

March 5, 2012

Karen Douglas
Commissioner
California Energy Commission
Dockets Office, MS-4
Re: Docket No. 10-BSTD-01
1516 Ninth Street
Sacramento, CA 95814

DOCKET	
10-BSTD-01	
DATE	MAR 05 2012
RECD.	MAR 06 2012

Re: Certification of Acceptance Testing Field Technicians for Mechanical Systems and Lighting Controls

Dear Commissioner Douglas:

On behalf of the contractor members of Western Electrical Contractors Association (WECA) Plumbing-Heating-Cooling Contractors Association of California (CA PHCC) and Air Conditioning Trade Association (ACTA), I write in opposition to the proposal of the International Brotherhood of Electrical Workers (IBEW) and the California Local Unions of Sheet Metal Workers (Sheet Metal Workers).

These organizations have proposed that only individuals who are trained and certified by specific certification programs should be allowed to perform the "acceptance testing" that is required of specific equipment by the Building Energy Efficiency Standards (Standards, California Code Regulations, Title 24, Part 6).

All three organizations provide representation and training for their members and are authorized under state and federal law to train and dispatch apprentices to comply with requirements under state and federal prevailing wage requirements.

WECA operates a federal apprenticeship statewide and the state's only California Registered electrician program with statewide coverage. WECA has training facilities in Sacramento, Riverside and San Diego and offers distance learning throughout the state.

PHCC of California offers a Federally Registered Apprenticeship Program statewide, with training schools in Sacramento, Alameda and San Diego. PHCC GSA PUAC offers a State Registered Apprenticeship Training Program in Sacramento available to contractors in 46 Northern California counties.

ACTA has been training HVAC craftsmen since 1972. In addition to its "Continuing Education Classes," they train State and Federal Commercial Sheet Metal Apprentices as well. Their Sheet Metal Apprentice Training Program has been approved by the State of California since 1993 and by the US Federal Government.

Our joint concerns stem primarily from a lack of opportunity to review the specific details of these recommendations and an underlying concern that the proposals

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would place in state law a monopoly for certification of acceptance testing technicians that are required under Title 24. **We are unaware of any similar monopoly in State Law.**

With regards to the proposal for CALCTP, we note several troubling elements of their existence.

Their website does not list an address, telephone number, or any listing of staff or leadership. A search on the Secretary of State's website returns no organizational reference for CALCTP and while the program does have a number of "sponsors" listed on its website – the only mention of leadership or management is on the UC Davis CLTC website that explains "The U.S. Department of Labor grant that supports the program is being administered by ICF International for IBEW/NECA." A search for an IRS form 990 returned no results.

WECA has a long-standing commitment to excellence in training and preparation for the workplace of its contractor members and its employees but is gravely concerned that the State of California would adopt a monopoly for a union sponsored program with a complete lack of transparency!

While the proponents of the CALCTP program claim the program has a lack of bias (union vs. non-union), as a completely autonomous entity without any state scrutiny or regulatory purview, what if that changes and the IBEW/NECA management concludes they wish to solidify their role in the marketplace by restricting access to signatory contractors and union electricians? Or what if CALCTP loses its grant money and ceases to exist? The State's only option is to reopen a regulatory process and change Title 24. Finally, CALCTP lists only 55 certified contractors. Does the State intend that these 55 contractors serve the entire state? While competitive pressure may encourage additional applicants – as a private entity – CALCTP may conclude they prefer to limit new entrants to the field.

While the Sheet Metal Workers proposal seems to have additional flexibility on the surface, we are similarly concerned about the establishment of a State monopoly for these three private entities.

Furthermore, two of the three have, according to industry sources, a decided pro-union bias that calls into question the access open shop contractors will have to these certification programs. In addition, according to their respective websites, there are few contractors in California that currently have certification:

- AABC 15 California members
- NEBB 47 California members
- TABB could not determine.

It would seem that the commissioning of new or modified buildings would be severely hampered by restricting HVAC approval to a handful of contractors.

We would note that in the background document that accompanied the recent workshop the following statement was made:

Note that the advisory Compliance Manual for the 2008 Standards recommends that new space conditioning systems be balanced in accordance with the procedures defined by the Associated Air Balance Council (AABC), National Environmental Balancing Bureau (NEBB) or the Testing Adjusting and Balancing Bureau (TABB).

It is important to point out that the recommendation is to define “procedures” for the industry – the recommendation does not conclude that only AABC, NEBB or TABB certified contractors be permitted to provide the services!

Aside from these concerns we believe this proposal will substantially increase the cost of new construction and major retrofit projects and make the process of accepting buildings much more cumbersome for building owners and managers.

