

**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)  Ref. Dkt. No. 18, 42, 113
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**INTERIM ORDER ON THE MOTION OF THE DEBTORS FOR AN ORDER  
(I) APPROVING ENTRY INTO A NEW LEAD MARKET PARTICIPANT  
AGREEMENT AND (II) GRANTING RELATED RELIEF**

Upon the *Motion of the Debtors for Interim and Final Orders (I) Approving Entry into a New Lead Market Participant Agreement 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) venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; (d) on February 21, 2024, this Court held an interim hearing (the “Hearing”) on the Motion following proper notice in accordance with Bankruptcy Rules 2002, 4001(b), (c), and (d), and all applicable Local Rules; and (e) it appearing that approval of the interim relief is necessary for the Debtors and their estates pending a final Hearing on the Motion (“Final Hearing”), and is otherwise is fair and reasonable and in the best interests of the Debtors, their estates, and all parties in interest,

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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.

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

and is essential for the continued operation of the Debtors' businesses and the maximization of the value of the Debtors' assets; and upon the record herein, including the findings this Court made at the Interim Hearing, this Court having determined that good cause exists to grant the relief requested in the Motion; it is hereby

ORDERED THAT:

1. The Motion is GRANTED on an interim basis, as set forth herein.
2. The Debtors are authorized to enter into a Lead Market Participant Services agreement with CS Berlin Ops or such other party consented to by the Senior Secured Noteholders and DIP Lenders in substantially the form of the Agreement attached to the Motion as **Exhibit C** (the "Agreement") and to sell their Products (as defined in the PPA) in and on any available market, notwithstanding any provisions of the PPA, until this Court adjudicates the Motion on a final basis.
3. In light of entry of this Interim Order and this Court's order rejecting the PPA and the Option Agreement, ISO New England Inc. and all applicable government authorities are authorized to take all actions necessary and/or appropriate to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion, including, without limitation transfer of the Lead Market Participant designation for the Debtors' energy and capacity assets. 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.
4. Nothing contained herein is or should be construed as: (a) an admission as to the validity of any claim against the Debtors or the existence of any lien against the Debtors' property; (b) a waiver of the Debtors' rights to dispute any claim or lien on any grounds; (c) a promise to

pay any claim; (d) an implication or admission that any particular claim would constitute an allowed claim; (e) an assumption or rejection of any executory contract or unexpired lease pursuant to Section 363 of the Bankruptcy Code; (f) a waiver of any rights, claims, causes of action and defenses the Debtors have or may have related to Eversource; or (g) a limitation on the Debtors' rights under Section 365 of the Bankruptcy Code to assume or reject any executory contract with any party subject to the Proposed Orders once entered. Nothing contained herein shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect any claim to the extent it is not paid.

5. The requirements set forth in Rule 6004(a) of the Bankruptcy Rules are hereby waived.

6. The requirements set forth in Rule 6003(b) of the Bankruptcy Rules are satisfied because the relief set forth in this Interim Order is necessary to avoid immediate and irreparable harm.

7. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion.

8. This Interim Order is effective immediately upon its entry.

9. The hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held **on March 13, 2024 at 2:30 p.m. (prevailing Eastern Time)**. Any objections or responses to the entry of a final order on the Motion shall be filed on or **before 4:00 p.m. (prevailing Eastern Time) on March 6, 2024** and shall be served on: (a) the Debtors, c/o CS Operations, Inc., 631 US Hwy 1, #300, North Palm Beach, FL 33408, Attn: Dean Vomero; (b) Foley Hoag, 1301 Avenue of the Americas, 25<sup>th</sup> Floor, New York, New York 10019, Attn: Alison Bauer, Esq. (abauer@foleyhoag.com) and Jiun-Wen Bob Teoh, Esq. (jteoh@foleyhoag.com), and

155 Seaport Boulevard, Boston, Massachusetts 02210, Attn: Kenneth S. Leonetti, Esq. (ksl@foleyhoag.com); (c) Gibbons, P.C., 300 Delaware Ave., Suite 1015, Wilmington, Delaware 19801, Attn: Chantelle D. McClamb, Esq. (cmcclamb@gibbonslaw.com), and One Gateway Plaza, Newark, New Jersey, 07102, Attn: Robert K. Malone, Esq. (rmalone@gibbonslaw.com); (d) the Office of the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware; 19801, Attn: Jane M. Leamy, Esq. (jane.m.leafy@usdoj.gov); (e) counsel to the DIP Lenders and the Senior Secured Noteholders, Greenberg Traurig, LLP, One International Place, Suite 2000, Boston, MA 02110, Attn: Julia Frost-Davies (julia.frostdavies@gtlaw.com), and 222 Delaware Avenue, Suite 1600, Wilmington, Delaware 19801, Attn: Dennis Meloro (melorod@gtlaw.com); and (f) counsel to any statutory committee appointed in these Chapter 11 cases. In the event no objections to entry of the Final Order on the Motion are timely received, this Court may enter such Final Order without need for the Final Hearing.

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

**Dated: February 28th, 2024**  
**Wilmington, Delaware**

  
**LAURIE SELBER SILVERSTEIN**  
**UNITED STATES BANKRUPTCY JUDGE**