

**Burgess Biopower LLC**  
**FERC Electric MBR Tariff No. 1**

1. Availability: Burgess Biopower LLC (“Seller”) makes electric energy, capacity, and ancillary services available under this Rate Schedule to any purchaser in the ISO New England, Inc. region for resale, except as prohibited below.
2. Applicability: This Rate Schedule is applicable to all sales of energy, capacity, and certain ancillary services by Seller not otherwise subject to a particular rate schedule of Seller.
3. Rates: All sales shall be made at rates established by agreement between the purchaser and Seller.
4. Other Terms and Conditions: All other terms and conditions shall be established by agreement between the purchaser and Seller.
5. Ancillary Services: Seller will also make available to any purchaser with whom it has contracted, the ancillary services listed in this Paragraph 5.
  - (a) New England: Seller offers regulation and frequency response service (automatic generator control), operating reserve service (which includes 10-minute spinning reserve, 10-minute non-spinning reserve, and 30- minute operating reserve service) to purchasers within the markets administered by ISO New England, Inc.
  - (b) Third-Party Ancillary Services: Seller offers Regulation Service, Energy Imbalance Service, Spinning Reserves, and Supplemental Reserves. Sales will not include the following: (1) sales to an RTO or an ISO, i.e., where that entity has no ability to self-supply ancillary services but instead depends on third parties; (2) sales to a traditional, franchised public utility affiliated with the third-party supplier, or sales where the underlying transmission service is on the system of the public utility affiliated with the third-party supplier; and (3) sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers.
6. Effective Date: This tariff is effective on and after October 15, 2013 (or the date set by the Federal Energy Regulatory Commission).
7. Compliance with Commission Regulations: Seller shall comply with the provisions of 18 C.F.R. Part 35, Subpart H, as applicable, and with any conditions the Commission imposes in its orders concerning Seller's market-based rate authority, including orders in which the Commission authorizes Seller to engage in affiliate sales under this Tariff or otherwise restricts or limits the Seller's market-based rate authority. Failure to comply with the applicable provisions of 18 C.F.R. Part 35, Subpart H, and with any orders of the Commission concerning Seller's market-based rate authority, will constitute a violation of this Tariff.

8. Limitations and Exemptions Regarding Market-Based Rate Authority: The Commission granted Seller in *Burgess Biopower LLC*, Docket No. ER13-\_\_\_\_\_-000 (\_\_\_\_\_, 2013) (unpublished letter order), the following waivers and blanket authorization: (i) waiver of Part 41, 101 and 141 of the Commission's regulations, except for Sections 141.14 and 141.15; (ii) waiver of Subparts B and C of Part 35 of the Commission's regulations, except for Sections 35.12(a), 35.13(b), 35.15 and 35.16; and (iii) blanket approval as to Section 204 of the FPA and Part 34 of the Commission's regulations for all future issuances of securities and debt and assumptions of liabilities.
9. Seller Category: As defined in 18 C.F.R. § 35.36(a), Seller is a Category 2 Seller in the Northeast Region.

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Burgess Biopower LLC

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Docket No. ER14-\_\_\_\_-000

**APPLICATION FOR MARKET-BASED RATE AUTHORIZATION AND REQUESTS  
FOR WAIVERS AND BLANKET AUTHORIZATIONS**

Pursuant to Section 205 of the Federal Power Act (“FPA”),<sup>1</sup> Rule 205 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure,<sup>2</sup> and Part 35 of the Commission’s Regulations,<sup>3</sup> Burgess Biopower, LLC (“Applicant”) requests that the Commission: (1) accept for filing the attached market-based rate tariff (“Tariff”) effective October 15, 2013; (2) authorize Applicant to make wholesale sales of energy, capacity, and ancillary services in ISO New England, Inc. (“ISO-NE”) only at market-based rates pursuant to the Tariff; (3) qualify Applicant as a Category 2 seller in the Northeast Region; and (4) grant such waivers and blanket authorizations as the Commission has granted to other entities with market-based rate authorization, as described further herein. Applicant also respectfully requests that the Commission waive the 60-day prior notice filing requirement in section 35.3(a)(1) of its regulations<sup>4</sup> and act expeditiously on this application and accept its Tariff effective October 15, 2013 because Applicant would like to begin generating test power under its power purchase agreement by the end of October 2013.