Key aspects of the process that will be adversely affected:

- “Acceptance testing” is an element of commissioning a building. The purpose is for a third party to verify that the entire building has been constructed and performs as designed. There are numerous tasks required to fully commission a building that are not addressed by this proposal. A commissioning agent who is typically hired directly by the Owner currently manages the process or Owner’s representative. This proposal would force the commissioning agent to subcontract these specific tasks to ‘qualified’ electrical and mechanical companies or require the Owner/Owner’s agent to manage and coordinate multiple providers to accomplish the complete commissioning of the building.
- There are many administrative and planning tasks required for effective implementation of a commissioning plan that begins in the design phase of a project. A single commissioning agent is currently responsible for managing and documenting the process. The current contracting business model does include these design review and planning tasks.
- Common design practice is to require the installing contractor to pre-test the system prior to formal acceptance testing. Installing contractors have the skill set and tools required to effectively perform the tasks addressed in this legislation and are responsible for documenting their performance of the tasks. The installing contractor is required to document their pre-testing procedure and submit the documentation for review prior to ‘acceptance testing’ by a third party.

We would urge the Commission to reject these two self-serving regulation proposals and instead facilitate a broad-based discussion with the industry – including contractors, design professionals, commissioning experts, public agencies, building

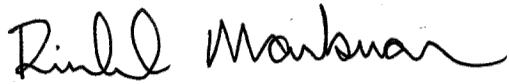
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owners, organized labor and others to define the best practices and minimum standards for acceptance testing. Do not create a monopoly for these 4 private groups, at least one of which has very limited transparency.

Sincerely

A handwritten signature in black ink that reads "Richard Markuson". The signature is written in a cursive style with a large, stylized "R" and "M".

Richard Markuson
Pacific Advocacy Group
On behalf of WECA, PHCC and ACTA

attachment

KEY ISSUES AND QUESTIONS FOR THE WORKSHOP

1. Is it appropriate for the Standards to require Field Technicians who perform acceptance testing to meet specific training and certification requirements?

Yes. The training and certification should be sufficient to demonstrate that the observer of the acceptance testing has the ability to confirm it was properly performed. There is significantly less knowledge required to observe the testing than to perform the testing.

2. Would current Field Technicians who perform acceptance testing be disadvantaged by training and certification requirements? If yes, how should training and certification requirements be designed to provide a reasonable path for these persons to become qualified?

Yes. The proposed training requirements exclude the opportunity for qualified individuals who are not members of a California trade union to become certified in contradiction to California's right to work statutes.

If the commission concludes that additional testing and qualifications are necessary – it should adopt or recommend those to the appropriate licensing entities – the Commission should not designate the sole program that can certify the training.

3. How would training and certification requirements for Field Technicians who perform acceptance testing help to address concerns related to any lack of enforcement by building departments of the acceptance requirements?

The proposed training is redundant to the concerns being addressed. An alternative of requiring the installing contractors, who is qualified to address the building departments' concerns, which have licenses to perform the tasks at hand to verify completion can accomplish the same goal.

4. Are certified general electricians, who are also certified by the California Advanced Lighting Controls Training Program (CALCTP) and who are performing work while employed by a California contractor who holds a CALCTP contractor certification, uniquely qualified to serve as acceptance testing Field Technicians for lighting controls?

No. Design engineers, lighting consultants, and commissioning agents have complete skill sets required for acceptance testing of lighting controls.

5. Should electricians who are not certified general electricians (e.g., C-10 licensed electrical contractors, or electricians working for school districts or plants, which

are not required by state law to be certified general electricians), be allowed to serve as acceptance testing Field Technicians for lighting controls?

Yes. Acceptance testing includes verification of the proper operation of the lighting control system. A tester who is capable of wiring or installing the system being testing adds no value to the acceptance process.

6. Should licensed engineers or contractors who are not CALCTP certified be allowed to serve as acceptance testing Field Technicians for lighting controls?

Yes. Acceptance testing includes verification of the proper operation of the lighting control system. A tester who is capable of wiring or installing the system being testing adds no value to the acceptance process.

7. Should CALCTP certified general electricians, who are not employed by CALCTP certified-lighting contractors, be allowed to serve as acceptance testing Field Technicians for lighting controls?

Yes. Acceptance testing includes verification of the proper operation of the lighting control system. The proposed regulation assumes that only CALCTP graduates possess the necessary skills to perform acceptance testing and ignores other pathways to developing the necessary skills and qualifications.

8. Are testing, adjusting and balancing (TAB) contractors, who meet all of the apprenticeship, experience and testing requirements of the Associated Air Balance Council (AABC), National Environmental Balancing Bureau (NEBB) or the Testing Adjusting and Balancing Bureau (TABB), uniquely qualified to serve as acceptance testing Field Technicians for HVAC equipment and controls?

No. Design engineers, energy consultants, and commissioning agents may have complete skill sets required for acceptance testing of HVAC equipment and controls.

9. Should licensed mechanical contractors, who are installing contractors, start-up contractors, or service contractors, that are not certified TAB contractors be allowed to serve as acceptance testing Field Technicians for HVAC equipment and controls?

