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Via U.S. Mail and Email

May 15, 2023

Nevada State Apprenticeship Council
Department of Business & Industry
Office of the Labor Commissioner
Attn: Toni Giddens, State Apprenticeship Director
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Re: Objections of Electrical Joint Apprenticeship and Training Committee of Southern Nevada ("Electrical JATC") to Proposed Program Standards, Occupation, etc., Qualifications and Selection Procedures (Electrician Occupation – "Electrician Standards") submitted by Northern Nevada IEC ("IEC") – Agenda Item – Public Meeting Date: Thursday, May 25, 2023 (9:00 a.m.)

To the Nevada State Apprenticeship Council ("Council"):

I. Summary of Prior Proceedings

The Electrical JATC is the sponsor of an electrician apprenticeship program ("Electrical Program"), including definitive qualifications for "electrician" apprentices. The Electrical Program was originally approved by the Council in 1947 and has subsequently been improved, amended and re-approved over 75 years by this Council to include the current National Electrical Program Standards accepted by this Council. The Electrical JATC's Program is in many ways "parallel" and similar to the Electrician Standards proposed by IEC. The Electrical JATC submitted its Response to Possible Similar Program Notice on May 4, 2023.

The Electrical JATC and its Sponsors, IBEW Local 357 ("Local 357") and the Southern Nevada Chapter of the National Electrical Contractors Association ("NECA"), are among the original founders, custodians and preeminent trainers in the Electrical Industry in Nevada, fully qualified to accurately and competently assess the Proposed IEC (Electrician) Standards.

Below please find the Electrical JATC's Objections to the Proposed IEC (Electrician) Standards. The Proposed IEC Standards are expected to be listed as an Agenda Item on the Council's Public Meeting Agenda scheduled on Thursday, May 25, 2023 at 9:00 a.m. ("Meeting"). The Electrical JATC

and its representatives: (i) intend to appear in Opposition to the Proposed EIC Standards; (ii) respectfully request Council's permission to be heard; and (iii) urge Council's "Denial" of the Proposed IEC (Electrician) Standards.

II. Statement of Facts

On April 6, 2023, Madison Burnett, Electrical JATC Training Director and Member of the Council, was served electronically by the State Apprenticeship Director, Toni Giddens, with a potential Parallel Program notice, containing the Proposed IEC (Electrician) Standards, described in its submission ("Application") as "2023 Non-Joint Standards of Apprenticeship" for "Electrician" under Rapids Code 47.2111.00.

The Council records will reflect prior approval on August 26, 2020 of the Electrical JATC Wireman Apprenticeship and Training Standards ("Electrical JATC Standards"), establishing an apprenticeship program, including approved electrical work processes under the preexisting title of "Electrician" (O*NET-SOC Code: 47-2111.00, RAPIDS CODE: 0159). The Electrical JATC Standards were also registered and approved by the Electrical Training Alliance, a national joint training program between the National Electrical Contractors Association and the International Brotherhood of Electrical Workers.

The Electrical JATC Standards have continually defined the acceptable Nevada Standard for the "Electrician" occupation, since the Electrical JATC Program initial Standards were approval in 1947. The Electrical JATC Standards constitute the time-tested and historical quality control guideline for "Electrician" occupation apprenticeship programs in Nevada. The IEC Standards, as proposed, clearly fall short of multiple Statutory, Regulatory, Council and Electrical Industry requirements and should be "denied" at the Council Meeting to protect the Public.