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> 18 C.F.R. § 385.205 (2012).

<sup>3</sup> 18 C.F.R. Part 35 Subpart H (2007); *see Market-based Rates for Wholesale Elec. Energy, Capacity & Ancillary Services by Pub. Utils.*, Order No. 697, 119 FERC ¶ 61,295 (2007) (“Order No. 697”).

Included in this filing are the following attachments:

- Attachment 1 – Applicant’s proposed Tariff
- Attachment 2 – Organizational Chart
- Attachment 3 – Appendix of Assets
- Attachment 4 – Description of Passive Interests

In support of this application, Applicant states as follows:

## **I. Communication**

Communications regarding this application should be addressed to the following persons:

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## **II. Description of the Applicant**

Applicant is a Delaware limited liability company with its principal place of business in Berlin, New Hampshire. Applicant’s sole business is the generation of electricity at a 76.5 MW biomass-fueled electricity generation facility located in Berlin, New Hampshire (“Berlin Facility”), which it controls and operates pursuant to a 21-year lease agreement with Berlin Station, LLC, the owner of the Berlin Facility. The Berlin Facility is currently under construction and is expected to begin commercial operation in December, 2013. The Berlin Facility will be interconnected with the transmission system owned by Public Service of New Hampshire (“PSNH”) and operated by ISO New England, Inc. (“ISO-NE”). All energy and

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*(footnote continued)*

<sup>4</sup> 18 C.F.R. § 35.3(a)(1).

capacity from the Berlin Facility is committed under a long term, twenty year power purchase agreement with PSNH, authorized by the New Hampshire Public Utilities Commission on April 18, 2011 in Order No. 25,213.

Applicant is a wholly owned subsidiary of Burgess Holdings, LLC. Burgess Holdings, LLC is a wholly owned subsidiary of Newco Energy Holdings, LLC. Newco Energy Holdings, LLC is owned by Newco Energy Blocker I, Inc., SEG Berlin Holdings, Inc. and GBI New Hampshire I, LLC, each of whom holds a one third interest. An organizational chart showing the upstream ownership of Applicant is included as Attachment 2.

SEG Berlin Holdings, Inc. is a wholly owned subsidiary of Starwood Energy Group Global, L.L.C. (“Starwood”), a private equity fund focusing on energy infrastructure investments. GBI New Hampshire I, LLC is a wholly owned subsidiary of Gestamp Eolica S.L. (“Gestamp”), a Spanish *sociedad limitada*. Newco Energy Blocker I, Inc. is a wholly owned subsidiary of Newco Energy, LLC, which is owned 60.524% by CSC Group Holdings, LLC (“CSCGH”) and 39.476% by outside investors. No single investor other than CSCGH owns more than a 2.5% interest in Newco Energy, LLC.

#### **A. CSC Group Holdings, LLC**

CSC Group Holdings, LLC is a Delaware limited liability company based in Portsmouth, New Hampshire. CSCGH is a holding company owned by approximately 80 investors, with investments in eight wholly and partially owned portfolio companies, focusing on developing sustainable and environmentally-friendly technologies. No single investor in CSCGH owns more than a 40% interest in CSCGH (which equates to an approximately 8% indirect ownership interest in Applicant). In addition CSCGH, through its wholly owned subsidiary Sunlight Partners, LLC, engages in the development of small scale solar generating facilities. None of

these facilities are located in the northeastern United States and none will sell power in the ISO/RTO wholesale markets.

