

SENATE No. 1772

The Commonwealth of Massachusetts

PRESENTED BY:

Brian A. Joyce

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to on-site combined heat and power facilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>

SENATE No. 1772

By Mr. Joyce, a petition (accompanied by bill, Senate, No. 1772) of Brian A. Joyce, Chris Walsh, Jason M. Lewis and James B. Eldridge for legislation relative to on-site combined heat and power facilities. Telecommunications, Utilities and Energy.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1599 OF 2013-2014.]

The Commonwealth of Massachusetts

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**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**
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An Act relative to on-site combined heat and power facilities.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 164 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by striking out the definition of “Distribution company” and
3 inserting in place thereof the following definition:-

4 “Distribution company”, a company engaging in the distribution of electricity or owning,
5 operating or controlling distribution facilities; provided, however, that a distribution company
6 shall not include any entity which owns or operates plant or equipment used to produce
7 electricity, steam and chilled water, or an affiliate engaged solely in the provision of such
8 electricity, steam and chilled water, where the electricity produced by such entity or its affiliate
9 is primarily for the benefit of hospitals and non-profit educational institutions, and where such

10 plant or equipment was in operation before January 1, 1986; and provided further that a
11 distribution company shall not include an on-site combined heat and power facility.

12 SECTION 2. Said section 1 of said chapter 164, as so appearing, is hereby further
13 amended by striking out the definition of “Electric company” and inserting in place thereof the
14 following definition:-

15 “Electric company”, a corporation organized under the laws of the commonwealth for the
16 purpose of making by means of water power, steam power or otherwise and for selling,
17 transmitting, distributing, transmitting and selling, or distributing and selling, electricity within
18 the commonwealth, or authorized by special act so to do, even though subsequently authorized to
19 make or sell gas; provided, however, that electric company shall not include an alternative
20 energy producer; provided, further, that a distribution company shall not include an entity which
21 owns or operates a plant or equipment used to produce electricity, steam and chilled water, or an
22 affiliate engaged solely in the provision of such electricity, steam and chilled water, where the
23 electricity produced by such entity or its affiliate is primarily for the benefit of hospitals and
24 nonprofit educational institutions, and where such plant or equipment was in operation before
25 January 1, 1986; and provided, further, that electric company shall not include a corporation only
26 transmitting and selling, or only transmitting, electricity unless such corporation is affiliated with
27 an electric company organized under the laws of the commonwealth for the purpose of
28 distributing and selling, or distributing only, electricity within the commonwealth; and provided,
29 further, that an electric company shall not include an on-site combined heat and power facility.

30 SECTION 3. Said section 1 of said chapter 164, as so appearing, is hereby further
31 amended by inserting after the definition of “Non-renewable energy supply and resource
32 development” the following definition:-

33 "On-site combined heat and power facility", a combined heat and power facility using
34 equipment and services to produce and deliver electric and thermal energy to end use customers
35 located on the property on which the facility is located or on property contiguous to the property
36 on which the facility is located; provided, however , that the property of the end use customer
37 shall be considered contiguous to the property on which the on-site combined heat and power
38 facility is located if (i) said properties are geographically adjacent to one another, (ii) said
39 properties are only separated by an easement, a public thoroughfare or a transportation or utility-
40 owned right-of-way or (iii) regardless of any intervening properties, public thoroughfares, or
41 transportation or utility-owned rights-of-way, the end use customer is purchasing thermal energy
42 produced by the on-site combined heat and power facility, and said thermal energy is being
43 utilized in an established application of thermal energy, including but not limited to, industrial or
44 commercial heating or cooling.

45 SECTION 4. Said section 1 of said chapter 164, as so appearing, is hereby further
46 amended by striking out the definition of “Supplier” and inserting in place thereof the following
47 definition:-

48 “Supplier”, a supplier of generation service to retail customers, including power
49 marketers, brokers and marketing affiliates of distribution companies, except that neither an
50 electric company nor an on-site combined heat and power facility shall be considered a
51 supplier."; and by inserting after section 27 the following section:-

52 SECTION 5. Section 142 of said chapter 164, as so appearing, is hereby amended by
53 adding the following 2 paragraphs:-

54 The owner of an on-site combined heat and power facility may distribute and sell
55 electricity at retail to end use customers located on the property on which the facility is located
56 or on property contiguous to the property on which said facility is located. The department shall
57 promulgate regulations to ensure that the delivery of electricity from an on-site combined heat
58 and power facility to end use customers shall meet the same standards of reliability and safety as
59 those that apply to the design, operation and maintenance of distribution facilities by a
60 distribution company, including standards for metering and interconnection. The distribution
61 company providing distribution service to the end use customers served by an on-site combined
62 heat and power facility shall provide non-discriminatory electric delivery services at the standard
63 prevailing tariff rates applicable to such individual end use customers. In the event of a forced
64 outage of delivered supply, the distribution company experiencing such outage shall be
65 responsible for curing the outage. The distribution companies shall provide back-up service to
66 any end use customer desiring such service.

67 A distribution company shall not exercise its franchise rights in a way that would affect
68 the distribution and sale of electricity by on-site combined heat and power facilities to end use
69 customers; provided, however, that the department may grant a waiver of this prohibition upon a
70 finding that the waiver is in the public interest and that failure to grant the waiver will result in
71 irreparable harm to the distribution company. Any party aggrieved by a decision of the
72 department under this section may seek judicial review under chapter 30A.