"Electrician" Standards of a competent program should contain standards similar and parallel to the Electrical JATC Standards, previously approved by the Council. The IEC Standards are deficient and flawed and likely violate the requirements of the Nevada Apprenticeship Act (Chapter 610 of NRS – "Act", and its related Regulations under NAC Chapter 610 – "Regulations"), for the following substantive and procedural reasons:

III. Objections to Proposed IEC Electrician Standards under Applicable Governing Law

1. <u>The IEC Application is Deficient – and Misrepresented as a Wage Increase Request</u>. There are two (2) 5910 Forms submitted to the Council with the IEC Standards Application – both list the "Type of Action" for the Application as a "Wage Increase" and fail to characterize the Application correctly as a "New Program". The Electrical JATC has reviewed the current Council list of approved Electrical (related) Training Programs on its website, which does not appear to include the Northern Nevada IEC (12 Electrical Programs are listed – ABC (North and South), Borman Specialty Maintenance Electrician, California-Nevada Line, Harney Electric Cooperative, IBEW 401, IBEW 357, Lincoln City Power, Sierra Pacific Power, United Electrical Services, Valley Electric Association and YESCO). Neither do the principals of the Electrical JATC nor this office have a recollection of any approved IEC (Electrician) Program during the last forty (40) years.

In addition, the 5910 Forms include two (2) different hourly Wage schedules, both starting at $17.00 (significantly less than the 2022-23 Prevailing Wage for Electricians established by the Labor

Commissioner for Clark County at $75.07/hr. or the Washoe County at $69.61/hr.), but finishing at contradictory 8th Period rates - $28.80 vs. $30.60. Even if this Application were a simple Wage Increase request from a previously approved Training Program (which appears not to be the case), the Council should require accuracy in IEC's filings and deny this Application for the contradictory "Type of Action" noted and the differing "Wage" schedules.

In addition, the substandard apprentice Wage proposed in the IEC (Electrician) Standards simply does not reflect reasonable and profitable compensation for such a significant trade expertise required to competently and safely work in the Electrical Industry. It is apparent that IEC is attempting to circumvent the reasonable Electrician apprentice wages in Nevada. The 5910 Form submitted by IEC shows a starting "1st Period" Apprentice Wage Rate of $17.00 and a Journey Worker Hourly Rate of $34.00 (as opposed to the Prevailing Electrician Hourly Wages described above). The proposed Wage Rates under the IEC Standards are clearly designed to severely undercut the Prevailing Wage Rate for an Electrician in Northern or Southern Nevada.

Most importantly, the IEC Application appears to seek approval of a "New Program". Of course, under NAC 610.145(2), "The Council may approve programs of apprenticeship..." Under NAC 610.314, "If a program of apprenticeship registered with the Council submits standards to the Council for its review or revision, the program must submit the standards in their entirety." Either way, IEC was required to submit a full set of competent standards for heightened Council scrutiny of its components, structure and competency in this dangerous Electrical Industry. The IEC (Electrician) Standards are incomplete and inadequate as submitted and must be denied.

2. The IEC Standards Do Not Confirm a Qualifying Joint Committee. NAC 610.225(2) requires the formation of a "joint committee", which "must be composed of an equal number of representatives of management and labor and any public representatives whom they select." Pg. 5 of the IEC Standards suggests a possible "joint" structure, but does not clearly confirm that the IEC Joint Committee will be composed of equal management and labor representatives (Section 1 - Program Administration – "... **may** establish a Joint Apprenticeship and Training Committee..."). NRS 610.144(3)(b) requires the Council to determine whether the proposed IEC Standards (program) should be "approved or rejected" based upon "[w]hether the sponsor of the approved and registered program **is** jointly administered by labor and management." NRS 610.146 states that: "All programs operated with more than one employer or an association of employers **must** include provisions sufficient to ensure a meaningful and trustworthy representation of the interests of employees and apprentices in the management of the program." The IEC Program must clearly provide that it will be administered as a joint labor and management committee designed to safeguard the rights of indentured apprentices. Without these assurances, the Proposed IEC Standards should be denied by the Council.

3. The IEC Standards Do Not Conform to the Ratio Requirements of the Nevada Apprenticeship Act. NAC 610.438, governing the Ratio of apprentices to journeymen, requires that "if an employer uses apprentices on a project, the ratio of apprentices to journeymen at a job site must be (a) In all programs of apprenticeship in the construction industry, not more than one apprentice for the first journeyman at the job site and not more than one apprentice for every three additional journeymen." (1:1, 2:4, 3:7, etc.) The IEC 5910 Form actually describes "15" anticipated apprentices and "15" journeyworkers, a non-conforming 1:1 Ratio. An exception is provided in Subsection 3 of the Regulation, allowing the Council to "increase or decrease" the apprentice and journeymen Ratio "at the request of a sponsor if the Council determines that a different ratio is consistent with the proper supervision, training, safety and continuity of employment of an apprentice..."

