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2023 SESSION

23-0569
10/08

HOUSE BILL ***142***

AN ACT relative to the operation of the Burgess Biopower plant.

SPONSORS: Rep. Vose, Rock. 5

COMMITTEE: Science, Technology and Energy

ANALYSIS

This bill allows the public utilities commission to amend its orders as necessary to protect the continued operation of the Burgess Biopower plant.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Three

AN ACT relative to the operation of the Burgess Biopower plant.

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

1 Findings.

I. The general court finds that the continued operation of the Burgess BioPower plant in Berlin is desirable to the energy infrastructure of the state of New Hampshire, within the bounds of previous agreements made to sustain the facility, and while not damaging the larger economy of the state.

II. The original purchase power agreement (PPA) signed by Burgess Biopower and PSNH and conditionally approved by the public utilities commission was deemed necessary in 2010 to provide support for the economically disadvantaged North Country due to the closure of a large paper mill, a major Coos county employer. Burgess Biopower and PSNH agreed to the terms of the public utilities commission conditional approval and altered the PPA accordingly.

III. The PPA terms, according to public utilities commission docket testimony, posed several risks. The legislature intervened to mitigate one such risk in 2017 with SB577, which Burgess Biopower believed would forgive an accumulation of over market energy costs. The public utilities commission interpreted the legislation to mean that the over accumulation of costs would require a repayment according to the terms of the contract. The legislature then extended the relief provided by SB577 for one year in SB271.

IV. In 2023, a department of energy audit confirmed that such repayment of accumulated costs would be detrimental to the continued operation of Burgess Biopower. Forgiving those over-threshold costs, which have already been recovered from ratepayers, can (a) restore the original intent of the PPA, (b) redress the legislature's earlier erroneous interference in a private contractual matter, and (c) protect ratepayers and the overall economy of the state.

2 Public Utilities Commission; Authority to Amend Orders.

I. The public utilities commission shall amend any of its orders as necessary to accomplish the following:

(a) Maintain the CRF balance, capped at $100 million. The $100 million which accrued in the CRF prior to the legislature's suspensions of the operation of the cap on the CRF shall be subject to the terms of the Power Purchase Agreement (PPA) as approved by Order No. 25,213 in Docket No. DE 10-195 and all subsequent amendments.

(b) Accruals in excess of the $100 million cap of the CRF during the legislative suspension periods. Burgess BioPower shall not be obligated to repay any amounts in excess of the $100 million CRF balance that have accrued and been paid for by ratepayers during the legislature's previous suspensions of the operation of the cap on the CRF.

(c) New accruals to be paid for by Burgess. On a moving forward basis, Burgess Biopower will be responsible for any further accumulation over the $100 million balance of the CRF by remitting payment pursuant to Section 6.1.4(c) of the PPA.

II. Given the contributions, both economic and energy-related, that the Burgess Biopower plant provides to the state's north country region, such relief provided to the Burgess Biopower plant by the restoration of the terms of the original PPA shall be deemed to be reasonable, legitimate, and in the public interest for the purposes of RSA 374:57, or any provision of law applicable to the approval of power purchase agreements.

III. To ensure the continued viability of Burgess Biopower, any proceeding conducted by the public utilities commission shall be conducted on an expedited basis, by opening a docket within 30 days after passage of this act and issuing a final order implementing the relief provided in this act no later than 6 months from the effective date of this act.

3 Effective Date. This act shall take effect upon its passage.

VETOED August 18, 2023