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November 18, 2020

Emily Johnson
Senior Policy Analyst
P.O. Box 13066
Austin, TX 78711

Dear Ms. Johnson,

The Associated Builders and Contractors of Texas represents more than 1,750 companies that work in the industrial, and commercial construction industry. Our member companies both build and maintain the vast industrial system of refineries and heavy manufacturers that make Texas unique within the world economy.

ABC of Texas respectfully opposes Sunset Staff Recommendation 2.8 for the Texas Department of Licensing and Regulation (TDLR), which would eliminate the Journeyman Industrial Electrician License. The recommendation fails to recognize or consider the real-world business practices for construction and maintenance of industrial facilities in the highly technical and specialized world of industrial manufacturing. The Staff Recommendation 2.8 also presupposes that most workers who perform electrical work in an industrial setting will be exempt from any licensure requirement, because of the built-in statutory exemptions within the Texas Occupations Code, thus the current Journeyman Industrial Electrician License is “voluntary”.

Over the past 20 years, Industrial Owners (Refineries, Chemical Plants, Power Plants, Paper Mills, etc.) have reduced their “Company” maintenance staffs. These adjustments have primarily taken place for cost savings reasons as many of these facilities are competing in a global market. Many of these Owners have recognized that Industrial Contractors are more mobile and adept at supporting the varying manpower needs balancing them with other Craft needs in local areas. These support maintenance crafts are often moved between different Industrial Facilities as needs change allowing the Owners a large advantage in flexibility. This flexible workforce also allows the Industrial Facilities to supplement their maintenance workforce on an as needed basis. While some of these facilities utilize a portion of their own craft labor most continue to push to a heavier balance of Contractor provided labor for the reasons stated above. The end result has made the U.S. petrochemical industry increasingly competitive in a global marketplace.

Since both journeyman lineman and industrial electricians are often utilized as outside third-party contractors on chemical plants, refineries, and similar facilities not only in the state of Texas but often on the border of neighboring states. High quality, well-trained and skilled labor must be utilized in the plants with the most need at the time. It is extremely unlikely that these types of workers will be able to stay at one plant or work on only one contract in order to exempt him/her from needing to obtain a license. The

impermanence (both in terms of duration and location) of these contractual relationships prevents the application of the exemptions outlined in both:

- (1) Tex. Occ. Code § 1305.003 (14)(A) which applies to "...a person who works solely for..." the plant at issue and
- (2) Tex. Occ. Code § 1305.003 (14)(B) which applies to a person "...under a contract of at least 12 months' duration...."

Not only are the application of the exemptions unlikely, but the exemptions themselves do not indicate one way or the other whether the worker should be seen as qualified, which poses potential safety risks on-site and to the public. As such, the Sunset Advisory Commission's Staff's position that the licenses at issue are superfluous because journeyman lineman and industrial electricians are exempt under Tex. Occ. Code § 1305.003 (14) (A-B) is flawed.¹

Ultimately the Staff Recommendation fails to recognize why the industrial license was created in the first place. If our industrial contractor tradesman are not exempt from the state licensure requirement, they will in fact be required to obtain a Journeyman Electrician License, which is broad in scope and requires licensees to train to the National Electric Code (NEC). The NEC testing standards include residential wiring practices and conditions, which have nothing to do with the condition's contractors work within in an industrial environment. That is why the Journeyman Industrial Electrician test focuses on the National Center for Construction Education and Research (NCCER) standard curriculum relevant to plants, manufacturers, oil and gas companies, and an industrial focused workforce.

Owners of industrial facilities prefer that contractors become NCCER certified to operate within their facilities because of the training specific to industrial work that contractors receive, which makes their work environments that much safer, and the quality of contracted work that much better. To eliminate the license as suggested without clarifying the exemption would automatically enhance the degree of regulation on our industrial workforce, which over time can meaningfully affect the competitiveness of the Texas petrochemical industry.

ABC of Texas requests that the Texas Sunset Commission reconsider Staff Recommendation 2.8 as it relates to the TDLR. We strongly urge the Commission to either keep the Journeyman Industrial Electrician License in place or clarify the exemption from licensure as implied in the Sunset Commission Staff Report.

Sincerely,



Will McAdams
President
ABC of Texas

¹ See The Sunset Advisory Commission Staff Report: Texas Department of Licensing and Regulation for the Texas 87th Legislature, page 30, 2020-2021.