The Act, at NRS 610.144(1)(e)(7), requires a "numeric ratio of apprentices to journeymen consistent with proper supervision, training, safety..." The Council is charged with the "working conditions for apprentices" under NRS 610.140(a). The Regulations, at NAC 610.438(1)(a) (Ratio of Apprentices to Journeymen), requires all "construction industry" programs of apprenticeship to use a jobsite ratio of "not more than one apprentice for the first journeyman at the jobsite and not more than one apprentice for every three additional journeymen." (1:1, 2:4, 3:7, etc.) The Regulations at NAC 610.438(3) authorize the Council to "increase or decrease the ratio set forth in subsection 1 or 2 on its own initiative or at the request of a sponsor if the Council determines that a different ratio is consistent with the proper supervision, training, safety and continuity of employment of an apprentice ..."

Appendix A, Section 3 of the IEC Standards defines the ratio of apprentices to journey workers as "1:2", ie - one (1) apprentice for the first two (2) journey workers at a job-site and not more than one (1) apprentice for every two (2) additional journey workers thereafter. Appendix A, Section 3 does not conform to the Regulations [NAC 610.438(3)] nor to the prevailing ratio for the Electrical Industry. Appendix A, Section 3, specifies that: "The apprentice to journey worker/fully trained worker ratio is: 1:2 apprentice(s) to journey worker/fully trained worker(s)". The competent Electrical Industry ratio standard is outlined in the Act and in the Electrical JATC Standards previously approved by this Council. If IEC employs a work force with a non-conforming jobsite ratio, IEC would clearly violate the prevailing Electrical JATC Standards, the Act and its Regulations. Unless rejected by the Council, the IEC Standards would unreasonably expose apprentices to unsafe on-the-job training.

The Electrical JATC Standards reflect decades of Electrical Industry safety training review, which were adopted nationally and by the Council to better ensure the safe training of Electrician apprentices performing electrical work. The prevailing ratio addresses the extreme danger of the occupation. The IEC Standards offer no evidence that the implied decrease or different ratio is consistent with proper supervision, training, safety and the continuity of employment of an apprentice. Without a ratio that conforms to the Act and Regulations, and without evidence that the IEC Standards "work force ratio" will ensure proper supervision, training and safety, the Proposed IEC Standards must be rejected and denied by NSAC.

The Proposed IEC Standards (see Appendix A, Section 3 – Ratio of Apprentices to Journeyworkers) suggests two (2) journeymen for every one (1) apprentice as a qualifying Ratio – it is not. The IEC Ratio proposed falls well short of the NAC Regulation. And because the Electrical Industry requires special care to ensure competent "supervision" and "safety" of Nevada's apprentices on the job in a dangerous industry, the Ratio must not be relaxed – primarily because lives would be at stake. IEC has not submitted any evidence or justification for a different Ratio – and therefore, its Proposed Standards must be denied for this significant deficiency alone.

4. The Sponsor Certifies, but Does Not Identify Its "Qualified Training Personnel". The inconsistent IEC 5910 Forms also certify and assure the Council "that it will utilize qualified training personnel" for "related instruction" who are "recognized within an industry as having expertise in a specific occupation" with "training in teaching techniques and adult learning styles". Neither the Application nor the Proposed IEC (Electrician) Standards identify these qualified training Instructors recognized within the Electrical Industry armed with teaching techniques appropriate for new Electrician apprentices.

