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Additional submitted attachment is included below.

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California Energy Commission
Docket Unit, MS-4
Docket No. 22-DECARB-03
715 P Street
Sacramento, California 95814

Re: **Comments of JCEEP, Western States SMART, California State Pipe Trades Council and the IBEW-NECA LMCC on Equitable Building Decarbonization Program, Docket 22-DCARB-03**

Dear Commissioners and Staff:

We write on behalf of the California State Pipe Trades Council, the International Brotherhood of Electrical Workers-National Electrical Contractors Association Labor Management Cooperation Committee (IBEW-NECA LMCC), the Joint Committee on Energy and Environmental Policy (JCEEP), and the Western States Council of Sheet Metal, Air, Rail and Transportation Workers (WSC-SMART) regarding the California Energy Commission's Request for Information on the Equitable Decarbonization Program, docket number 22-DECARB-03. We would like to thank the Commission for providing an opportunity to address the issue of equity in its decarbonization program at the outset of this proceeding rather than as an afterthought.

In developing incentive and direct install programs for equitable decarbonization, the Commission should prioritize programs that are structured in a manner that maximizes the ability to ensure both equity in who is able to take advantage of the programs and equity in ensuring the program provides low-income customers high quality installation, while at the same time creating good jobs and providing job development and employment opportunities for workers in the community.

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To this end, we strongly urge the Commission to incorporate workforce standards into both the direct install and incentive programs. Workforce standards are key to ensure equitable decarbonization. Well-designed workforce standards ensure that taxpayer funded building decarbonization programs create equity and economic opportunities for disadvantaged communities and ensures that the work performed for these programs maximizes energy efficiency and greenhouse gas reduction gains, and is safe and reliable.

I. PROPOSED WORKFORCE STANDARDS

A. Equitable Decarbonization Direct Install Standards

- Funding should be prioritized for direct install programs for very low-income single-family homes with no to minimal cost to the homeowners.
- These programs should award work only to prequalified contractors that agree to meet specified workforce training and apprenticeship support requirements.
- Direct install work should be bundled in order to enable and encourage high road contractors to participate in this market.
- Work should be bid out in bundles of 500 changeouts to improve economies of scale, encourage participation of high road contractors, and to facilitate implementation of workforce training and apprenticeship support requirements.
- Program should require payment of prevailing wages and compliance with the apprenticeship requirements applying to public works projects set forth in Labor Code Section 1777.5.
- The Program should prioritize bidders that commit to require the use of a skilled and trained workforce as set forth in Public Contracts Code section 2600, et seq.
- For all participating contractors, require that at least 50% of the on-site workforce are comprised of workers who have met one or more of the following requirements: (1) graduated from a relevant state or federal approved apprenticeship program; (2) graduated from a two year (or greater) community college program in the applicable trade; or (3) have five years of experience in the relevant trade and have completed the relevant manufacturer's training in installation of the equipment (type and brand) being installed with such training either including a hands-on training component and the provision of a certificate or other verification from the manufacturer as to completion; or with such training otherwise having been reviewed and approved by the Commission.

- Require contractors to either participate in an apprenticeship program in the relevant trade or to have adopted.
- Require all participating contractors to demonstrate a long-term commitment to providing career pathway opportunities to workers from disadvantaged communities either through participation in a state-approved apprenticeship program in the relevant trade or through the establishment of targeted hiring goals along with “first hire” agreements with local job development entities.

