

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

In re	Chapter 11
BURGESS BIOPOWER, LLC, <i>et al.</i> ¹	Case No. 24-10235 (LSS)
Debtors.	(Jointly Administered)
	Re. D.I. 212

DEBTORS' MOTION FOR ENTRY OF AN ORDER SHORTENING THE NOTICE PERIOD WITH RESPECT TO MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER (I) ESTABLISHING DEADLINES FOR THE FILING OF PROOFS OF CLAIM, INCLUDING FOR CLAIMS ARISING UNDER SECTION 503(b)(9) OF THE BANKRUPTCY CODE; (II) APPROVING THE FORM AND MANNER OF NOTICE THEREOF; AND (III) GRANTING RELATED RELIEF

The debtors and debtors in possession in the above-captioned cases (collectively, the “Debtors”), having contemporaneously filed the *Motion of the Debtors for Entry of an Order (I) Establishing Deadlines for the Filing of Proofs of Claim, Including for Claims Arising Under Section 503(B)(9) of the Bankruptcy Code; (II) Approving the Form and Manner of Notice Thereof; and (III) Granting Related Relief* [D.I. 212] (the “Bar Date Motion”), respectfully submit this motion (the “Motion to Shorten”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Shortening Order”), scheduling a hearing on the Bar Date Motion for March 13, 2024, at 2:30 p.m. (ET) (the “Hearing”), i.e., the Debtors’ next scheduled hearing, or as soon as possible thereafter, with any objections to the Bar Date Motion due at the Hearing (the “Proposed Objection Deadline”). In support of this Motion to Shorten, the Debtors respectfully state as follows:

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.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b).

2. The Debtors confirm their consent, pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), to the entry of final orders by the Court in connection with this Motion to Shorten to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), Rule 9006(c)(1) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Local Rule 9006- 1(e).

BACKGROUND

5. On February 9, 2024, (the “Petition Date”), the Debtors commenced the above-captioned chapter 11 cases (the “Chapter 11 Cases”) by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code with the Court.

6. The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession, pursuant to Bankruptcy Code sections 1107(a) and 1108. As of the date of the Motion to Shorten, no trustee, examiner, or statutory committee has been

appointed in the Chapter 11 Cases. The Chapter 11 Cases are being jointly administered for procedural purposes only pursuant to Bankruptcy Rule 1015(b).

7. In connection with the filing of these Chapter 11 Cases, the Debtors obtained DIP financing from their pre-petition senior secured lenders, which financing has been approved by this Court on an interim basis, with a final hearing set for March 13, 2024. [D.I. 200, 202]. As set forth in the DIP financing documents as well as in the Restructuring Support Agreement entered into by the Debtors, the Debtors agreed to certain milestones, including that they obtain entry of a bar date order by April 9, 2024. [D.I. 4 – Exhibit M (Section 5.1. of RSA) and D.I. 174 Annex 1 to DIP Credit Agreement].

8. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the filing of the Chapter 11 Cases is set forth in 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. 4] (the "First Day Declaration"), which is incorporated herein by reference.

RELIEF REQUESTED

9. By this Motion to Shorten, the Debtors request entry of the Proposed Shortening Order, scheduling the Hearing on the Bar Date Motion for the Debtors' next hearing on March 13, 2024, at 2:30 p.m. (ET), or as soon as possible thereafter, with any objections to the Bar Date Motion to be filed by the Proposed Objection Deadline.

BASIS FOR RELIEF

10. Local Rule 9006-1(e) provides that the Court may shorten notice "on written motion (served on all interested parties) specifying the exigencies justifying shortened notice." Local Rule 9006-1(e). As set forth below, shortening notice is justified here because the relief requested in the Bar Date Motion is time sensitive. Moreover, according to Bankruptcy Rule

9006(c), “the court for cause shown may in its discretion with or without motion or notice order the period reduced.” Fed. R. Bankr. P. 9006(c)(1). In exercising such discretion, the Court should “consider the prejudice to parties entitled to notice and weigh this against the reasons for hearing the motion on an expedited basis.” *In re Philadelphia Newspapers, LLC*, 690 F.3d 161, 172 (3d Cir. 2012) (noting the commonness of such motions “given the accelerated time frame of bankruptcy proceedings”).

11. As set forth more fully in the Bar Date Motion and the First Day Declaration, a lengthy sale process would not be to the benefit of the Debtors’ estates. As evidenced by the agreed-upon milestones in these Chapter 11 Cases, the Debtors and their professionals do not believe that a longer sale process is necessary to maximize value. A longer sale process would serve only to increase the administrative costs of the Chapter 11 Cases and transaction costs, while providing no concomitant benefit.

