC General Counsel

Approved by:



F. Anne Ross
NHPUC General Counsel
603-271-6005
F.anne.ross@puc.nh.us

LBAO
18-2889
Amended 4/6/18

SB 577 FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENTS #2018-0721s and #2018-0884s)

AN ACT requiring the public utilities commission to consider its order affecting the Burgess BioPower plant in Berlin, prohibiting the import of certain liquid fuels, and relative to the production of useful thermal energy.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2019	FY 2020	FY 2021	FY 2022
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input checked="" type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Various Governmental Funds			

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

The Public Utilities Commission (PUC) indicates sections 1 and 2 of the bill concerning the Burgess BioPower plant (Burgess) instruct the PUC to consider whether to raise the level of the cumulative reduction factor in the contract between Eversource and Burgess. If the cumulative reduction factor were higher it would allow Burgess to continue to charge Eversource for its output which would increase Eversource's costs related to the contract. Because the costs of the Burgess contract are paid by Eversource customers, if such an increase occurred it would increase costs to customers above the \$100 million cap on the energy component of the current contract. To the extent that the state, county and local governments are Eversource ratepayers, increasing the cumulative reduction fund would increase their electricity bills as all over-market costs associated with the contract are recovered through the stranded cost reduction charge. Because it is not possible to know the outcome of a future PUC docket, such increases are speculative and therefore the impact on costs is indeterminable. If the PUC were to raise

the cumulative reduction factor, it could potentially allow the Burgess plant to operate longer than under the current contract. Increased operation would likely increase plant value and potentially increase local tax revenues. Because such an increase in tax revenues is speculative, the effect on local revenues is indeterminable.

The PUC states section 4 of the bill clarifies that certain methane gas energy output may qualify as useful thermal energy and be eligible for renewable energy certificates under RSA 362-F. Eligible facilities using methane gas to produce useful thermal energy would create Class I Thermal renewable energy certificates (RECs), thereby increasing the supply of Class I Thermal renewable energy certificates. That increase in Class I Thermal REC supply would help New Hampshire meet its renewable portfolio standard goals and could put downward pressure on Class I Thermal REC prices. REC prices are included in electricity rates, and therefore impact the costs to state, county and local governmental units, to the extent they are electricity consumers. The amount of these cost impacts are indeterminable.

The Department of Environmental Services indicates section 3 of the bill prohibits the import of certain liquid fuels and prohibits the sale of such fuels in 2019. It is the Department's understanding, based on information from fuel suppliers, there would be no significant price differential once low sulfur fuel was implemented throughout the northeast region, which will happen in July 2018.

AGENCIES CONTACTED:

Public Utilities Commission and Department of Environmental Services

HOUSE COMMITTEE ON SCIENCE, TECHNOLOGY AND ENERGY

PUBLIC HEARING ON SB 577

BILL TITLE: (Second New Title) requiring the public utilities commission to revise its order affecting the Burgess BioPower plant in Berlin, prohibiting the import of certain liquid fuels, and relative to the production of useful thermal energy.

DATE: April 11, 2018

LOB ROOM: 304

Time Public Hearing Called to Order: 3:16 PM

Time Adjourned: 5:40 PM

Committee Members: Repr. Barry, Richardson, D. Thomas, Murotaka, Vadney, Notter, Aldrich, Vose, Ammon, B. Kach, G. Smith, Merner, Backus, Cali-Pitts, S. Harvey, Mann, H. Moffett, Shepardson, Oxenham, Somssich and Vincent

Bill Sponsors:

Sen. Bradley
Sen. Avard
Rep. Chandler

Sen. Woodburn
Rep. Theberge

Sen. Giuda
Rep. Y. Thomas

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Sen Jeb Bradley, prime sponsor - Introduced the bill. Contains a ratepayers protection clause. Cap will soon be reached by Burgess plant. Reviews criteria PUC would need to consider.

Q: Rep. Michael Vose -Clarify the consideration cap part; does PUC need to come back to legislature?

