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David Brightwell
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701
Via e-mail (dbrightw@icc.illinois.gov)

Re: Comments on energy efficiency installer rulemaking pursuant to 220 ILCS 5/16-128B

Dear Dr. Brightwell:

ENTEC Services, Inc. (“ENTEC”) appreciates the opportunity to provide input as the Commission Staff (“Staff”) drafts a rule to implement 220 ILCS 5/16-128B concerning the qualifications of installers of energy efficiency measures. The informal workshop hosted by Staff on April 25, 2017 and the invitation to submit written comments both provide meaningful ways to assist in the development of this rule.

To facilitate Staff’s understanding of ENTEC’s perspective, it is useful to provide a brief description of ENTEC. Since 1981, ENTEC has employed professional engineers, mechanical service technicians, energy experts, and building automation experts to evaluate and resolve the various issues that building owners face. With regard to this rulemaking effort, ENTEC’s energy experts find energy savings wherever possible as well as available incentives to help defer the cost of upgrades.

While there are many aspects of this new rule that warrant comment, ENTEC wishes to focus on seven areas in particular:

A. Major Activities and Actions

In Section XXX.10 of the draft rule, the definitions of both “Entity” and “Installer” contain the phrase “major activities and actions.” Subsection (e) of Section XXX.30 Application Procedures, subsection (c)(3) of Section XXX.70 Annual Recertification and Reporting, and Section XXX.100 Maintenance of Records also contain this phrase. Nowhere, however, in the draft rule or the Public Utilities Act, 220 ILCS 5/1-101 et seq., is this phrase given any particular meaning.

To help those engaged in electrical work determine if they are subject to this new rule, ENTEC suggests that the phrase “major activities and actions” be defined in the new code part. Perhaps the easiest way to do so is to identify activities and actions that do not qualify as “major.” ENTEC proposes the following definition for consideration:

“Major activities and actions” does not include making electrical connections using Class 2 circuits as described in the NEC.

To facilitate Staff's consideration, ENTEC provides the following description of Class 2 circuits from the National Electric Code ("NEC"): "Class 2 circuits typically include wiring for low-energy (100VA or less), low-voltage (under 30V) loads such as low-voltage lighting, thermostats, PLCs, security systems, and limited-energy voice, intercom, sound, and public address systems. You can also use them for twisted-pair or coaxial local area networks (LAN)" (NEC 725.41(A)(4))

While ENTEC considers all of its work important, the Class 2 wiring work referenced above is typically not considered "major." ENTEC respectfully submits that such low voltage wiring is not meant to be covered in the rule as a major activity or action. Moreover, low voltage wiring is performed by countless contractors throughout Illinois. While not all of those contractors install energy efficiency measures, including those that do install energy efficiency measures within the scope of the rule will add a regulatory burden on numerous businesses performing generally minor electrical work without any discernible gain. ENTEC also respectfully submits that the NEC and a variety of other existing regulations sufficiently protect the public in the context of Class 2 circuits.

Pursuant to the new Section 16-128B(b)(1) in Public Act 99-0906, the Commission has the authority to exclude installers of Class 2 circuits. Specifically, this statutory language provides that the Commission has the authority to "determine which entities are subject to certification." By defining "major activities and actions" to exclude low voltage wiring as set forth above, the Commission would be making the determination that entities that perform such work (and no other qualifying work) are not subject to certification.

ENTEC respectfully encourages Staff to adopt its proposed definition as a reasonable way to provide clarity to installers and draw a distinction among the types of work subject to the rule's requirements.

B. Qualified Person

Section XXX.10 of the draft rule contains a definition for the term "Qualified person." To the extent that the new rule will apply to the activities of ENTEC, ENTEC recommends that the definition be amended to reference more than just an apprenticeship as a journeyman electrician. Specifically, ENTEC suggests that apprenticeship programs for HVAC service technicians and building automation system specialists also be listed as qualifying training programs. In addition to specifically referencing other apprenticeship programs, ENTEC believes that the rule should also expressly provide that on-the-job training can lead to becoming a qualified person. Such hands-on experience should not be underestimated. Moreover, requiring formal training, which can be expensive, can represent an insurmountable hurdle for many potential workers. ENTEC also suggests that experience or programs that provide sufficient training be more clearly listed to differentiate them as separate qualifying conditions. ENTEC recommends the following revisions to the definition of "Qualified person" to accomplish these goals:

"Qualified person" means a person who performs the work of an Installer and who has (1) satisfactorily completed at least five installations of the work of an Installer, which can include on-the-job training, or (2) completed a program requiring lab or field work where they received a certification of satisfactory completion of (a) an apprenticeship as a journeyman electrician, (b) an apprenticeship as an HVAC service technician, or (c) an apprenticeship as a building automation system specialist from a United States Department of Labor registered apprenticeship and training program, or (3) completed a program requiring lab or field work where they received a certificate or degree related to the duties of an Installer granted by an accredited educational institution.

These revisions warrant the removal of “Electrician” in the reference to the Department of Labor registered apprenticeship and training program because the HVAC service technician and building automation system specialist may not be part of the electrician apprenticeship program. If Staff prefers to consider qualified any who successfully complete a Department of Labor registered apprenticeship program, ENTEC does not object to modifying the rule to provide for the acceptance of such programs generally.