12. The Bar Date Motion contemplates that the Debtors will publish the Bar Date Notice (as defined in the Bar Date Motion) and arrange for the Bar Date Notice to be mailed to all of the Debtors’ known potential creditors and interest holders after the Court enters an ordering approving, *inter alia*, the form of the Bar Date Notice. The Debtors are seeking to obtain bar dates on an expedited basis (through waiver of the fourteen day notice period for the hearing to establish a bar date). Given the accelerated nature of the milestones in these Chapter 11 Cases, the milestones set forth in the DIP financing documents and the RSA, and the anticipated entry of the disclosure statement order of April 15, 2024, the Debtors seek to establish a date, no less than 30 days from the service of the Notice of Bar Date, as the general bar date so as to better estimate the total universe of claims before the proposed Disclosure Statement Hearing on or about April 15, 2024.

13. Finally, no party will be prejudiced by approval of the Bar Date Motion. Notwithstanding the relief requested herein, the Bar Date Motion provides an ample time period (no less than 30 days for the General Bar Date and 180 days for the Governmental Bar Date) for any creditors of the Debtors to complete proofs of claim, as required by the Bankruptcy Rules. The Bar Date Motion does not request extraordinary relief and is a routine matter in chapter 11 cases.

14. The expedited hearing on such a motion does not prejudice creditors or parties in interest in any meaningful way. On the contrary, it would allow the Debtors to streamline its Plan process and to expedite the Debtors' emergence from chapter 11. The Debtors respectfully contend that those goals are in the best interest of all parties in interest. Consequently, the Debtors believe seeking timely approval of the Bar Date Motion is in the best interest of the Debtors, their estates, and all stakeholders.

15. For these reasons, the Debtors respectfully submit that allowing the Bar Date Motion to be considered on shortened notice is reasonable and appropriate under the circumstances.

NOTICE

16. To mitigate to the greatest extent possible any potential prejudice resulting from these shortened notice and objection periods, the Debtors are serving the Bar Date Motion on the parties entitled to receive notice by email, where possible, and alternatively facsimile and overnight delivery along with this Motion to Shorten. Furthermore, the Debtors will serve any order approving this Motion to Shorten on the notice parties on the day of its entry via the same methods. Accordingly, the Debtors submit that under Local Rules 9006-1(e), there is sufficient cause to schedule an expedited hearing on the Bar Date Motion and to shorten the applicable notice

period so that it can be heard at the Hearing, with objections due by the Proposed Objection Deadline.

LOCAL RULE 9006-1(e) CERTIFICATION

17. In accordance with Local Rule 9006-1(e), prior to filing this Motion to Shorten, counsel to the Debtors formally notified the U.S. Trustee and counsel to the DIP lenders and prepetition secured lenders (the “Lender”) that they would be seeking the relief requested herein. The U.S. Trustee has advised that it does not take a position on the Motion to Shorten. Counsel to the Lender has indicated that it has no objection to the Bar Date Motion or the request to shorten notice thereof.

NO PRIOR REQUEST

18. No prior request for the relief sought in this Motion to Shorten has been made to this Court or any other court.

WHEREFORE, the Debtors respectfully request entry of the Proposed Shortening Order, substantially in the form attached as **Exhibit A**, granting the relief requested in its entirety and any other relief as is just and proper.

Dated: March 6, 2024
Wilmington, Delaware

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EXHIBIT A

**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. 212 & ____

**ORDER SHORTENING NOTICE WITH RESPECT TO THE
MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER (I) ESTABLISHING
DEADLINES FOR THE FILING OF PROOFS OF CLAIM, INCLUDING FOR CLAIMS
ARISING UNDER SECTION 503(b)(9) OF THE BANKRUPTCY CODE; (II)
APPROVING THE FORM AND MANNER OF NOTICE THEREOF; AND (III)
GRANTING RELATED RELIEF**

Upon the *Debtors' Motion for Entry of an Order Shortening the Notice Period With Respect to Motion of the Debtors for Entry of an Order (I) Establishing Deadlines for the Filing of Proofs of Claim, Including for Claims Arising Under Section 503(B)(9) of the Bankruptcy Code; (II) Approving the Form and Manner of Notice Thereof; and (III) Granting Related Relief* (the "Motion to Shorten");² and upon consideration of all pleadings related to the Motion to Shorten; 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); and (c) the Court may enter a final order consistent with Article III of the United States Constitution; and upon the record herein; and it appearing that sufficient notice of the Motion to Shorten has been given and that no other or further notice is necessary; and the Court

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² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion to Shorten.

having determined that the relief requested in the Motion to Shorten is in the best interests of the Debtors, their estates, and their creditors; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED THAT:

1. The Motion to Shorten is GRANTED, as set forth herein.
2. The Bar Date Motion shall be heard at the hearing scheduled for March 13, 2024 at 2:30 p.m. (ET) (the "Hearing").
3. Any responses or objections to the Bar Date Motion may be brought at the Hearing.
4. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.