B. Equitable Decarbonization Incentive Standards

- Require use of prequalified contractors.
- Identify and prioritize funding of incentive programs that can bundle work to guarantee a minimum number of jobs at a pre-negotiated cost to contractors that meet higher workforce standards.
- Require payment of prevailing wages and compliance with the apprenticeship requirements applying to public works projects set forth in Labor Code Section 1777.5.
- Provide first priority for incentives to high road contractors. Release funding on a rolling basis, providing high road contractors first right for applying for a batch of available incentives and then releasing that money to other qualified contractors if high road contractors have not used the entire batch of incentives in a specified time period.
- Adopt minimum workforce and apprenticeship support requirements for high road contractors and non-high road contractors.
- For all participating contractors, require that at least 50% of the on-site workforce are comprised of workers who have met one or more of the following requirements: (1) graduated from a relevant state or federal approved apprenticeship program; (2) graduated from a two year (or greater) community college program in the applicable trade; or (3) have three years of experience in the relevant trade and have completed the relevant manufacturer’s training in installation of the equipment (type and brand) being installed with such training either including a hands-on training component and the provision of a certificate or other verification from the manufacturer as to completion; or with such training otherwise having been reviewed and approved by the Commission.
- For high road contractors receiving first priority for use of incentives, require the use of a skilled and trained workforce as set forth in Public Contracts Code section 2600, et seq. 5 and require demonstration of a long term commitment to providing career pathway opportunities to workers from disadvantaged communities either through participation in a state-approved

apprenticeship program in the relevant trade or through the establishment of targeted hiring goals along with “first hire” agreements with local job development entities.

II. JUSTIFICATION FOR PROPOSAL

The efficiency of heating and air conditioning equipment is highly dependent on the quality of its installation. Studies show that poor quality installation of HVAC systems has been found to result in a 20-30 percent increase in energy use.¹ Moreover, poor quality installation is pervasive. The California Energy Commission found up to 85% of replacement HVAC systems are installed incorrectly.² It does no good to spend hundreds of millions of dollars on energy efficiency incentives for HVAC retrofits, if this equipment is not being installed correctly.

The failure of HVAC systems to achieve intended energy savings can be directly linked to the use of poorly trained workers. Reports prepared by California’s investor-owned utilities have found that the majority of HVAC installers don’t have the technical knowledge, skills, or abilities to properly install systems.³

California utility reports have found that poor quality installation is not the result of a lack of available training.⁴ The problem is that contractors are allowed to take advantage of public incentives even when they use installers who have not been provided this training.

Moreover, as long as incentive programs are designed to encourage hiring the cheapest workers, contractors that invest in training will never be able to compete with contractors that hire cheap labor and fail to invest in training and retention of workers. Because of this, a decision not to include workforce standards as part of an incentive program is, in fact, a de facto policy to support low wages, poor training, and poor installation practices.

¹ California Energy Commission, Strategic Plan to Reduce the Energy Impact of Air Conditioners (June 2008), CEC-400-2008-010 at p. 5 (poor quality installation of cooling systems result in a 20-30 percent increase in energy use).

² *Id.*

³ SCE Energy Efficiency Business Plan 2018-2025 at p. 63; SDG&E Energy Efficiency Business Plan 2018-2025 at p. 216; PG&E Business Plan 2018-2025, Residential Appendix at p. 30.

⁴ See SDG&E Energy Efficiency Business Plan 2018-2025 at p. 214; PG&E Energy Efficiency Business Plan 2018-2025, Appendix WE&T at p. 8; SCE Energy Efficiency Business Plan 2018-2025 at p. 57; SoCalGas Energy Efficiency Business Plan 2018-2025 at p. 377.

For over a decade, study after study and state policy after state policy has called to address this issue by adopting workforce standards that reward high road contractors that invest in workers and worker training, rather than continuing to subsidize low road contractors.

In 2014 the U.C. Berkeley Don Vial Center on Employment in the Green Economy issued a comprehensive workforce standards guidance plan for state and utility energy efficiency programs. This plan identified the need for workforce standards and set forth several specific recommendations, including:

- (1) Imposition of Skilled workforce prequalification requirements based on requiring 60% of jobsite workers to be comprised apprenticeship graduates;
- (2) Prevailing wage requirements – so that contractors will be chosen based on quality, not price; and
- (3) Workforce skill certification requirements for installation of specific technologies.

The Guidance Plan also recommended adoption of a responsible contractor policy for use across all energy efficiency programs. This recommendation was codified in SB 350 in 2015 which required adoption of a Responsible Contractor Policy for energy efficiency programs – but that policy was never adopted and none of the Don Vial Center recommendations have been implemented.