### **B. Gestamp and Affiliates**

Two wholly-owned subsidiaries of Gestamp, Gestamp Wind Maryland and Gestamp Wind Annapolis, own 95% and 5% respectively of the Class A, managing membership interests in Roth Rock Holdings, LLC, which in turn owns 100% of the interests in Roth Rock Wind Farm, LLC (“Roth Rock”) and its wholly owned subsidiary, Roth Rock North Wind Farm, LLC (Roth Rock North). Roth Rock, a Maryland limited liability company, owns a 50 MW wind electric generating facility located in Garrett County, Maryland (“Roth Rock Facility”), under the operational control of PJM Interconnection, L.L.C. (“PJM”). Roth Rock is an exempt wholesale generator (“EWG”), which has been granted authority to sell electric energy, capacity, and ancillary services at market-based rates.<sup>5</sup> Roth Rock North, a Maryland limited liability company, is a wholly-owned subsidiary of Roth Rock, which has been granted authority to sell electric energy, capacity, and ancillary services at market-based rates.<sup>6</sup> Roth Rock North does not own or control any generation other than 20% of the output of the Roth Rock Facility.

Through a subsidiary, Gestamp also owns 83% of the membership interests in Flat Water Holdings, LLC (“Flat Water Holdings”). Flat Water Holdings holds 100% of the Class A membership interests in, and is the Managing Member of, Flat Water Wind. Flat Water Wind operates a 60 MW wind facility in Richardson County, Nebraska.<sup>7</sup> Flat Water Wind is an EWG

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<sup>5</sup> See *Synergics Roth Rock Wind Energy, LLC et al.*, Docket Nos. ER10-1637-000, *et al.* (Sept. 3, 2010) (unpublished letter order).

<sup>6</sup> See *id.*

<sup>7</sup> See *Flat Water Wind Farm, LLC*, Docket No. ER11-39-000 (Nov. 1, 2010) (unpublished letter order).

with market-based rate authority, located within the balancing authority area of Omaha Public Power District (“OPPD”), a member of the Southwest Power Pool, Inc. (“SPP”). Flat Water Wind has contracted to sell the entire output of its generation facility to OPPD.

Through indirect, wholly-owned subsidiaries, Gestamp owns 100% of the Class A membership interests in TPW Petersburg, LLC (TPW Petersburg), which owns and operates a 40.5 MW wind-powered electric generation facility located in the Nebraska Public Power District Balancing Authority Area, within the SPP. TPW Petersburg is a qualifying facility (“QF”) with market-based rate authority.<sup>8</sup> TPW Petersburg sells the entire output of the TPW Petersburg Facility to the OPPD pursuant to a long-term power purchase agreement.

All relevant affiliates of Gestamp are also described in the Appendix B List of Affiliates and Associated Assets included as Attachment 3 to this application.

### **C. Starwood and Affiliates**

SEG Berlin Holdings, Inc. (“SEG Berlin”) is a special purpose entity created to own approximately 33.33 percent of the membership interests in NewCo Energy Holdings, LLC. SEG Berlin is a wholly owned subsidiary of SEG Berlin Master, Inc., which is a wholly owned subsidiary of SEI/Co-Invest Generation Holdings, LLC, which is owned by Starwood Energy Infrastructure Fund, LP (“SEI Fund”) and Starwood Energy Infrastructure Co-Invest Fund, LP (“SEI Co-Invest Fund”). Each of SEI Fund and SEI Co-Invest Fund are 1 percent owned by the general partner, SEI Management, LP (“SEI Management”) and various limited partners that have only passive interests (the “Passive LPs”). The Passive LPs have no decision-making role

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<sup>8</sup> *TPW Petersburg, LLC*, Docket No. ER11-4355-000 (Sept. 28, 2011) (unpublished letter order); *see also TPW Petersburg, LLC*, “Self Re-Certification of Qualifying Facility Status,” Docket No. QF07-310-001 (filed July 26, 2011).

in running SEI Fund or SEI Co-Invest Fund or in the day-to-day operation of their investment.<sup>9</sup> SEI Management is owned 0.1 percent by its sole general partner, SEI Management Holdings, LLC (“Holdings”) and 99.9 percent by its limited partner, SEI Investors, LP. Holdings is a wholly owned subsidiary of Starwood.