A: Doesn't need legislature but it defines public interest.

Q: Rep. Jacqueline Cali Pitts - What is impact to ratepayers?

A: Depends upon PUC outcome and market.

Q: Rep. Jim Webb - Does methane gas part apply to Anheuser-Busch?

A: No.

Q: Rep. Marjorie Shepardson - Why is date after 2013?

A: To maintain consistency with other legislation.

Q: Rep. Troy Merner - Contract 5 years ago was for 20 years, why the need?

A: Non-negotiable price has driven the market to reach cap much sooner.

Q: Rep. Cali Pitts - Why do we need bill?

A: Thought best to include public interest to nudge PUC.

Sen. Jeff Woodburn- Supports. Relates importance of industry.

Rep. Edith Tucker, Randolph - Supports. Sees this as survival of Coos County. Would like amendment to include rest of Coos County and not just Berlin.

Mike Fitzgerald & Bob Scully, DES & Energy Markets of NH - Both support. Discussed low sulfur portion of the bill and why moving effective date is needed. Gives more time to get tanks flushed down to allow low-sulphur oil in.

***Paul Gremer, Mayor, City of Berlin** - Supports. See written testimony. Recites how Burgess plant helped to revitalize Berlin.

Maurice Kreis, OCA - Opposes bill reluctantly. Bill will increase electric costs to ratepayers. Would rather see a bill that forces Burgess to prove what is needed to keep the plant open. Question is really to know how much is needed to keep open.

Q: Rep. Cali Pitts - Do you know what cost impact?

A: No.

Q: Rep. Herb Vadney - Should Burgess open their books before bill passed?

A: I would agree.

Tom Culantuono, Jim Bianco, Brian Gottlob & Dammon Frecker, Burgess BioPower Plant - All Support bill. Maintains that bill states keeping Burgess open is in public interest. Plant is needed to meet RPS goals. No new subsidies needed.

Q: Rep. Doug Thomas - What would you recommend to the PUC?

A: Not sure, probably to raise cap.

Q: Rep. Vadney - How can we make decision without data?

A: Brian Gottlob - Will speak to that. Cites critical questions for legislators: more jobs lost vs. cost to benefits, jobs greatly exceed; Natural gas prices hit 30 year low; estimates cost of \$19 to 25/year for residential customer. Impact on ratepayers addressed. Benefits outweigh costs? Believes pretty clear. Burgess is 4th largest electricity producer in state.

Q: Rep. Cali Pitts - Who owns Burgess?

A: Various investors.

Q: Domestic or international?

A: Need to check.

Q: Rep. Richardson - Cost to ratepayers?

A: \$19 to \$25 /year for residential customers

Q: Rep. Thomas - How far is wood sourced?

A: As far as southern NH and much further economically. Bianco has language to share that could give more authority to legislature to obtain more data.

Huck Montgomery & Mark Saltzman, Liberty Utilities - Support. Reference methane gas part of bill. See Written testimony. Would save some money for ratepayers because bill would decrease the ACP Comes from landfill gas and waste

water sludge brought up to standards. TREC's discount is 35% less Alternative Compliance Payment (ACP) (.35 X \$25) saving of about \$3.9 M over ten years.

Ken Robbins, Consolidated Waste Systems - Supports. Landfill gas is about 50% methane. Currently flowing 4MW of gas. That's wasted energy. See Written testimony.

Q: Rep. Bill Kuch - How long can landfill produce gas?

A: At least 15-20 years after last fill.

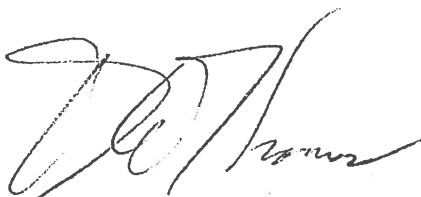
Joe Darling, RUDARPA - Supports. Relative to methane gas portion; recovers methane from various sources. See written testimony Request by Chairman to provide full contact information.