The IEC Standards state that "competent" Instructors will be secured and tasked with teaching the Apprentices. However, the 5910 Form and the IEC Standards do not provide names, qualifications or required electrical competencies of its Instructors. Without identified competent Instructors, IEC is not qualified to teach the work processes, related classroom subjects and safety elements of the Electrical Industry. The lack of qualified Electrical Journeymen (15 Journey Workers and 15 Apprentices in Training specified in 5910 Form – a clear ratio violation) and unidentified Instructors represent not only a chilling indication of the lack of competent training capacity, but is magnified by the extremely dangerous (Electrical Industry) Electrician occupation at issue. Without clear proof of adequate competent and experienced supervising Electrician Journeymen on-the-job and qualified classroom electrical Instructors, educated in this dangerous Industry, the Council would be authorizing a training environment without appropriate protection and precaution for IEC Electrician Apprentices and others.

Electrical and circuit components, when misunderstood or handled inappropriately, would surely cause extensive and serious injury, and even death. The 2020 Nevada occupational injury and illness statistics list total cases at 1,176,340. Construction occupations totaled 69,790 injuries and illnesses. Electrical cases totaled 7,270. Electrical and electronic equipment mechanics, installers and repairers cases totaled 4,690. Telecommunications injuries, other than line installers, totaled 3,400. Miscellaneous electrical and electronic equipment mechanics, installers and repairers injuries and illnesses totaled 1,110. Telecommunications line installers and repairers cases totaled 2,890. Electrical, electronics and electromechanical assemblers cases totaled 880.

The Act, at NRS 610.110(2)(d)(2), requires the State Apprenticeship Director to assess the adequacy of "the protection of the public interest as related to the subject fields." The Act, at NRS 610.120(2), requires "related and supplemental instruction for apprentices, coordination of instruction with job experiences, and...selection and training of teachers...for that instruction [which is]...the responsibility of the local joint apprenticeship committees." The Act, at NRS 610.144(1)(e)(9) and (14), requires that the IEC Standards include "Provisions for adequate and safe equipment and facilities for training and supervision and for the training of apprentices in safety on the job and in related instruction" and "assurance of qualified training personnel and adequate supervision on the job." The deficiency in qualified and experienced Electrical Industry Journeymen and Instructors, both on and off the job appears to mandate the Council's Denial of the IEC Standards.

Without identifying qualified Instructors, the Council should not be persuaded that the Proposed IEC Electrician Program will be guided by competent Electrical Industry experts. Without identification, the Proposed IEC (Electrician) Standards are deficient and should be rejected by the Council.

5. The Standards Fail to Identify the Sponsor's Employer Partners nor Adequate Training Facilities. At pg. A-7 of the Applicant's "Related Instruction Outline", the IEC Standards reference certain "Employer Partners" without any further name or identity. The Proposed IEC (Electrician) Standards should identify to the Council who the "Employer Partners" are and what they will be assisting the Sponsor to accomplish – provision of training equipment and facilities? Qualified training Instructors? Journey Worker supervision on-the-job? Without this essential disclosure of all participating Employers and training facilities currently dedicated to train the apprentices, the IEC Program will not be sufficiently established nor supported to justify approval of its training Application and Standards.

6. Incomplete Work Processes, Training Curriculum and Inadequate Training Standards. The Proposed IEC (Electrician) Standards include training for an "Electrician" occupation with an O*NET-SOC/RAPIDS Code of 47-2111.00. The O*NET program is a source of occupational information throughout the nation and provides a database of standardized and occupation-specific descriptors. A search of the applicable O*NET SOC Code for "Electrician" reveals a recognized and detailed description of Electrician competencies and training procedures essential to the clear dangers and instrumentality of electrical power. The Proposed IEC (Electrician) Standards Work Process Schedule does not contain a competent Curriculum and Training Processes required to make the Electrician apprentice's work safe and professional.