Starwood is a private equity fund, focusing on energy infrastructure in investments, including acquiring and holding interests in power generation and transmission projects. Starwood is controlled by Barry S. Sternlicht. In addition to Mr. Sternlicht, the following individuals hold a 5 percent or greater interest in Starwood: Madison Grose and Bradford Nordholm.

Starwood is affiliated with entities that hold market-based rate authorization and/or own or control generation capacity located in the United States. Each of these entities is listed in the asset appendix included as Attachment 3 to this application.

With the exception of Nautilus Solar Silvermine, LLC, a QF with a nameplate capacity of 316.8 kW,<sup>10</sup> none of Starwood or its affiliates owns, operates or controls any generation capacity in the ISO-NE balancing authority area or first-tier markets to the ISO-NE balancing authority

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<sup>9</sup> See Att. 4 for a description of the purely passive (non-voting) nature of the interests held by the Passive LPs, which grant the Passive LPs no ability to exercise control over any jurisdictional entity under the FPA. This description was accepted by the Commission. See *Gainesville Renew. Energy Ctr., LLC*, Docket No. ER13-1348-000 (May 23, 2013) (unpublished letter order).

<sup>10</sup> See *Nautilus Solar Silvermine, LLC*, Docket No. QF09-102-000 and subsequent notices of self-recertification filed in Docket No. QF09-102. Starwood is also affiliated with Nautilus Solar Polar, LLC, a QF which is developing a solar project with nameplate capacity of 1,291 kW in the ISO-NE. See *Nautilus Solar Polar, LLC*, Docket No. QF12-393-000 and subsequent notices of self-recertification filed in Docket No. QF12-393. The Nautilus Solar Polar project is in the early development stages.



area. Neither Starwood nor affiliates operates or controls any transmission facilities in ISO-NE.<sup>11</sup>

### III. Request for Market-based Rate Authority

Applicant requests authorization to sell energy, capacity and ancillary services at market-based rates pursuant to the attached Tariff. Applicant intends only to sell in ISO-NE, and specifically, has executed a long-term, twenty year power purchase agreement with PSNH. As such, Applicant only seeks market-based rate authority for the ISO-NE region. Pursuant to Order No. 697, the Commission will allow wholesale energy and capacity sales at market-based rates, provided that the seller and each of its affiliates do not have (or have adequately mitigated)

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<sup>11</sup> Starwood's subsidiary, Startrans IO, LLC ("Startrans"), owns a minority interest in the Mead-Phoenix project ("MMP"), a 1,300 MW, 500-kV AC transmission line extending from Arizona to southern Nevada, and in the Mead-Adelanto project ("MAP"), a 1,296 MW, 500-kV AC transmission line extending from southern Nevada to southern California. Startrans's interests in these projects are under the operational control of the California Independent System Operator Corporation and Startrans does not operate either project. Because Startrans' interests in those projects are under 10 percent, Applicant is not affiliated with those assets and they are not listed on Attachment 3. 18 C.F.R. § 35.36(a)(9). Starwood also has an indirect, passive, minority ownership interests in (1) Neptune Regional Transmission System, LLC ("Neptune"), which owns a 53-mile, 660-MW high voltage DC merchant transmission line that interconnects the Long Island Power Authority transmission system with the PJM-controlled transmission system in Sayreville, New Jersey, and which is subject to the Commission's open access requirements; (2) Hudson Transmission Partners, LLC ("Hudson"), which owns a 660-MW, 345-kV merchant transmission line between Ridgefield, New Jersey and mid-town Manhattan, New York; and (3) New England Independent Transmission Company, L.L.C. ("NEITC"), which is developing a 660-MW high voltage DC underwater transmission line that will stretch approximately 140 miles to connect the coast of Maine with the city of Boston. Because Starwood holds only passive ownership interests in Neptune, Hudson and NEITC and does not have control over Neptune, Hudson, or NEITC, neither Starwood nor Applicant are an energy affiliate of Neptune, Hudson, or NEITC. See *Neptune Regional Transmission System, LLC*, 120 FERC ¶ 61,090 (2007); *New England Transmission Co., L.L.C.*, 118 FERC ¶ 61,127 (2007); *Northampton Generating Co., L.P. et al.*, Docket Nos. ER12-281-004 (issued Aug 15, 2013) (unpublished letter order) (accepting applicant's notice of change in status). Additionally, the NEITC project is not yet operational, does not yet have any physical transmission facilities or any transmission tariffs, and does not render any transmission service. Accordingly, these projects are not listed on the asset appendix, included at Attachment 3 of this application.