In the years since the release of the Guidance Plan, the CEC, the CPUC, and the California Workforce Development Board have continued to issue policy after policy calling to transform energy efficiency incentive work from a low-cost bidder framework to a lowest-cost qualified bidder framework through the incorporation of workforce standards.

The California Energy Commission adopted a goal in its 2016 Existing Building Energy Efficiency Action Plan Update to “ensure that a certified, high performing workforce will be engaged to deliver energy efficiency retrofits, thereby transforming efficiency incentive work from a low-cost bidder framework to a lowest-cost qualified bidder framework.”⁵ To achieve this goal, the Action Plan

⁵ California Energy Commission, 2016 Existing Buildings Energy Efficiency Action Plan Update at p. 53 [available at http://doCKETpublic.energy.ca.gov/PublicDocuments/16-EBP-01/TN214801_20161214T155117_Existing_Building_Energy_Efficiency_Plan_Update_December_2016_Thi.pdf].
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expressly recommended that IOUs incorporate workforce standards into their energy efficiency program requirements.⁶

In March 2020, the California Workforce Development Board (CWDB) released California's 2020-2023 Unified Strategic Workforce Development Plan (State Workforce Plan)⁵ featuring the CWDB's vision of a high road economy which is defined by a set of goals to be achieved simultaneously greater equity and mobility for workers, higher skills and competitiveness for employers, and long-term environmental sustainability and climate resilience for the state.

Finally, the California Workforce Development Board in its June 2020 Jobs and Climate Action Plan for 2030 identified three key factors that state policymakers should take into account when implementing its climate policies and programs.

- First, labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California's workforce can positively affect returns on climate mitigation efforts. In other words, well trained workers are key to delivering emissions reductions and moving California closer to its climate targets.
- Second, California can achieve greater social equity in labor market outcomes for disadvantaged workers and communities when policymakers pay attention to job quality. Identifying high-quality careers (i.e., ones that offer family-supporting wages, employer-provided benefits, worker voice, and opportunities for advancement) first, and then building pathways up and into such careers, is critical to ensuring that investments in workforce education and training meaningfully improve workers' economic mobility.
- Lastly, deliberate policy interventions are necessary in order to advance job quality and social equity as California transitions to a carbon neutral economy, just as such efforts are required to reduce pollution, protect human and environmental health, and to safeguard communities from an already-changing climate.

Despite these policy pronouncements, the state's incentive programs have nonetheless continued the historic practice of rejecting workforce standards in order to maximize contractor participation. *This historic framework of incentivizing low road contractors must be changed.*

⁶ California Energy Commission, 2016 Existing Building Energy Efficiency Action Plan Update at p. 50.
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Contractors and subcontractors working on subsidized projects should be required to either participate in state-approved apprenticeship programs or to otherwise demonstrate that they use workers that are experienced trained and qualified to install the specific energy efficiency measures being subsidized. At a minimum, experience and training standards should be required for at least 50% of the workforce on subsidized energy efficiency projects.⁷ This ensures that all work is supervised by workers that meet minimum experience and training standards, while providing opportunities for new workers to also gain experience.

To ensure equitable access to the jobs created by these programs, the Commission should also require participating contractors to demonstrate their hiring policies includes outreach and training to disadvantaged communities through participation in state-approved apprenticeship programs, or through targeted hiring goals along with “first hire” agreements with local job development entities.

Implementing these requirements in incentive programs fundamentally means moving away from a framework that puts selecting a qualified contractor on the consumer and replacing it with a requirement to use prequalified contractors. Opponents to workforce standards often raise the claim that adding contractor training and workforce standards beyond local permitting and licensure requirements would create barriers to program participation. But that is a feature, not a bug. We need to stop subsidizing low road contractors in order to incentivize those contractors to change their business practices.