The Work Process Schedule (Appendix A) to the Proposed IEC Standards does not conform to the List of Core and Supplemental Tasks provided through O*NET Online for an Electrician, which includes the following:

a. Install electrical systems in accordance with codes and standards, using drawings, schematics, and instructions.

b. Assemble electrical modules, panels, or support structures, as specified.

c. Apply weather sealing to array, building, or support mechanisms.

d. Determine appropriate sizes, ratings, and locations for all system overcurrent devices, disconnect devices, grounding equipment, and surge suppression equipment.

e. Install module array interconnect wiring, implementing measures to disable arrays during installation.

f. Identify methods for laying out, orienting, and mounting modules or arrays to ensure efficient installation, electrical configuration, or system maintenance.

g. Identify electrical, environmental, and safety hazards associated with electrical installations.

h. Examine designs to determine current requirements for all parts of the electrical system electrical circuit.

i. Check electrical installation for proper wiring, polarity, grounding, or integrity of terminations.

j. Test operating voltages to ensure operation within acceptable limits for power conditioning equipment, such as inverters and controllers.

k. Identify and resolve any deficiencies in electrical system installation or materials.

l. Program, adjust, or configure inverters and controls for desired set points and operating modes.

m. Identify installation locations with proper orientation, area, electrical access, or structural integrity for electrical arrays.

n. Visually inspect and test electrical modules or systems.

o. Install required labels on electrical system components and hardware.

p. Determine electrical system designs or configurations based on factors such as customer needs, expectations, and site conditions.

q. Determine materials, equipment, and installation sequences necessary to maximize installation efficiency.

r. Determine connection interfaces for additional subpanels or for connecting electrical systems with utility services or other power generation sources.

s. Perform routine electrical system maintenance on modules, arrays, batteries, power conditioning equipment, safety systems, structural systems, weather sealing, or balance of system equipment.

t. Install active electrical systems, including electrical collectors, concentrators, pumps, or fans.

u. Activate electrical systems to verify system functionality and conformity to performance expectations.

v. Demonstrate system functionality and performance, including start-up, shut-down, normal operation, and emergency or bypass operations.

w. Measure and analyze system performance and operating parameters to assess operating condition of systems or equipment.

x. Compile or maintain records of system operation, performance, and maintenance.

y. Diagram layouts and locations for electrical arrays and equipment, including existing building or site features.

z. Select mechanical designs, installation equipment, or installation plans that conform to environmental, architectural, structural, site, and code requirements ("Electrical Duties").

The Electrical Duties of an Electrician are required competencies to properly calculate and install electrical loads. Very few of the descriptive training references in the Electrical Duties are included in the IEC Standards. The Proposed IEC (Electrician) Standards and curriculum do not appear to provide the competency based training tasks or proficiencies necessary for an Electrician. IEC trainees will not be qualified Electricians and are not projected to be qualified to train, supervise, provide or ensure competent Electrical Duties.

The Act, at NRS 610.144(3)(d), requires that the Proposed IEC Standards contain provisions for "organized, related and supplemental instruction in technical subjects related to the trade with a minimum of 144 hours for each year of apprenticeship, given in a classroom or...courses of equivalent value or other forms of study approved by the Council." The Proposed IEC Standards reference (and are confined to) general areas without detail or specification of competency-based instruction required for an Electrician. Denial of the Proposed IEC (Electrician) Standards is required by a clear lack of Electrical Duties in its competency training and curriculum.

Historically, the Council has required professional review and approval of curriculum and training procedures. The IEC Standards contain no comprehensive description of the Electrical Duties, obvious competency training and Classroom Instruction required by the Act. The Nevada Department of Education, through a designated curriculum professional, could confirm that the Proposed IEC (Electrician) Standards fail to satisfy the appropriate Electrical Industry standards for curriculum and training of apprentices. Without training and curriculum approval, the IEC Standards must be rejected.

7. Multiple Inconsistent Standards Provisions. The Proposed IEC (Electrician) Standards are internally inconsistent in several key areas – for example, at pg. 3 in the Forward, the true intent of the sponsors may be revealed, where IEC states a plan for the "training of **numerous apprenticeable occupations skilled in all phases of various industries."** The remarkable breadth of this unjustifiable declaration is clearly fatal to the IEC Application. In the Table of Contents for the Proposed IEC Standards, there is a pg. 15 reference to a Collective Bargaining Agreement, which we are informed may not exist and is not described in the Proposed Standards or Application. In the "Apprenticeship Competencies" at pg. A-6, no. 13, one of the apprentice training goals is described as "respect for **patients**", a term never before used in the Electrical Industry. Clearly the Proposed IEC (Electrician) Standards were negligently composed from a contradictory form. Such instances of imprecise language and statements potentially designed to mislead the Council are additional grounds for denial of the IEC

Standards. If approved, the Council would be presumed to have relied on the sponsor's intent to establish "numerous apprenticeable occupations" in "various industries" based in part upon a non-existent Collective Bargaining Agreement to meet its "patients" needs. The Standards should be denied, or at very least corrected and resubmitted, without such misleading language.