horizontal and vertical market power.<sup>12</sup> Affiliate restrictions are now also codified in the Commission's regulations and must be satisfied on an ongoing basis as a condition of obtaining and retaining market-based rate authority.<sup>13</sup> Attachment 3 lists all transmission and generation assets owned or controlled by Applicant and its affiliates. As demonstrated below, neither Applicant nor any of its affiliates has horizontal or vertical market power in the ISO-NE market. Therefore, Applicant meets each of the Commission's requirements for market-based rate authorization and its request should be granted.

**A. Horizontal Market Power**

The Commission reviews horizontal market power by assessing the market power of the seller and any of its affiliates that own or control generation in the relevant geographic market, which the Commission has indicated is the market where the seller's generation is physically located.<sup>14</sup> Thus the relevant market for purposes of Applicant's request is ISO-NE.

In Order No. 697, the Commission codified two indicative screens for assessing horizontal market power. If an applicant for market-based rate authority fails either screen, a rebuttable presumption arises that the applicant possesses horizontal market power.<sup>15</sup> The Commission has also determined that a small owner of generation, which is unlikely to possess market power, may submit streamlined applications and may simplify assumptions in its analysis where appropriate.<sup>16</sup> When the output of a generation facility is fully committed under a long

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<sup>12</sup> Order No. 697 at PP. 13-22; *see also* 18 C.F.R. §§ 35.36-35.42.

<sup>13</sup> Order No. 697 at P. 23.

<sup>14</sup> *Id.* at P 231.

<sup>15</sup> *Id.* at P 105.

<sup>16</sup> *AEP Power Marketing*, 107 FERC ¶ 61,018 at P 113-117 (2004), *order on reh'g* 108 FERC ¶ 61,026 (2004).

term agreement, the Commission has found a lack of horizontal market power without requiring that the applicant complete the horizontal market power screens.<sup>17</sup>

As described above, all energy and capacity from the Berlin Facility is committed under a long term contract with PSNH. In addition, other than the Berlin Facility, Applicant and its affiliates own or control a 316.8 kW solar generation facility that is operational and a 1,296 kW solar generation facility in the early stages of development in the ISO-NE market, where the Berlin Facility is located. Together, this is a *de minimis* amount of generation in the ISO-NE market that does not raise any horizontal market power concerns.

For these reasons, Applicant satisfies the Commission's requirements for demonstrating that it lacks horizontal market power and does not need to complete the horizontal market power screens analysis.

#### **B. Vertical Market Power**

Applicant and its affiliates do not own or control any electric transmission facilities in the United States, other than the limited equipment necessary to interconnect the Berlin Facility to the transmission grid.<sup>18</sup> Therefore, Applicant and its affiliates do not have market power in transmission. Additionally, Applicant and its affiliates do not presently own or control fuel supplies, fuel transportation systems, other inputs to generation, or other essential resources or inputs that could be used to restrict market entry by competing power suppliers. While certain of

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<sup>17</sup> See *Silver State Solar Power North, LLC*, 139 FERC ¶ 61,088, P 11-13 (2012) (accepting a market-based rate filing without requiring applicant to complete the horizontal market power screens where the output of the generating facility was fully committed under long-term agreement); see also *High Lonesome Mesa, LLC*, Docket No. ER09-712-000 (Apr. 1, 2009) (unpublished letter order).

<sup>18</sup> As described above, Starwood holds passive, minority interests in HVDC merchant transmission lines owned by Hudson, Neptune, and NEITC but does not have control over any entity and therefore these entities are not energy affiliates of Applicant.

