

Accompanying the third recommendation of the Executive Office of Energy Resources (House, No. 114). Energy.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Eight.

AN ACT PROVIDING FOR AN EXEMPTION OF CERTAIN COGENERATORS AND SMALL POWER PRODUCERS FROM CERTAIN DEPARTMENT OR PUBLIC UTILITIES REGULATION.

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,
2 as appearing in the 1986 Official Edition, is hereby amended by
3 striking out the paragraph beginning "Alternative energy
4 producer" and inserting in place thereof the following: —

5 "Alternative energy producer", any person, firm, partnership,
6 association, public or private corporation, or any agency,
7 department, board, commission or authority of the common-
8 wealth or of a subdivision of the commonwealth, that owns or
9 operates a cogeneration facility or small power production facility
10 as defined in this section.

1 SECTION 2. Section 1 of chapter 165 of the General Laws,
2 as so appearing, is hereby further amended by striking out the
3 paragraph beginning "cogeneration facility" and inserting in place
4 thereof the following two paragraphs: —

5 "Cogeneration facility", any electrical generating unit which
6 produces (i) electric energy and (ii) steam or other forms of useful
7 energy which are used for residential, industrial, commercial,
8 heating or cooling purposes, and which has a power production
9 capacity which together with other facilities located at the same
10 site, is less than one hundred megawatts.

11 "Cogenerator", any person, firm, partnership, association,

12 public or private corporation, or any agency, department, board,
13 commission or authority of the commonwealth or of a subdivision
14 of the commonwealth, that owns or operates a cogeneration
15 facility and that is not primarily engaged in the generation,
16 distribution, or sale of electric power other than from a
17 cogeneration or small power production facility.

1 SECTION 3. Section 1 of chapter 164 of the General Laws,
2 as so appearing, is hereby further amended by striking the
3 paragraph beginning “small power production facility” and
4 inserting in place thereof the following two paragraphs: —

5 “Small power production facility”, any bulk electric generating
6 unit, including associated buildings and structures, which
7 produces electricity and has a power production capacity which,
8 together with other facilities located at the same site, is less than
9 one hundred megawatts.

10 “Small power producer”, any person, firm, partnership,
11 association, public or private corporation, or any agency,
12 department, board, commission or authority of the common-
13 wealth or of a subdivision of the commonwealth, that owns or
14 operates a small power production facility and that is not
15 primarily engaged in the generation, distribution, or sale of
16 electric power other than from a cogeneration or small power
17 production facility.

1 SECTION 4. Section 1 of chapter 164, as so appearing, is
2 hereby further amended by adding the following at the end of the
3 definition of “Electric company” in line 56: —

4 and provided further that electric company shall not mean an
5 alternative energy producer which is engaged in the sale of
6 electricity within the commonwealth solely to customers at
7 locations where they are purchasing electricity for the first time
8 (as determined by the department) or to electric companies.

1 SECTION 5. Section 69G of chapter 164 of the General Laws,
2 as so appearing, is hereby amended by adding the following
3 sentence at the end of the definition of “Electric company”, in line
4 24: —

5 In no event shall an alternative energy producer, as defined in
6 section 1 of this chapter, which generates, transmits, distributes,
7 or sells electricity only to customers at locations where they are
8 purchasing electricity for the first time (as determined by the
9 department) or to the electric companies, be deemed an electric
10 company for the purposes of this section.

1 SECTION 6. Section 83 of chapter 164 of the General Laws,
2 as so appearing, is hereby amended by striking out the sentence
3 beginning in line 12 and inserting in place thereof the following
4 sentence:—

5 Such companies and persons shall at all times, upon request,
6 furnish any information required by the department or its duly
7 authorized employees relative to their condition, management and
8 operation, and shall comply with all lawful orders of the
9 department; but manufacturing companies and alternative energy
10 producers in which the manufacture and sale of gas or electricity
11 is a minor portion of their business shall be required to include
12 in their annual returns the income and expenses and other data
13 relative to their gas and electric business only.

1 SECTION 7. Paragraph 1 of section 92 of chapter 164 of the
2 General Laws, as so appearing, is hereby amended by adding at
3 the end of the first paragraph in line 12 the following:

4 —, and provided further; that no order shall be issued directing
5 or requiring an alternative energy producer to supply the
6 petitioner with electricity if such alternative energy producer is
7 engaged in sales solely to customers at locations where they are
8 purchasing electricity for the first time (as determined by the
9 department) or to electric companies.

1 SECTION 8. Section 94A of chapter 164 of the General Laws,
2 as so appearing, is hereby amended by adding in line 19 thereof
3 the following:—

4 Nothing contained herein shall limit the authority of the
5 department to review and approve a contract for the purchase of
6 electricity by an electric utility from an alternative energy
7 producer.

1 SECTION 9. Section 94G of chapter 164 of the General Laws,
2 as so appearing, is hereby amended by adding after the phrase
3 “power charges” in line 156 the following:

4 —, including power purchased from, or offered for sale by,
5 alternative energy producers,

1 SECTION 10. Section 124I of chapter 164 of the General
2 Laws, as so appearing, is hereby amended by adding the following
3 in line 4: —

4 For the purpose of this section, the term “company” shall
5 include “alternative energy producer” as defined in section one
6 of this chapter.