IV. Aggrieved Party

The Electrical JATC and its Sponsors, Local 357 and NECA, respectfully request that the Council designate the Electrical JATC is a "party of record" in a "contested" administrative "case". NAC 610.355 established the Electrical JATC's right to submit comments to the Council. In 2007, the Council adopted temporary rules adding the following two (2) subsections to NAC 610.355 (showing its intent regarding the "Standing" of interested, aggrieved programs):

> 3. **Any registered sponsor who elects to comment may request in its written comments that it be allowed to become a party of record to the application for the proposed program of apprenticeship**. If the registered program demonstrates to the Council that it has a **direct and substantial interest** in the **application** for the program of apprenticeship, the **Council shall make** the **registered sponsor a party of record** to the application and shall **provide written notice** to the registered sponsor and the applicant of such action. Once the Council has made a registered sponsor a party of record, the registered sponsor shall receive notice of any matter on the application, including any final action taken on the application by the Council.
>
> 4. The **registered sponsor, as a party of record, may appeal** the **Council's final action** on the application to the Labor Commissioner. If the registered [sponsor] does not appeal the Council's final action to the Labor Commissioner, but the applicant for the proposed program does, the registered sponsor shall be given notice of the appeal and shall have a right to participate, as a party of record in the appeal so taken. (emphasis added)

The Electrical JATC, its Sponsors (a Council approved apprenticeship training organization for Electricians) and its participating Employers will be directly and substantially injured by approval of the substandard Proposed IEC (Electrician) Standards. Council approval would reduce and handcuff the quality of workers and apprentices training (on-the-job and in the classroom) and the statutory safety requirements needed to produce and maintain safe and qualified Electricians on Nevada projects.

The State of Nevada has clearly emphasized this need. Nevada OSHA adopted an Occupational Safety and Health Administration Plan, Standards and Regulations for Electrical System Installation workers and employers. The State has even mandated examination to "test a person's knowledge... consistent with the guidelines, standards and training suggested by the Interstate Renewable Energy Council, the North American Board of Certified Energy Practitioners... to improve the quality of services provided by electrical installers." See NAC 618.459 and Nevada State Plan Occupational Safety and Health Administration, State Plan Standards and Regulations (Electrical System Installation). Tellingly, the Electrical JATC teaches OSHA standards in its Electrical System Installation curriculum, including the NFPA 70E Standards. The Proposed IEC (Electrician) Standards do not.

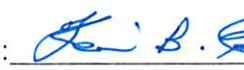
The Electrical JATC, its Sponsors, apprentices-in-training, journeymen, the Electrical Industry in Southern Nevada and the Council approved Electrical JATC Standards would be prejudiced, diminished and injured in the event of approval of the Proposed IEC (Electrician) Standards. As an objecting party and a "parallel program", the Electrical JATC requests that the Council classify the Electrical JATC and its Sponsors as potentially "aggrieved parties" with "Standing" before the Council, Labor Commissioner, Nevada State and Federal Courts, to oppose non-conforming Proposed IEC (Electrician) Standards.

V. Conclusions

Based upon the foregoing Objections and Governing Law, the Proposed IEC (Electrician) Standards should be rejected as deficient and denied by the Council. In addition, the Electrical JATC and its Sponsors should be recognized as "aggrieved parties" in the event that the Proposed IEC (Electrician) Standards are approved.

Respectfully submitted,

Christensen James & Martin, Chtd.

By: 

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cc: Electrical JATC