Applicant's affiliates own sites for potential generation development which have been reported (or will be reported for the third quarter of 2013) in their site control reports, these sites are not located in the relevant market and do not give Applicant or its affiliates the ability to erect barriers to entry. In any event, the Commission has adopted a rebuttable presumption that ownership or control of sites for generation capacity development does not allow sellers to raise entry barriers.<sup>19</sup> Neither Applicant nor its affiliates has erected barriers to entry into the relevant market, and will not erect barriers to entry into the relevant market. Accordingly, Applicant satisfies the Commission's standards with regard to vertical market power.

### **C. Affiliate Restrictions**

Applicant will comply with affiliate restrictions applicable to market-based rate sellers contained in Part 35 of the Commission's regulations on an ongoing basis.

## **IV. Seller Category Status**

Applicant is a Category 2 Seller in the Northeast Region. In Order Nos. 697 and 697-A, the Commission defined the criteria for Category 1 sellers as:

[W]holesale power marketers and wholesale power producers that own or control 500 MW or less of generation in aggregate per region; that do not own, operate or control transmission facilities other than limited equipment necessary to connect individual generating facilities to the transmission grid (or have been granted waiver of the requirements of Order No. 888); that are not affiliated with anyone that owns, operates or controls transmission facilities in the same region as the seller's generation assets; that are not affiliated with a franchised public utility in the same region as the seller's generation assets; and that do not raise other vertical market power issues.<sup>20</sup>

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<sup>19</sup> See Order No. 697 at P 22.

<sup>20</sup> Order No. 697 at P 849 n.1000.

Category 2 Sellers are defined as “any Sellers not in Category 1.”<sup>21</sup> Because Applicant’s generation facility is located in the Northeast region and Applicant is affiliated with more than 500 MW of generation in the Northeast region, it is a Category 2 seller in the Northeast region.

Although Applicant meets the definition of a Category 1 Seller in the Southwest, Southeast, Central, SPP, and Northwest regions, Applicant does not intend to sell power in these regions and will not include authorizations in its market-based rate tariff for regions outside of ISO-NE, and will not include its Seller Category status for any region outside the Northeast. In any event, Applicant meets the Category 1 definition for all regions outside of the Northeast because: (i) Applicant’s facility is located in the Northeast region and Applicant does not own or control any generation in any other region; (ii) Applicant will own only limited interconnection facilities necessary to connect its generation facility to the transmission grid; (iii) although affiliates of Applicant own or control generation (and associated interconnection facilities) that are located in the other regions, such assets are not attributable to Applicant because Applicant does not own or control these facilities and these facilities are not located in the same region as the facilities owned by Applicant; (iv) Applicant is not affiliated with a franchised public utility in any region; and (v) there are no other vertical market power concerns.

#### **V. Request for Waivers, Blanket Approvals and Authorizations**

Applicant respectfully requests that the Commission grant waivers and blanket approvals consistent with those granted to other applicants seeking market-based rate authority and consistent with Order No. 697. In particular, Applicant requests waiver of the following Commission regulations:

- Part 101, regarding the Uniform System of Accounts;<sup>22</sup>

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<sup>21</sup> 18 C.F.R. § 35.36(a)(3).

- Part 41, regarding accounts, records and memoranda;
- Part 141, regarding statements and reports, except sections 141.14 and 141.15;<sup>23</sup> and
- Subparts B and C of Part 35, except for sections 35.12(a)1, 35.13(b), 35.15, and 35.16.

Applicant requests blanket approval under Section 204 of the FPA and Part 34 of the Commission's regulations on future issuances of securities and assumptions of liabilities, subject to objection by an interested party.<sup>24</sup>

## VI. Reporting Requirements

Applicant will comply with the Commission's reporting and updating requirements, including:

- 1) Filing contract and transaction data for all sales under the Tariff in its Electric Quarterly Reports pursuant to the Commission's filing requirements, as established by Order No. 2001<sup>25</sup> and as may be amended from time to time;
- 2) Notifying the Commission within thirty (30) days after any change in status that would reflect a departure from the characteristics relied upon by the Commission in its evaluation of its application for market-based rate authority;<sup>26</sup>

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*(footnote continued)*

<sup>22</sup> See Order No. 697 at P 984 ("We will continue the Commission's historical practice of granting waiver of Parts 41, 101 and 141 of the Commission's regulations to certain entities with market-based rate authority.").

