

**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)

Re: D.I. 39

**DECLARATION OF DEAN VOMERO IN SUPPORT OF THE
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**

I, Dean Vomero, of full age, hereby declare as follows:

1. I am the Chief Restructuring Officer ("CRO") of Berlin Station, LLC ("Berlin Station") and Burgess BioPower, LLC ("Burgess BioPower"), the above-captioned debtors and debtors in possession (collectively, the "Debtors") in the above-captioned cases (collectively, the "Chapter 11 Cases"). I am also the Founding Member and Managing Director of Applied Business Strategy LLC ("Applied Business"). The Debtors engaged Applied Business, effective October 27, 2023, to provide turnaround management and contingency-planning advisory services, and I was appointed to be the Chief Restructuring Officer of the Debtors, effective October 27, 2023.

2. I am authorized by the Debtors to submit this declaration in support of the Debtors' objection (the "Objection") to the *Motion of Public Service Company of New Hampshire, Pursuant*

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.

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. 39] (the “Venue Motion”). For purposes of the Venue Motion, this Declaration supplements my declaration dated February 9, 2024 [D.I. 4] (the “First Day Declaration”),² which was admitted into evidence during the February 13, 2024 hearing (the “First Day Hearing”), and which is referred to and incorporated by reference in the Objection.

3. As explained in the First Day Declaration, the Debtors’ contract with CS Operations, Inc. (“CS Operations”) and CS Berlin Ops, Inc. (“CS Berlin Ops”), non-debtor affiliates, for the supply of personnel and services needed to operate and maintain the Facility, produce and sell energy and other products the Facility generates, manage the Facility and the Facility Site, collect revenue, provide back office and overhead support, and otherwise manage and run the Debtors’ business. CS Operations and CS Berlin Ops are both corporations formed under the laws of Delaware, and they maintain offices in Palm Beach, Florida.

4. Since assuming the role as the Debtors’ CRO in October 2023, I have spent a cumulative total of approximately ten (10) weeks at the Debtors’ administrative offices in Palm Beach, Florida, where most of the key personnel of CS Operations and CS Berlin Ops are located. I have visited the Debtors’ Facility on only one occasion, for approximately six (6) hours.

5. In paragraph 20 of the First Day Declaration, I generally explained the makeup of the Debtors’ boards of directors. Each of the Debtors has six (6) directors, including three (3) independent directors. None of the directors live or work in New Hampshire. The Debtors’ directors are located in Delaware (3 directors), Florida (3 directors), Texas (1 director) and Ohio (1 director); I, as the Debtors’ CRO, am located in Ohio.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the First Day Declaration.

6. As explained in paragraph 75 of the First Day Declaration, in the face of the challenges that precipitated the filing of the Chapter 11 Cases, the Debtors engaged Foley Hoag LLC, Applied Business and SSG Advisors LLC (“SSG Advisors”) to assist in analyzing the Debtors’ financial position. Prior to the Petition Date, the Debtors also retained Gibbons P.C. in anticipation of the filing of the Chapter 11 Cases in Delaware. None of these professionals maintain offices in New Hampshire. SSG Capital Advisors, LLC is an investment banking boutique firm located in Philadelphia, Pennsylvania. Applied Business is located in Cleveland, Ohio and New York, New York. The Foley Hoag attorneys are located in New York, New York and Boston, Massachusetts, and the attorneys from Gibbons are located in Newark, New Jersey and Wilmington, Delaware. None of the professionals engaged by the Debtors have an office in New Hampshire. The Debtors’ problems are predominantly financial and the restructuring efforts since the Petition Date and before have been focused in states in which the professionals are located. The debtors secured debt is governed by New York law.

7. The Debtors are operating under severe liquidity restraints and, in my business judgement, transferring these cases from this District to the District of New Hampshire would subject the Debtors to unnecessary economic hardship and delay, which would jeopardize the pre-negotiated *Restructuring Support Agreement* (“RSA”), which is attached to the First Day Declaration as Exhibit M, and threaten the Debtors’ ability to successfully reorganize. All major stakeholders in these cases executed the RSA and agreed to support a restructuring in this Court.

8. Eversource is not the Debtors’ exclusive customer. The Debtors sell a portion of renewable energy certificates (“RECs”) produced by the Facility to other buyers throughout the United States, including Maryland, Washington DC, Florida and California.

9. In paragraphs 113 through 118 of the First Day Declaration, I generally explained that the Debtors rely on numerous suppliers for various goods and services. Many of these suppliers are located outside of New Hampshire.

10. Eversource's ratepayer customers across New England are not customers of the Debtors or creditors of their estates. Eversource sells the power it receives from the Debtors into the ISO-NE market, which operates across six New England states: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

11. In the eighteen months prior to the Petition Date, the Debtors attempted to contact Eversource multiple times to restructure the PPA, but Eversource refused to engage with the Debtors.

12. At the same time, Eversource exaggerates the relevance of NHPUC's regulation of Eversource and the alleged impact on New Hampshire ratepayers. This Court is more than capable of protecting any legitimate New Hampshire state interest. Indeed, the NHPUC at a hearing last week informed Eversource's counsel that it did not intend to participate in any bankruptcy proceedings, and it directed Eversource to amend its Venue Motion at paragraphs 80 and 92, in which Eversource incorrectly represented that the NHPUC is likely to be an active participant in these Chapter 11 Cases. The Debtors are also regulated by ISO-NE, which is based in Massachusetts, and FERC, which is based in Washington, D.C.

Pursuant to section 1746 of title 28 of the United States Code, I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 20, 2024

Berlin Station, LLC

By: /s/ Dean Vomero
Dean Vomero, Chief Restructuring Officer

Burgess BioPower, LLC

By: /s/ Dean Vomero
Dean Vomero, Chief Restructuring Officer