

**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)
(Jointly Administered)

**AMENDED² NOTICE OF AGENDA OF MATTERS SCHEDULED FOR HEARING ON
FEBRUARY 27, 2024 AT 2:00 P.M. (ET) BEFORE
THE HONORABLE LAURIE SELBER SILVERSTEIN
824 N. MARKET STREET, 6TH FLOOR, COURTROOM NO. 2**

This hearing will be conducted in-person, any exceptions must be approved by chambers.

**Parties may observe the hearing remotely by registering with the link below no later than
February 27, 2024 at 2:00 p.m. (ET).**

To attend a hearing remotely, please register using the eCourtAppearance tool available at
(<https://ecf.deb.uscourts.gov/cgi-bin/nysbAppearances.pl>) or on the court's website at
www.deb.uscourts.gov.

After the deadline has passed, an electronic invitation with the relevant audio or video link will be
emailed to you prior to the hearing.

FIRST DAY MOTIONS GOING FORWARD ON AN INTERIM BASIS

1. 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].

Objection Deadline: February 20, 2024 at 12:00 p.m. (ET)

Responses Received: None.

Related Documents: None.

Status: This matter is going forward.

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 Bold.**

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

Objection Deadline: February 20, 2024 at 12:00 p.m. (ET)

Responses Received: None.

Related Documents: None.

Status: This matter is going forward.

3. 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].

Objection Deadline: February 20, 2024 at 12:00 p.m. (ET)

Responses Received:

- 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].

Related Documents:

- A. Motion of the Debtors for Leave to File Debtors' Reply in Response to the 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. [114](#); Filed 2/20/2024].
- B. Declaration of Dean Vomero In Support of the Debtors' Reply in Response to the 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. [117](#); Filed 2/20/2024].

- C. Notice of Filing of Revised Proposed Interim and Final Orders for the 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. [134](#); Filed 2/20/2024].

Status: This matter is going forward.

4. 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].

Objection Deadline: February 20, 2024 at 12:00 p.m. (ET)

Responses Received:

- 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].

Related Documents:

- A. Interim Order (I) authorizing the Debtors to Continue Performing Under Certain Shared Services Agreements and Honor Obligations Related Thereto; and (II) Granting Related Relief [D.I. [105](#); Filed 2/16/2024].
- B. Motion of the Debtors for Leave to File Debtors' Reply in Response to the 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. 114](#); Filed 2/20/2024].
- C. Declaration of Dean Vomero In Support of the Debtors' Reply in Response to the 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. [117](#); Filed 2/20/2024].

Status: This matter is going forward.

5. 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].

Objection Deadline: February 20, 2024 at 12:00 p.m. (ET)

Responses Received:

- A. 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].
- B. Informal comments from the United States of America.

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. Motion of the Debtors for Leave to File Debtors' Reply in Response to the Objection of Public Service Company of New Hampshire to Debtors' Motion for Interim and Final Orders (I) Approving Entry Into New Lead Market Participant Agreement and (II) Granting Related Relief [D.I. [113](#); Filed 2/20/2024].
- C. Statement of Senior Secured Noteholders In Support of the Debtors' LMP Motion, Rejection Motion, and DIP Motion [D.I. [122](#); Filed 2/20/2024].
- D. Notice of Filing of Revised Proposed Interim and Final Orders for 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 [D.I. [127](#); Filed 2/20/2024].
- E. Notice of Filing of Further Revised Proposed Interim and Final Orders for 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 [D.I. [168](#); Filed 2/27/2024].**

Status: On February 21, 2024, the Court rendered a ruling in connection with this matter. **The parties filed a further revised proposed form of order in accordance with the Court's ruling prior to the hearing.**

6. 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].

Objection Deadline: February 20, 2024 at 12:00 p.m. (ET)

Responses Received: None.

Related Documents: None.

Status: This matter is going forward.

7. 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].

Objection Deadline: February 20, 2024 at 12:00 p.m. (ET)

Responses Received:

- A. Preliminary Objection of Public Service Company of New Hampshire to 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. [84](#); Filed 2/13/2024].
- B. Informal comments from the United States of America.
- C. Supplement to Preliminary Objection of Public Service Company of New Hampshire to 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. [140](#); Filed 2/20/2024].

Related Documents:

- A. Statement of Senior Secured Noteholders In Support of the Debtors' LMP Motion, Rejection Motion, and DIP Motion [D.I. [122](#); Filed 2/20/2024].
- B. Declaration of Neil Gupta In Support of the 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. [123](#); Filed 2/20/2024].

C. Notice of Filing of Fee Proposal [D.I. [166](#); Filed 2/26/2024].

D. Notice of Filing of Revised Exhibit M to the 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. [171](#); Filed 2/27/2024].

Status: This matter is going forward.

FIRST DAY MOTIONS GOING FORWARD ON A FINAL BASIS

8. 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] (the "Utilities Motion") [D.I. [9](#); Filed 2/9/2024].

Objection Deadline: At the Hearing.

Responses Received: None.

Related Documents:

A. Certification of Counsel [D.I. [91](#); Filed 2/13/2024].

B. Interim Order (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. [104](#); Entered 2/16/2024].

Status: This matter is going forward on a final basis.

MATTERS GOING FORWARD

9. 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](#); Filed 2/9/2024].

Objection Deadline: February 20, 2024 at 12:00 p.m. (ET)

Responses Received:

- A. Objection of Public Service Company of New Hampshire to 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. [110](#); Filed 2/20/2024].

Related Documents:

- A. Statement of Senior Secured Noteholders In Support of the Debtors' LMP Motion, Rejection Motion, and DIP Motion [D.I. [122](#); Filed 2/20/2024].
- B. Motion of the Debtors for Leave to File Debtors Reply in Response to the Objection of Public Service Company of New Hampshire to 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. [125](#); Filed 2/20/2024].
- C. 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 [D.I. [128](#); Filed 2/20/2024].

Status: On February 21, 2024, the Court rendered a ruling in connection with this matter. The parties anticipate submitting a revised proposed form of order in accordance with the Court's ruling prior to or at the hearing.

10. Motion of Public Service Company of New Hampshire, Pursuant to 28 U.S.C. § 1412 and Federal Rule of Bankruptcy Procedure 1014(a), to Transfer Venue of Bankruptcy Proceedings to United States Bankruptcy Court for the District of New Hampshire [D.I. [39](#); Filed 2/12/2024].

Objection Deadline: February 20, 2024 at 12:00 p.m. (ET)

Responses Received:

- A. CS Operations Inc., CS Berlin Ops Inc., and Berlin Biopower Investment Fund, LLC's Objection to the Motion of Public Service Company of New Hampshire, Pursuant to 28 U.S.C. § 1412 and Federal Rule of Bankruptcy Procedure 1014(a), to Transfer Venue of Bankruptcy Proceedings to United States Bankruptcy Court for the District of New Hampshire [D.I. [111](#); Filed 2/20/2024].
- B. Debtors' Objection to Motion of Public Service Company of New Hampshire, Pursuant to 28 U.S.C. § 1412 and Federal Rule of Bankruptcy Procedure 1014(A), to Transfer Venue of Bankruptcy Proceedings to United States Bankruptcy Court for the District of New Hampshire [D.I. [118](#); Filed 2/20/2024].

C. Senior Secured Noteholders (I) Objection to Motion of Public Service Company of New Hampshire, Pursuant to 28 U.S.C. § 1412 and Federal Rule of Bankruptcy Procedure 1014(A), to Transfer Venue of Bankruptcy Proceedings to United States Bankruptcy Court for the District of New Hampshire and (II) Joinder to the Debtors Objection Thereto [D.I. [119](#); Filed 2/20/2024].

Related Documents:

- A. Supplemental Motion of Public Service Company of New Hampshire, Pursuant to 28 U.S.C. § 1412 and Federal Rule of Bankruptcy Procedure 1014(a), To Transfer Venue of Bankruptcy Proceedings to United States Bankruptcy Court for the District of New Hampshire [D.I. [112](#); Filed 2/20/2024].
- B. Declaration of Dean Vomero in Support of Debtors' Objection to Motion of Public Service Company of New Hampshire, Pursuant to 28 U.S.C. § 1412 and Federal Rule of Bankruptcy Procedure 1014(a), to Transfer Venue of the Bankruptcy Proceedings to United States Bankruptcy Court for the District of New Hampshire [D.I. [121](#); Filed 2/20/2024].
- C. Declaration of Robert K. Malone in Support of Debtors' Objection to Motion of Public Service Company of New Hampshire, Pursuant to 28 U.S.C. § 1412 and Federal Rule of Bankruptcy Procedure 1014(a), to Transfer Venue of the Bankruptcy Proceedings to United States Bankruptcy Court for the District of New Hampshire [D.I. [120](#); Filed 2/20/2024].
- D. Motion of the State of New Hampshire to Transfer Venue of Bankruptcy Case by Joining in and Adopting the Previously Filed Motion to Transfer Venue of Public Service of New Hampshire [D.I. [136](#); Filed 2/20/2024].

Status: On February 24, 2024, the Debtors filed a settlement motion [D.I. [153](#)] (the "Settlement Motion") **and, on February 26, 2024, the Debtors filed an unexecuted copy of the settlement agreement [D.I. [164](#)].** In the event, the Court grants the relief requested in the Settlement Motion, this matter will be disposed of in accordance with the Settlement Motion.

- 11. Debtors' Motion for Entry of an Order (I) Approving the Settlement By and Among the Debtors, Senior Secured Lenders, and Public Service Company of New Hampshire, Doing Business as Eversource Energy and (II) Granting Related Relief [D.I. [153](#); Filed 2/24/2024].

Objection Deadline: At the Hearing.

Responses Received:

A. Informal comments from the United States of America.

Related Documents:

A. Order Shortening and Limiting Notice with Respect to Debtors' Motion for Entry of an Order (I) Approving the Settlement By and Among the Debtors, Senior Secured Lenders, and Public Service Company of New Hampshire, Doing Business as Eversource Energy and (II) Granting Related Relief [D.I. [155](#); Entered 2/25/2024].

B. Notice of Filing of Settlement Agreement and Revised Proposed Order [D.I. [164](#); Filed 2/26/2024].

Status: This matter is going forward.

Dated: February 27, 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-

Robert K. Malone (admitted *pro hac vice*)
Kyle P. McEvelly (admitted *pro hac vice*)
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
Telephone: (973) 596-4500
E-mail: rmalone@gibbonslaw.com
 kmcevelly@gibbonslaw.com

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

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

-and-

Kenneth S. Leonetti (admitted *pro hac vice*)
Christian Garcia (admitted *pro hac vice*)
FOLEY HOAG LLP
155 Seaport Boulevard
Boston, Massachusetts 02210
Telephone: (617) 832-1000
Email: ksl@foleyhoag.com
 cgarcia@foleyhoag.com

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