

SB 271 - AS AMENDED BY THE SENATE

03/24/2022 1107s

2022 SESSION

22-3039

12/10

SENATE BILL **271**

AN ACT relative to the Burgess BioPower facility.

SPONSORS: Sen. Bradley, Dist 3; Sen. Hennessey, Dist 1; Sen. Watters, Dist 4; Sen. Avar, Dist 12; Sen. Ward, Dist 8; Sen. Giuda, Dist 2

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill requires the public utilities commission to revise certain orders relative to the Burgess BioPower plant in Berlin.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the Burgess BioPower facility.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Burgess BioPower Plant. 2018, 340:1-2 are repealed and reenacted to read as follows:
2 340:1 Findings.

3 I. The general court finds that the continued operation of the Burgess BioPower plant in
4 Berlin: (a) is critical to the energy infrastructure of the state of New Hampshire; (b) is a necessary
5 source of indigenously-sourced, reliable baseload power critical to regional fuel security and
6 reliability of the regional electricity grid; (c) is important for the attainment of renewable energy
7 portfolio standard goals of fuel diversity, capacity, sustainability and energy independence; (d) is
8 essential to the continued health of New Hampshire’s forests; (e) provides invaluable support to the
9 timber industry; and (f) is a key contributor of jobs and to the economy of both the North Country
10 and the state as a whole.

11 II. In passing this act in 2018, the general court originally intended to protect the continued
12 viability of the Burgess BioPower plant by providing for a 3-year suspension of the cap on the
13 cumulative reduction factor (CRF) contained in the power purchase agreement with Eversource. It
14 was the general court’s intent that ratepayers, not Burgess BioPower, bear any costs related to the
15 3-year suspension of the CRF cap. That intent was not implemented correctly in the regulatory
16 proceeding following the passage of this act in 2018 and the public utilities commission instead
17 ordered Burgess BioPower to repay immediately, and in full, any amounts accumulated in the CRF
18 during the 3-year period in the operating year following the expiration of the suspension period.

19 340:2 Public Utilities Commission; Proceedings; Authority to Amend Orders.

20 I. Notwithstanding any other provision of the law, any order issued or settlement agreement
21 approved by the public utilities commission to the contrary, including but not limited to any orders
22 issued in public utilities commission dockets DE 10-195, DE 19-142, DE 11-250, and DE 14-238, the
23 public utilities commission shall open a docket to amend any of its orders as necessary to protect the
24 continued operation of the Burgess BioPower plant as follows:

25 (a) Consistent with the legislative intent of this act, any amounts that have accrued as a
26 result of the legislature’s suspension of the operation of the CRF during the 3-year period shall be
27 recovered through a non-bypassable charge applied on a uniform cost per kilowatt-hour basis across
28 all rate classes. Alternatively, costs may be recovered through the stranded cost recovery charge or
29 some other non-bypassable charge as determined by the public utilities commission.

30 (b) Given the vital energy, environmental, and economic contributions Burgess BioPower
31 makes to the state, along with the important contributions it makes to both grid reliability and fuel

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1 security in the region as described in section one above, any and all legislative relief provided to the
2 Burgess BioPower plant shall be deemed to be reasonable, legitimate, and in the public interest for
3 the purposes of RSA 374:57, or any provision of law applicable to the approval of power purchase
4 agreements, provided that no such relief shall limit recovery of costs previously allowed for recovery
5 from ratepayers.

6 II. Nothing in this act shall be construed to affect or otherwise set the wholesale rate of
7 power paid to the Burgess BioPower plant, or otherwise affect or influence wholesale bidding
8 behavior.

9 III. Nothing in this act shall prohibit the state from using federal funds, federal stimulus
10 funds authorized by the American Rescue Plan Act of 2021, Public Law 117-2, or any other
11 legislation enacted to provide relief from the effects of COVID-19, or any legislation passed to
12 promote the viability of renewable energy infrastructure, or to offset any economic impact to
13 ratepayers.

14 IV. In order to ensure the continued viability of Burgess BioPower, any proceeding
15 conducted by the public utilities commission shall be conducted on an expedited basis, by opening a
16 docket no later than 30 days after the effective date of this act and issuing a final order
17 implementing the relief provided in this act not later than 6 months from the effective date of this
18 act. Any relief ordered by the public utilities commission not otherwise funded by federal funds
19 pursuant to this section shall be fully recovered from ratepayers.

20 2 Effective Date. This act shall take effect upon its passage.