

**SENATE . . . . . No. 1599**

---

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 passage 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>Barry R. Finegold</i>	<i>Second Essex and Middlesex</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>

**SENATE . . . . . No. 1599**

---

By Mr. Joyce, a petition (accompanied by bill, Senate, No. 1599) of Brian A. Joyce, Barry R. Finegold and Kate Hogan for legislation relative to on-site combined heat and power facilities. Telecommunications, Utilities and Energy.

---

The Commonwealth of Massachusetts

\_\_\_\_\_

**In the Year Two Thousand Thirteen**

\_\_\_\_\_

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 2010  
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.