C. Required Application Information

Subsection (f)(3) of Section XXX.40 requires an applicant to have its general liability insurance countersigned by the Surplus Line Association of Illinois. ENTEC is not aware of this requirement in other contexts and respectfully submits that Staff consider omitting it from the draft rule. In the absence of any net benefit to such a requirement, it is an additional burden on energy efficiency installers.

D. Certification Requirements

Section XXX.50 identifies what an applicant must commit to for its installer certification application to be approved. Subsection (d)(2) relates that a person licensed as an electrical contractor in at least one municipality who is not a “qualified person” may still install energy efficiency measures if that person is directly supervised by a qualified person. ENTEC suggests expanding this language to include individuals licensed in a municipality as an HVAC service contractor who may not be a “qualified person” under the rule. Specifically, ENTEC suggests the following modification to subsection (d)(2) of Section XXX.50:

- 2) a person licensed as an electrical contractor or an HVAC service contractor in at least one municipality in the State of Illinois who is not a qualified person, provided he/she is directly supervised by a qualified person; or

Recognition of a municipality issued HVAC service contractor license is appropriate because it places it on the same footing as a municipality issued electrical contractor license. To recognize one and not the other suggests that one is more valuable or valid than the other without justification.

To fully incorporate “on-the-job training” as an acceptable practice (as discussed above), ENTEC also suggests that subsection (d)(3) of Section XXX.50 be modified. Specifically, ENTEC recommends the following revision:

- 3) a person either enrolled in a formal training program or receiving on-the-job training that upon satisfactory completion will meet the requirement to become a qualified person, provided he/she is directly supervised by a qualified person.

E. Reporting Requirements

Section XXX.70 relates to annual recertification and reporting. Subsection (c)(3) identifies the substantive information to be included in each annual report. ENTEC is concerned that this reporting requirement is overly broad and burdensome. As discussed above, it is not entirely clear what constitutes a “major” activity or action under the rule. Without knowing this, it is not possible to count the number of energy efficiency measures. Nor is it always clear to ENTEC into which class a customer falls. To the extent that Staff would like to know whether a customer is residential or commercial, ENTEC can provide the information. But if Staff would like to know more about the type of customers served by ENTEC, ENTEC respectfully requests

that Staff clearly indicate the information it seeks. ENTEC suggests the following revised version of subsection (c)(3) for Staff's consideration:

- 3) The number of premises or other job sites at which a certificate holder installed energy efficiency measures during the prior calendar year, classified by residential or commercial customer class in each electric utility's service area.

ENTEAC submits that this reporting requirement will provide more valuable information to Staff.

F. Maintenance of Records

Section XXX.100 requires the installer of energy efficiency measures to retain for three years records of major activities and actions. ENTEAC is concerned about the scope of this provision. For example, a single building's automation systems may have thousands of hard wired connection points. If a record of each connection point must be maintained for three years, the record keeping requirement would become financially and logistically unreasonable very quickly. ENTEAC does not think Staff actually wants records kept on every hard wired connection point, but cautions that the current language can be read as requiring such. To narrow the scope of the records to be kept, ENTEAC recommends the following revision to Section XXX.100:

The applicant or certificate holder shall agree to adopt and follow rules and procedures ensuring that documentation regarding the types of energy efficiency measures installed at a premises or other job site is retained for a period of not less than three calendar years after the calendar year in which the documentation was created. These records shall be made available by request to the Commission or its Staff on a confidential and proprietary basis.

By narrowing the scope of Section XXX.100 as suggested, ENTEAC believes that the retained records are much more manageable and provide Staff with more useful information. ENTEAC recognizes that other options for narrowing the scope of Section XXX.100 exist and is happy to consider those.

G. Initial Compliance Date

Independent from its first concern, ENTEAC's second concern pertains to the initial compliance date by which installers of energy efficiency measures must be certified under the rule. During the April 25, 2017 workshop, one of the electric utilities indicated that it partners with approximately 3,600 installers of energy efficiency measures. As currently written, the draft rule is effective June 1, 2017, the same date on which Staff expects the Commission to adopt the draft rule as an emergency rule. As such, no installer will be in compliance when the rule becomes effective and several weeks will likely pass before the Commission can enter orders approving any entity as a certified installer.

To remedy this problem, ENTEAC requests that Staff revise the draft rule to reflect a later compliance date. Staff representatives noted during the workshop discussion that a later compliance date was used in 83 Illinois Administrative Code 469 "Certification for the Installation, Maintenance or Repair of Electric Vehicle Charging Stations." That rule became effective December 1, 2013, yet Section 469.130 provided that the initial date for compliance with the rule was January 1, 2014. In light of there being significantly more installers of energy efficiency measures than installers of electric vehicle charging stations, ENTEAC recommends that the initial compliance date be at least 90 days after the adoption of the emergency rule. Allowing entities until at least August 30, 2017 to become certified with the Commission should allow the

Commission sufficient time to standardize its process for energy efficiency installers. The additional time will also provide entities time to learn of the requirement. ENTEC suspects that many installers of energy efficiency measures are not aware of the requirements of Section 16-128B. The Commission has the authority to establish a later compliance date under Section 16-128B(f).

Again, ENTEC thanks Staff for this opportunity to share its comments on the draft energy efficiency installer rule. ENTEC also appreciates Staff's efforts in preparing and circulating the draft rule. ENTEC recognizes that Staff has a tremendous amount of work to do in relation to Public Act 99-0906. If Staff would like to discuss any of ENTEC's comments or seeks more information, please do not hesitate to contact me.

Sincerely,

ENTECH Services, Inc.

By: 
One of its Attorneys
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