III. STATE-CERTIFIED APPRENTICESHIP PROGRAMS ARE THE MOST EFFECTIVE WAY TO PROVIDE CAREER PATHS TO DISADVANTAGED WORKERS, WHILE AT THE SAME TIME ENSURING THAT WORKERS HIRED BY CONTRACTORS HAVE THE SKILLS NECESSARY TO INSTALL ENERGY EFFICIENCY MEASURES CORRECTLY AND SAFELY

Apprenticeship training is the gold standard for ensuring a trained and qualified workforce and for providing good paying career pathways to disadvantaged workers. Apprenticeships are two to five years in length and include both classroom and hands-on training, along with oversight on the job by experienced journeypersons. Each apprentice is a full-time worker who is receiving on-the-job training as an employee of a contractor on a jobsite. Because apprentices are paid, apprenticeship programs provide career growth opportunities to persons

⁷ Zabin et al., *Workforce Issues and Energy Efficiency Programs: A plan for California's Utilities* (2014) p. 51, available at <https://laborcenter.berkeley.edu/pdf/2014/WET-Plan14.pdf>.
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with families that cannot afford to take time off to attend college. Apprenticeship training curricula include specific training on safety and, depending on the craft, on energy and water efficiency measures. This training is independently reviewed and approved by the California Division of Apprenticeship Standards.

Apprenticeship programs are also a proven pathway for providing disadvantaged workers good-paying construction-career opportunities. State-approved apprenticeship programs are required by law to adopt an equal opportunity program with an affirmative action plan to recruit women and minority applicants.⁸ *Contractors that do not participate in apprenticeship programs or hire apprenticeship graduates are not subject to these requirements.* Among the many ways that Union apprenticeship programs meet this requirement is by partnering with Multi-Craft Core Curriculum (MC3) pre-apprenticeship programs throughout the state. The MC3 is a standardized, comprehensive, 120-hour construction curriculum approved by the National Building Trades and designed to help young people and transitioning adults choose and succeed in an apprenticeship program that is appropriate for them. In 2012, the US Department of Labor recognized the MC3 with its Registered Apprenticeship Innovator and Trailblazer Award.

Apprenticeship programs also help reduce the wage and benefit inequities that are widespread in the construction industry by providing for standardized pay, training and workplace rules for all workers in the program.⁹

Union apprenticeship programs also provide an effective framework to address wage and benefit inequities that women, workers of color and immigrants often face in the non-unionized workplace. Unions have been found to effectively “reduce wage differentials and occupational segregation in the workplace itself, as well as help offset the negative career effects of unequal access to good schools and job-hiring networks.”¹⁰ This is due largely to the standardized training, wages and workplace rules that level the playing field for all employees.

⁸ Cal. Code Regs., tit. 8, § 215 (requiring apprenticeship programs to include an equal opportunity program with an affirmative action plan to recruit women and minority applicants); see also Labor Code Section 1777.5 (f) (“The apprenticeship program supplying apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities”).

⁹ Jacobs & Thomason, UC Berkeley Center for Labor Research and Education, *The Union Effect in California #1: Wages, Benefits, and Use of Public Safety Net Programs* (May 2018) at p. 2.

¹⁰ Jacobs & Thomason, UC Berkeley Center for Labor Research and Education, *The Union Effect in California #1: Wages, Benefits, and Use of Public Safety Net Programs* (May 2018) at p. 2.
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The number of apprenticeship slots available each year, however, is limited by the number of contractors who are willing to utilize apprentices and the total hours available for apprentices to work. The adoption of requirements to use apprentices and apprenticeship graduates thus help create local job opportunities for disadvantaged workers by increasing the demand for apprentices.

The simplest way to increase demand for apprentices and apprenticeship graduates is to apply the skilled and trained workforce requirements set forth in Public Contract Code section 2600. Public Contract Code Section 2600 sets forth a standard that may be adopted by local and state agencies that generally requires 60% of workers on site to be apprenticeship graduates. Because there are both union and non-union state-approved apprenticeship programs, this is not a union-only requirement.