<sup>23</sup> See *id.*

<sup>24</sup> See *id.* at P 999 ("We will continue to grant blanket approval under Part 34 for future issuances of securities and assumptions of liability where the entity seeking market-based rate authority, such as a power marketer or power producer, is not a franchised public utility or does not otherwise provide requirements service at cost-based rates.").

<sup>25</sup> *Revised Pub. Util. Filing Requirements*, Order No. 2001, 67 Fed. Reg. 31043, FERC Stats. & Regs. ¶ 31,127 (Apr. 25, 2002), *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reconsideration and clarification denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filings*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002).

- 3) Submitting quarterly reports providing information on site control activities pursuant to Order Nos. 697-C and 697-D.<sup>27</sup>
- 4) Fully complying with the Commission's Market Behavior Rules, as codified at 18 C.F.R. § 35.41. In accordance with those rules, Applicant hereby notifies the Commission that, as of the effective date of the Tariff, it will not report transactions to publishers of electricity or natural gas price indices. If, at any point, Applicant begins to report price data to index publishers, it will notify the Commission within fifteen (15) days.

**G. Effective Date and Waiver of Prior Notice**

Order No. 697 requires entities seeking market-based rates to include an effective date for its Tariff. Applicant respectfully requests waiver of the Commission's 60-day notice period, pursuant to 18 C.F.R. § 35.3(a) of FERC's regulations to allow its Tariff to become effective on October 15, 2013. Good cause exists to grant the limited waiver requested herein to enable Applicant to begin generating test power because Applicant does not have horizontal or vertical market power, has not erected barriers to market entry and will not erect such barriers in the future.

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*(footnote continued)*

<sup>26</sup> *Reporting Requirements for Changes in Status for Pub. Utils. with Market-Based Rate Auth.*, Order No. 652, FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005).

<sup>27</sup> *Market-Based Rates for Wholesale Sales of Elec. Energy, Capacity & Ancillary Servs. by Pub. Utils.*, Order No. 697-C, 127 FERC ¶ 61,284 at PP 18-20 (2009), *order on reh'g. and clarification*, Order No. 697-D, 130 FERC ¶ 61,206 at PP. 21-24 (2010).

**H. Conclusion**

WHEREFORE, Applicant requests that the Commission issue an order accepting its tariff with an effective date of October 15, 2013, and granting the waivers and authorizations requested in this petition.

Respectfully submitted,

/s/ Ruta Kalvaitis Skučas

Ruta Kalvaitis Skučas

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Dated: October 2, 2013



**Attachment 1**

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8. Limitations and Exemptions Regarding Market-Based Rate Authority: The Commission granted Seller in *Burgess Biopower LLC*, Docket No. ER13-\_\_\_\_\_-000 (\_\_\_\_\_, 2013) (unpublished letter order), the following waivers and blanket authorization: (i) waiver of Part 41, 101 and 141 of the Commission's regulations, except for Sections 141.14 and 141.15; (ii) waiver of Subparts B and C of Part 35 of the Commission's regulations, except for Sections 35.12(a), 35.13(b), 35.15 and 35.16; and (iii) blanket approval as to Section 204 of the FPA and Part 34 of the Commission's regulations for all future issuances of securities and debt and assumptions of liabilities.
9. Seller Category: As defined in 18 C.F.R. § 35.36(a), Seller is a Category 2 Seller in the Northeast Region.