Shelagh Connelly, RMI, Holderness - Supports. Consider all the other smaller boilers that use wood.

Tom Frantz, & Anne Ross, PUC - No position; only taking questions. Cumulative reduction only applies to energy portion, not RECs. If bill passes, does it give PUC a go ahead to raise rates more than they otherwise do? Answer: Can't prejudge. This is a bit different and won't go quickly. Anticipates a contested proceeding. Public interest is generally no larger than state of NH, but depends on bill language. Chair suggests a word change to bill to have PUC decide "if" its in the public interest to act.

Blue Sheet: Pro, 10; Con, 3

Respectfully Submitted:

A handwritten signature in black ink, appearing to read "Doug Thomas". The signature is stylized and cursive.

Doug Thomas, Clerk

Roberge, Griffin

From: Kreis, Donald <Donald.Kreis@oca.nh.gov>
Sent: Monday, February 19, 2018 8:38 PM
To: 'Jeb Bradley'; Avard, Kevin; Innis, Dan; daninnis@mac.com; martha.fuller.clark@leg.state.nh.us; Feltes, Dan; danfeltes@gmail.com
Cc: Roberge, Griffin
Subject: SB 577, An act requiring the public utilities commission to consider its order affecting the Burgess BioPower plant in Berlin.

Dear Senator Avard and other distinguished members of the Committee on Energy and Natural Resources:

I am writing to let you know that it appears I will be unable to attend tomorrow morning's hearing on SB 577. I learned today that I need to be in court tomorrow morning (in connection with a criminal matter unrelated to my work as Consumer Advocate -- one in which I am the victim). I apologize that personal matters will keep me from testifying.

If I were to testify, I would state that the Office of the Consumer Advocate (OCA) neither supports nor opposes the bill. As each of you is aware, the only possible outcome of a proceeding in which the Public Utilities Commission (PUC) increases the cap on the cumulative reduction factor beyond that which was approved in Order No. 25,213 would be to increase the extent to which default service customers of Eversource New Hampshire pay a subsidy to the Burgess BioPower facility in Berlin.

Since I became Consumer Advocate in 2016, I have done my best to avoid supporting initiatives that would force the residential utility customers whose interests the OCA represents to pay for public policy initiatives that are not related to providing safe and reliable utility service at the lowest possible cost. There may well be sound public policy reasons to keep Burgess BioPower in business even if, as SB 577 implies, the facility cannot succeed financially unless it continues to receive revenue beyond what the markets for energy, capacity and renewable energy credits would provide. As the bill suggests, there are jobs, tax revenues and renewable energy resources at stake.

It is not for me to determine whether the value of those public policy benefits exceeds any subsidy to be provided by ratepayers. Should SB 577 become law, I would consider it my duty as Consumer Advocate to assure that there is a full and fair record concerning ratepayer impacts before the PUC -- and that there is skeptical scrutiny of any contentions that the plant cannot survive without subsidies beyond those authorized by Order No. 25,213. We would also strive to assure that the PUC has before it a record that allows an assessment of the implications of PSNH having fully transitioned to competitive procurement of default service -- something that was still several years in the future when Order No. 25,213 was issued.

I recommend that any legislation ultimately adopted on this subject provide guidance to the PUC that is as clear and specific as possible. Often, the adjudicative process used by the PUC is well-suited to resolving contentious questions -- but this is one situation in which I believe the opposite is true. The right answer here will turn not so much on factual evidence but on policy judgments that elected officials are especially well-qualified to make.

If I can be of additional service in helping you or your colleagues to assess the implications of SB 577 for residential customers of Eversource New Hampshire, please do not hesitate to call on me. Again, my apologies for being unable to attend tomorrow's hearing; please, if possible, make this communication a part of the hearing record.

Sincerely,

/s/ Don

**D. Maurice Kreis
Consumer Advocate**

**Office of Consumer Advocate
21 South Fruit Street, Suite 18
Concord, New Hampshire 03301
donald.kreis@oca.nh.gov
603.271.1174 (direct line)**