IV. INTERIM PATHS ARE AVAILABLE WHERE LEGITIMATE CONCERNS EXIST OVER THE READINESS OF A PROGRAM TO SUPPORT FULL SKILLED AND TRAINED WORKFORCE REQUIREMENTS

The failure to support high road contractors in the residential market has resulted in high road contractors focusing primarily on the commercial and industrial construction markets. The equitable decarbonization program must be designed in a way to induce high road contractors to participate and to induce low road contractors to shift their business models toward the high road path.

We have identified three paths to achieve this goal:

A. Bid Out Retrofit Jobs in Bundles

A key component to shifting from a low road incentive model to a high road model is to shift from a single project contract model to a model that bids out and award contracts in bundles to improve economies of scale, encourage participation of high road contractors, and to facilitate implementation of workforce training and apprenticeship support requirements. The traditional method of providing incentives to contractors who bid for each incentive job separately limits the likely participation of high road contractors. Having to bid separately on each individual residential or small commercial retrofit is time consuming, costly, and unlikely to induce high road contractors to participated. In addition, low road contractors are much less likely to change their business model over a single retrofit job. In contrast, a direct install or incentive program that bids out work in bundles of a 100, 200 or 500 retrofits is much more likely to get the participation of high road contractors, including union contractors, and much more likely to induce low road

contractors to take the steps needed to qualify for such jobs. In addition, bundled jobs create an economy of scale that help offset additional costs associated with using well-trained and fairly paid construction workers.

B. Prioritize High Road Contractors

If there are legitimate concerns over the availability of a sufficient number of contractors and workers able to meet Skilled and Trained Workforce requirements in a residential retrofit market, the equitable decarbonization program should design their direct install and incentive programs to prioritize participation by high road contractors. For direct install programs, this would mean prequalifying contractors and awarding work first to those contractors that can meet Skilled and Trained Workforce requirements, and then turning to contractors that meet softer standards should such contractors be needed.

For incentive programs, this would mean providing high road contractors first crack at available incentives by providing releasing incentives in bundles that are available exclusive to high road contractors for six months and then open up to other contractors on a rolling basis.

C. Set Softer Minimum Standards for All Contractors

At a minimum, the equitable decarbonization program should set minimum workforce standards that all contractors should be required to meet even if they are not high road contractors. This catchall requirement should require payment of prevailing wages, use of apprentices in the same manner as required for public work projects, a minimum number of years of experience requirements for at least half of the workers, and either apprenticeship training, a relevant community college degree or certification, or completion of the relevant manufacturer's training in installation of the equipment (type and brand) being installed.

Generally, manufacturer training alone is not sufficient since it is generally limited in scope and depth. These trainings also do not require any actual field experience and often do not contain a hands-on or testing component. It is not accurate that any person could come off the street with zero plumbing or mechanical system experience, take a manufacturer training course and be qualified to install a heat pump system. The widget-based approach of manufacturer training depends on the trainee actually having a broader understanding of the entire HVAC system. Without a complete understanding of

the connecting systems, there are no assurances that installation will be performed correctly. System training and field experience, such as provided by apprenticeship training are needed to understand the difference between actual conditions and training conditions.¹¹

Reliance on manufacturer training will not provide close to the job performance and workforce development benefits of apprenticeship training, so such a requirement should be a fallback where needed to backstop the availability of high road contractors. While manufacturer training is better than no training at all, if it were to be incorporated as a fall back, it would need to be linked to a requirement that some percentages of the work crew have at least three to five years of experience in order not to be entirely meaningless.

V. Conclusion

The decarbonization incentive Programs should be designed to both ensure the use of adequately trained and qualified construction workers while at the same time supporting a pipeline for disadvantaged workers that leads to job placement and retention in the energy efficiency sector. The adoption of workforce standards will improve efficiency outcomes, reward high road contractors, protect the safety of consumers, improve customer satisfaction with energy efficiency measures and provide career opportunities to disadvantaged workers.

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Respectfully submitted,



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¹¹ Zabin et al., Workforce Issues and Energy Efficiency Programs: A Plan for California's Utilities (2014) pp. 51, available at <https://laborcenter.berkeley.edu/pdf/2014/WET-Plan14.pdf>.
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