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*Admitted in:* Maryland, DC

October 2, 2013

The Honorable Kimberly Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First St., NE  
Washington, DC 20426

RE: Market-Based Rate Application of Burgess Biopower LLC

Dear Secretary Bose:

Please find attached for filing the Application for Market-Based Rate Authorization and Requests for Waivers and Blanket Authorizations of Burgess Biopower LLC ("Burgess"). Included in this filing along with the Application are the following attachments:

- Attachment 1 – Applicant's proposed Tariff
- Attachment 2 – Organizational Chart
- Attachment 3 – Appendix of Assets
- Attachment 4 – Description of Passive Interests

If you have any questions regarding this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,  
*/s/ Ruta Kalvaitis Skucas*  
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FERC rendition of the electronically filed tariff records in Docket No. ER14-00016-000

Filing Data:

CID: C003828

Filing Title: Baseline new

Company Filing Identifier: 1

Type of Filing Code: 400

Associated Filing Identifier:

Tariff Title: Market Based Rates

Tariff ID: 1

Payment Confirmation:

Suspension Motion: N

Tariff Record Data:

Record Content Description, Tariff Record Title, Record Version Number, Option Code:

Section1, Market Based Rates, 1.0.0, A

Record Narrative Name: Market Based Rates

Tariff Record ID: 10

Tariff Record Collation Value: 10 Tariff Record Parent Identifier: 0

Proposed Date: 2013-10-15

Priority Order: 500

Record Change Type: New

Record Content Type: 1

Associated Filing Identifier:

### **Burgess Biopower LLC FERC Electric MBR Tariff No. 1**

1. Availability: Burgess Biopower LLC (“Seller”) makes electric energy, capacity, and ancillary services available under this Rate Schedule to any purchaser in the ISO New England, Inc. region for resale, except as prohibited below.
2. Applicability: This Rate Schedule is applicable to all sales of energy, capacity, and certain ancillary services by Seller not otherwise subject to a particular rate schedule of Seller.
3. Rates: All sales shall be made at rates established by agreement between the purchaser and Seller.
4. Other Terms and Conditions: All other terms and conditions shall be established by agreement between the purchaser and Seller.
5. Ancillary Services: Seller will also make available to any purchaser with whom it has contracted, the ancillary services listed in this Paragraph 5.
  - (a) New England: Seller offers regulation and frequency response service (automatic generator control), operating reserve service (which includes 10-minute spinning reserve, 10-minute non-spinning reserve, and 30- minute operating reserve service) to purchasers within the markets administered by ISO New England, Inc.
  - (b) Third-Party Ancillary Services: Seller offers Regulation Service, Energy Imbalance Service, Spinning Reserves, and Supplemental Reserves. Sales will not include the following: (1) sales to an RTO or an ISO, i.e., where that entity has no ability to self-supply ancillary services but instead depends on third parties; (2) sales to a traditional, franchised

public utility affiliated with the third-party supplier, or sales where the underlying transmission service is on the system of the public utility affiliated with the third-party supplier; and (3) sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers.

6. Effective Date: This tariff is effective on and after October 15, 2013 (or the date set by the Federal Energy Regulatory Commission).
7. Compliance with Commission Regulations: Seller shall comply with the provisions of 18 C.F.R. Part 35, Subpart H, as applicable, and with any conditions the Commission imposes in its orders concerning Seller's market-based rate authority, including orders in which the Commission authorizes Seller to engage in affiliate sales under this Tariff or otherwise restricts or limits the Seller's market-based rate authority. Failure to comply with the applicable provisions of 18 C.F.R. Part 35, Subpart H, and with any orders of the Commission concerning Seller's market-based rate authority, will constitute a violation of this Tariff.
8. Limitations and Exemptions Regarding Market-Based Rate Authority: The Commission granted Seller in *Burgess Biopower LLC*, Docket No. ER13-\_\_\_\_\_-000 (\_\_\_\_\_, 2013) (unpublished letter order), the following waivers and blanket authorization: (i) waiver of Part 41, 101 and 141 of the Commission's regulations, except for Sections 141.14 and 141.15; (ii) waiver of Subparts B and C of Part 35 of the Commission's regulations, except for Sections 35.12(a), 35.13(b), 35.15 and 35.16; and (iii) blanket approval as to Section 204 of the FPA and Part 34 of the Commission's regulations for all future issuances of securities and debt and assumptions of liabilities.
9. Seller Category: As defined in 18 C.F.R. § 35.36(a), Seller is a Category 2 Seller in the Northeast Region.

Document Content(s)

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