

By Mr. Fresolo of Worcester, petition of John P. Fresolo and Michael F. Kane for legislation to further define the term “electric company” for the siting of electric transmission facilities in the Commonwealth. Government Regulations.

The Commonwealth of Massachusetts

In the Year Two Thousand and Four.

AN ACT ADDRESSING THE SITING OF ELECTRIC TRANSMISSION IN MASSACHUSETTS.

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
2 appearing in the 2002 Official Edition, is hereby amended by
3 striking out the definition of “Electric company” and inserting in
4 place thereof the following definition:—
5 “Electric company”, a corporation organized under the laws of
6 the commonwealth for the purpose of making by means of water
7 power, steam power or otherwise and selling, or distributing and
8 selling, or only distributing, electricity within the commonwealth,
9 or authorized by special act so to do, even though subsequently
10 authorized to make or sell gas; provided, however, that electric
11 company shall not mean an alternative energy producer; and pro-
12 vided further, that a distribution company shall not include any
13 entity which owns or operates a plant or equipment used to pro-
14 duce electricity, steam, and chilled water, or any affiliate engaged
15 solely in the provision of such electricity, steam, and chilled
16 water, where the electricity produced by such entity or its affiliate
17 is primarily for the benefit of hospitals and non-profit educational
18 institutions, and where such plant or equipment was in operation
19 prior to January 1, 1986; provided further that electric company
20 shall not mean a corporation only transmitting and selling, or only
21 transmitting, electricity unless such corporation is affiliated with
22 an electric company organized under the laws of the common-

23 wealth for the purpose of distributing and selling or distributing
24 only, electricity within the commonwealth.

1 SECTION 2. Section 2 of Chapter 164 of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 striking out said section in its entirety and inserting in place
4 thereof the following:—

5 In construing sections sixty-nine G to sixty-nine O, inclusive,
6 seventy, seventy-one, seventy-four to eighty-three, inclusive,
7 ninety-two to ninety-five, inclusive, one hundred and three, one
8 hundred and five, one hundred and six, one hundred and nine, one
9 hundred and twelve to one hundred and fourteen, inclusive, one
10 hundred and sixteen, one hundred and seventeen, one hundred and
11 nineteen, one hundred and twenty, one hundred and twenty-one,
12 one hundred and twenty-three to one hundred and twenty-seven,
13 inclusive, unless the context otherwise requires, the terms “corpo-
14 ration”, “gas company” and “electric company” shall include
15 (i) all persons, firms, associations and private corporations which
16 own or operate works or a distributing plant for the manufacture
17 and sale, or distribution and sale of gas for heating and illumi-
18 nating purposes, or of electricity, within the commonwealth, or
19 (ii) or a transmission company that is affiliated with an “electric
20 company”, but shall not include any alternative energy producer
21 other than persons, firms, associations, and private corporations
22 expressly excluded from the definition of “electric company” in
23 section 1 of this chapter; and in construing sections one hundred
24 and three, one hundred and five, one hundred and nine, one hun-
25 dred and twelve to one hundred and fourteen, inclusive, one hun-
26 dred and sixteen, one hundred and seventeen, one hundred and
27 twenty, one hundred and twenty-one, and one hundred and
28 twenty-three to one hundred and twenty-seven, inclusive, the
29 terms “corporation”, “gas company” and “electric company” shall
30 include municipal corporations which own or may acquire munic-
31 ipal lighting plants. Electric companies, which engage in genera-
32 tion and which are not part of a vertically integrated electric
33 company or do not have a distribution affiliate in the common-
34 wealth, shall be exempt from the provisions of sections 3 to 33,
35 inclusive, and section 93. Electric companies, which engage
36 solely in the transmission or transmission and sale of electricity,

37 shall be exempt from the provisions of this chapter to the extent
38 that they are preempted by federal law.

1 SECTION 3. Section 69 J of chapter 164 of the General Laws
2 as appearing in the 2002 Official Edition, is hereby amended by
3 striking the third paragraph and inserting in its place the
4 following:—

5 A petition to construct a generating facility shall include, in
6 such form and detail as the board shall from time to time pre-
7 scribe, the following information: (1) a description of the facility,
8 site and surrounding areas; (2) an analysis of the need for the
9 facility, either within or outside, or both within and outside the
10 commonwealth; (3) a description of the alternatives to the facility,
11 such as other methods of transmitting or storing energy, other site
12 locations, other sources of electrical power or gas, or a reduction
13 of requirements through load management; and (4) a description
14 of the environmental impacts of the facility. The board shall be
15 empowered to issue and revise filing guidelines after public notice
16 and a period for comment. A minimum of data shall be required
17 by these guidelines from the applicant for review concerning land
18 use impact, water resource impact, air quality impact, solid waste
19 impact, radiation impact and noise impact.

1 SECTION 4. Section 71 of Chapter 164 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 inserting the following sentence at the end of the Section 71:—

4 Nothing in this section 71 shall prohibit a corporation that is
5 not subject to this chapter from constructing lines for the trans-
6 mission of electricity nor shall it authorize such a corporation to
7 construct lines for the transmission of electricity.

1 SECTION 5. Section 72 of Chapter 164 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 striking the caption and inserting the following new caption:
4 Siting Approval and Taking Land for Transmission Lines.

1 SECTION 6. Section 72 of Chapter 164 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 striking the words “An Electric company” in line 1 and inserting

4 in place thereof the following: (a) Any electric company, distribu-
5 tion company, generation company, or transmission company pro-
6 viding or seeking to provide transmission service.

1 SECTION 7. Section 72 of Chapter 164 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 striking the 6th sentence, as it appears on lines 18-31, and
4 inserting in place thereof the following two sentences:—

5 If the electric company, distribution company, generation com-
6 pany or transmission company or any other entity providing or
7 seeking to provide transmission service shall file with the depart-
8 ment a map or plan of the transmission line showing the towns
9 through which it will or does pass, the public ways, railroads, rail-
10 ways, navigable streams and tide waters in the town named in said
11 petition which it will cross, and the extent to which it will be
12 located upon private land or upon, under or along public ways and
13 places, the department, after such notice as it may direct, shall
14 give a public hearing or hearings in one or more of the towns
15 through which the line passes or is intended to pass.

16 (b) The department may by order authorize an electric company
17 or transmission company to take by eminent domain under chapter
18 seventy-nine such lands, or such rights of way or widening
19 thereof; or other easements therein necessary for the construction
20 and use or continued use as constructed or with altered construc-
21 tion of such line along the route prescribed in the order of the
22 department. The department shall transmit a certified copy of its
23 order to the company and the clerk of each such town.

1 SECTION 8. Section 72 of Chapter 164 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 inserting after the words “electric company” as it appears in the
4 line 52 thereof the following words: Adds “or transmission com-
5 pany”.

1 SECTION 9. Section 72 of chapter 164 of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 inserting after the last sentence the following:—

4 No entity shall be authorized under this Section 72 or under
5 Section 69R of chapter 164 or Section 24 of chapter 164A to take

6 by eminent domain any lands or rights of way or other easements
7 therein held by an electric company or transmission company to
8 support an existing or proposed transmission line without the con-
9 sent of such electric company or transmission company.

