



May 11, 2012

Robert A. DeLeo, Speaker
Massachusetts House of Representatives
State House, Room 356
Boston, MA 02133

RE: USCHPA Comments in Support of Section 18, and associated definitions, of S. 2214,
concerning Combined Heat and Power (the "CHP Bill").

Dear Mr. Speaker:

The U.S. Clean Heat & Power Association (USCHPA) is the voice of combined heat and power in the USA. The organization is a 501(c)(6) trade association whose membership includes manufacturers, suppliers, and developers of combined heat and power (CHP) systems, many of whom have existing facilities and/or projects in development in the Commonwealth of Massachusetts. Currently supplying twelve percent (12%) of U.S. energy capacity, CHP systems can reach efficiencies above eighty percent (80%). There is approximately 82 GW of CHP installed in the U.S. and industry estimates indicate the technical potential for additional CHP at existing sites in the U.S. is approximately 130 GW (plus an additional 10 GW of waste heat recovery CHP).

Recently the Massachusetts Senate passed the CHP Bill, which would allow combined heat and power facilities to compete fairly with utilities in the distribution of electric power to retail customers. I am writing today to encourage the Massachusetts House to follow suit and approve this important piece of legislation.

The benefits of CHP are widely recognized. Typically fueled by clean natural gas, CHP systems on average are more than 60% efficient - twice as efficient as central station power plants. This increased efficiency reduces emissions of greenhouse gases and other pollutants, increases base electric load reliability, and reduces transmission and distribution losses. In fact, the Massachusetts General Court recognized CHP's benefits in the Green Communities Act through the eligibility of CHP for the Alternative Energy Portfolio Standard (APS).

However, CHP is not reaching the potential that should be expected despite available incentives for CHP investment. In part, this can be attributed to arbitrary limitations imposed upon the sale and distribution of excess power from these facilities. CHP systems typically are sized to the thermal load of their customer. This frequently creates a mismatch between the electric capacity of the CHP plant and the electric load requirements of the host customer. In most cases, the power purchase rate that can be obtained for the sale of excess power can be a critical determinant in the economic viability of a CHP project. Thus simply being able to access retail power customers with a CHP's excess power could be a critical driver to greater CHP deployment and higher energy efficiency in Massachusetts. In addition, antiquated franchise laws prevent a CHP from distributing its own power on its own wires to potential

nearby customers. The CHP bill would address these barriers by allowing a CHP to distribute and sell its power to retail customers under very narrowly defined criteria: qualified CHP plants could only serve retail electric customers (a) on the same parcel; (b) on contiguous parcels or (c) who are also thermal energy customers of the CHP facility. In this way, qualified CHP facilities could efficiently distribute thermal energy and electric power to multiple nearby buildings without becoming a regulated public utility.

In passing the CHP Bill, Massachusetts would join a list of several progressive states that have stepped up to reduce the regulatory barrier of utility franchise laws in their encouragement of clean energy. Examples include:

- New York - As a result of a statute and a series of favorable NYPSC rulings, most recently the Burrstone case in 2007, a CHP project in NY is permitted to run private wires to distribute power for retail sale to multiple end use customers that are located “at or near” the CHP plant, regardless of whether the wires cross public rights of way, without becoming subject to public utility regulation.
- California – State law expressly permits CHP owners to serve up to two end use properties separated from the generator parcel by a public right of way in several cases, including (i) where the end user is an affiliate of, or under common ownership with, the generating company, (ii) where the CHP is also selling thermal energy to a refinery end user and (iii) where the end user is a public agency.
- New Jersey - On-site generators – including CHPs - have long been exempt from public utility status and allowed to run private wires to “contiguous” end users, the definition of which dating back to 1999 allowed end users to be separated from the non-utility generator by a public way or thoroughfare. Further, in 2009, the Legislature expanded the definition to allow retail electric sales to end use customers purchasing thermal energy services produced by the CHP facility, regardless of any intervening property, public thoroughfare, or utility-owned right-of-way;
- Iowa – Iowa has an exemption for qualifying alternate energy facilities to run private “secondary lines” to serve up to five unrelated retail electric customers.

Passing this bill will encourage further investment in efficient CHP thereby reducing greenhouse gas emissions in the Commonwealth and enhancing local electric power availability and reliability. USCHPA encourages the Committee to advance the legislation swiftly.

I appreciate the opportunity to comment on the CHP bill and welcome any questions from you or your staff.

Sincerely,



Jessica H. Bridges, CAE IOM
Executive Director