Yes. Acceptance testing includes verification of the proper operation of the HVAC equipment and control system. A tester who is capable of installing the system being testing adds no value to the acceptance process.

10. Should licensed mechanical engineers be allowed to serve as acceptance testing Field Technicians for HVAC equipment and controls?

Yes. Acceptance testing includes verification of the proper operation of the HVAC equipment and control system. A tester who is capable of installing the system being testing adds no value to the acceptance process.

11. Should building commissioning providers be allowed to serve as acceptance testing Field Technicians for HVAC equipment and controls and for lighting controls?

Yes. Acceptance testing includes verification of the proper operation of the system. A tester who is capable of installing the system being testing adds no value to the acceptance process.

12. If additional persons other than those that are proposed by IBEW or the Sheet Metal Workers are allowed to serve as acceptance testing Field Technicians, should they be certified for professional qualifications? If so, what certifications would be appropriate for the additional persons (e.g. licensed contractors, engineers, or building commissioning providers)?

There are no current recognized certifications that are comprehensive. A commissioning provider certification would be the most effective solution.

13. Related to the proposal from IBEW, what are the existing requirements or prerequisites for certified general electricians and CALCTP certification, in terms of:

- a. Training and Education
 - i. For the certification course
 - ii. Prerequisites required to qualify for taking the certification course
 - iii. Costs associated with each of the above
- b. Professional experience
- c. Registration, certification or licensing fees
- d. Professional licensing or certification
- e. Continuing education
- f. Renewal
- g. Other key qualification requirements
- h. Eligibility to waive or fulfill any of the above requirements with other licenses, degrees or qualification

We are unable to provide a comprehensive answer. The CALCTP website provides only cursory information and lists 4 prerequisite course available from the Lighting Controls Association – the LCA site does not provide information on cost or requirements

14. Related to the proposal from the Sheet Metal Workers, what are the existing requirements or prerequisites for certification by AABC, by NEBB, and by TABB in terms of:

- a. Training and Education
 - i. For the certification course
 - ii. For demonstration of the trainees' mastery of testing requirements in the field
 - iii. Prerequisites required to qualify for taking the certification course
 - iv. Costs associated with each of the above
- b. Professional experience
- c. Registration, certification or licensing fees
- d. Professional licensing or certification
- e. Continuing education
- f. Renewal
- g. Other key qualification requirements
- h. Eligibility to waive or fulfill any of the above requirements with other licenses, degrees or qualification

These programs vary widely in their details and representatives of each program are better able to answer these questions.

15. If TAB certification is required for acceptance testing by a Field Technician, should that be limited to acceptance testing related to airflow?

Yes. TAB certification provides no validation of additional skills.

16. If CALCTP certification is required for acceptance testing by a Field Technician, should that be limited to the acceptance testing related to advanced controls that are the subject of CALCTP training?

We are opposed to the creation of a CALCTP monopoly.

17. What is the number, location and coverage of persons meeting the certification requirements advocated by IBEW and the Sheet Metal Workers (answer separately for AABC, NEBB, and TABB) that are in California? Specifically:

- a. Number statewide
 - b. In what cities are the certified persons located?
 - c. What locations of the state do not have certified persons within 50 miles?
 - d. What locations of the state have only a limited number of certified persons to cover the expected demand for acceptance testing?
- *AABC* *15 California members*
 - *NEBB* *47 California members*
 - *TABB* *could not determine*
 - *CALCTP* *55 California Contractors*

18. Should the Energy Commission adopt criteria for approval of industry

certification programs? If so, what should the criteria be? What qualifications of current certification programs should be included? Should the criteria include the following:

- a. Approval by the Energy Commission of the curriculum for the certification program to include training in the acceptance testing requirements that are applicable to that program
- b. Demonstration of the trainee's mastery of the acceptance testing requirements in the field
- c. Quality assurance to ensure ongoing quality performance in completing the acceptance testing
- d. Complaint resolution to address concerns regarding certified Field Technician performance
- e. Documented evidence of actions by the certification program to correct improper performance, provide remedial training, provide coaching or mentoring, provide penalties or decertification of certified persons who repeatedly fail to provide quality acceptance testing
- f. Field experience prior to certification; field experience required to be under the supervision of a certified person
- g. Certification open to both union and non-union technicians
- h. Certification program administered by non-profit organization which encourages wide participation and is certified by ANSI, ISO or other appropriate accreditation body
- i. Certification program free of conflict of interests and maintains code of ethics
- j. Certification actively works with local building departments to promote compliance and enforcement of acceptance requirements and provides acceptance requirement training free of cost to local building department personnel in conjunction with training to technicians
- k. Other recommended criteria

It is not necessary for an individual who is observing and documenting the acceptance testing procedure to be fully capable of performing every element of the procedure. Demonstration of a fundamental understanding of the testing and tasks is sufficient.