

**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)

**ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT OF GIBBONS P.C.
AS COUNSEL FOR THE DEBTORS EFFECTIVE AS OF THE PETITION DATE**

Upon the *Application of the Debtors for Entry of an Order Authorizing the Retention and Employment of Gibbons P.C. as Counsel to the Debtors Effective as of the Petition Date* (the “Application”);² and upon the Malone Declaration, and the Vomero Declaration; and the Court finding that: (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157 and the *Amended Standing Order of Reference* of 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 Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; (d) the relief requested in the Application is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and (e) the Debtors provided adequate and appropriate notice of the Application under the circumstances and that no other or further notice is required; and the Court having reviewed the Application; and the Court having determined that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and any objections to the relief requested herein having been withdrawn or

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 Capitalized terms used but not defined herein shall have the meanings ascribed to them in the application.

overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED THAT:

1. The Application is GRANTED as set forth herein.
2. The Debtors are authorized to retain and employ Gibbons as their bankruptcy counsel, effective as of the Petition Date, pursuant to section 327(a) of the Bankruptcy Code for the purposes set forth in the Application, Malone Declaration, Vomero Declaration, and Engagement Agreement.
3. Gibbons shall be compensated for legal services rendered to the Debtors and reimbursed for reasonable expenses incurred in connection therewith in accordance with section 330 and 331 the Bankruptcy Code, applicable Bankruptcy Rules, Local Rules, and any other orders of this Court. Gibbons also intends to make a reasonable effort to comply with the U.S. Trustee's requests for information and additional disclosures as set forth in the UST Guidelines in connection with the Application and any interim and final fee applications to be filed by Gibbons in these Chapter 11 Cases.
4. Gibbons is authorized without further order of the Court to apply amounts from the prepetition advance payment retainer to compensate and reimburse Gibbons for fees or expenses incurred on or prior to the Petition Date consistent with its ordinary course billing practice. At the conclusion of Gibbons' engagement by the Debtors, if the amount of any advance payment retainer held by Gibbons is in excess of the amount of Gibbons' outstanding and estimated fees, expenses, and costs, Gibbons will pay to the Debtors the amount by which any advance payment retainer exceeds such fees, expenses, and costs, in each case in accordance with the Engagement Agreement.

5. Gibbons shall provide five (5) business days' notice to the Debtors, the U.S. Trustee, counsel to the Senior Secured Lenders and any statutory committee appointed in these Chapter 11 Cases of any increase of its hourly rates occurring after the date of this Order. The Debtors, the U.S. Trustee, the Senior Secured Lenders and any statutory committee appointed in these Chapter 11 Cases retain all rights to object to any rate increase on all grounds, including, but not limited to, the reasonableness standard provided in section 330 of the Bankruptcy Code, and the Court retains the right to review any rate increase pursuant to section 330 of the Bankruptcy Code.

6. Notwithstanding anything in the Application to the contrary, Gibbons shall (i) to the extent that Gibbons uses the services of independent contractors, subcontractors, or employees of foreign affiliates or subsidiaries (collectively, the "Contractors") in the case, pass-through the cost of such Contractors at the same rate that Gibbons pays the Contractors; (ii) seek reimbursement for actual costs only; (iii) ensure that the Contractors are subject to the same conflicts checks as required for Gibbons; and (iv) file with this Court such disclosures required by Bankruptcy Rule 2014.

7. Notwithstanding anything to the contrary in the Application, any order entered in connection therewith, or any agreement entered in connection with the Debtors' retention of Gibbons, Gibbons shall not seek reimbursement of expenses for office supplies.

8. Gibbons shall use reasonable efforts and coordinate with the Debtors and their other Professionals to avoid the duplication of services provided by other professionals retained by the Debtors in these Chapter 11 Cases.

9. No agreement or understanding exists between Gibbons and any other person, other than as permitted by section 504 of the Bankruptcy Code, to share compensation received for

services rendered in connection with the case, nor shall Gibbons share or agree to share compensation received for services rendered in connection with the case with any other person other than as permitted by section 504 of the Bankruptcy Code.

10. Gibbons shall use its best efforts to avoid any unnecessary duplication of services provided by any of the Debtors' retained Professionals in these Chapter 11 Cases.

11. Gibbons shall not seek reimbursement of any fees or costs arising from the defense of its fee applications in the above-captioned cases.

12. The Retainer held by Gibbons shall be treated as an evergreen retainer and shall be held by Gibbons as security throughout these Chapter 11 Cases until Gibbons' fees and expenses are awarded and payable to Gibbons on a final basis.

13. All fees and expenses incurred by Gibbons and approved by the Court shall be treated as administrative expenses under section 503(b) of the Bankruptcy Code.

14. In the event on any inconsistency between the Application, Malone Declaration, Vomero Declaration, Engagement Agreement and this Order, this Order shall govern.

15. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

16. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application and the Malone Declaration.

17. This Court shall retain jurisdiction over any and all matters arising from or related to the interpretation or implementation of this Order.

Dated: April 10th, 2024
Wilmington, Delaware


LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE