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18 SUPERIOR COURT OF THE STATE OF CALIFORNIA

19 COUNTY OF SACRAMENTO

20  
21 Public.Resource.Org., Inc.,

22 Petitioner,

23 vs.

24 California Office of Administrative Law, and  
the California Building Standards  
25 Commission,

26 Respondents.

Case No. 34-2021-80003612

**Declaration of Christian Dubay In Support  
of Motion to Intervene**

Date: August 27, 2021

Time: 10:00 a.m.

Dept.: 27

Judge: Hon. Steven M. Gevercer

Action Filed: March 17, 2021

1 **DECLARATION OF CHRISTIAN DUBAY**

2 I, Christian Dubay, declare as follows:

3 1. I am the Vice President, Codes & Standards and Chief Engineer for the National  
4 Fire Protection Association (“NFPA”). I have been employed by NFPA for 25 years. The  
5 contents of this declaration are within my personal knowledge or, if they are not, I am informed as  
6 to them by individuals with personal knowledge and believe them to be true. If called as a witness  
7 in this action, I could and would testify competently to the contents of this declaration.

8 2. NFPA is a not-for-profit organization. NFPA develops and publishes safety  
9 standards across a wide range of areas, including electrical installation and fire prevention and  
10 safety.

11 3. One such standard is the National Electrical Code (“NEC”). The NEC sets forth  
12 standards for safe electrical design, installation, and inspection to protect people and property from  
13 electrical hazards.

14 4. The California Electrical Code (“CEC”) incorporates by reference portions of the  
15 NEC. The CEC also has California-specific provisions, which are authored by Respondent  
16 Building Standards Commission (“BSC”). The California-specific provisions of the CEC include  
17 amendments the BSC has made to the NEC. After BSC provides those amendments to NFPA,  
18 NFPA does the work to publish and distribute the CEC at no additional charge to BSC. The cost  
19 of this work is funded by purchasers of the CEC.

20 5. NFPA owns the copyright to the NEC. Pursuant to agreement, NFPA has granted  
21 BSC a license to the NEC to cover the work involved in BSC incorporating portions of the NEC  
22 into the CEC. As part of the same agreement, BSC has granted NFPA a license to the California-  
23 specific portions of the CEC for NFPA to copy and distribute copies of the entire CEC to members  
24 of the public. In NFPA’s experience, the purchasers of such copies are professionals who use the  
25 CEC in the conduct of professional services they provide in the State of California. NFPA’s  
26 agreement with the BSC also requires NFPA to provide printed copies of the CEC to over 100  
27 specified depository libraries in California.

1           6.       NFPA also posts the CEC on its website for free viewing by anyone who is  
2 interested in reading any portion of the CEC. People who view the free-access CEC on NFPA’s  
3 website may read the CEC but may not download or distribute copies of it. The license agreement  
4 between NFPA and BSC does not allow BSC to distribute electronic copies of the NEC to  
5 members of the public.

6           7.       The relevant agreement does not permit the BSC to disseminate electronic copies  
7 of NFPA’s copyrighted works.

8           8.       NFPA uses fees it receives from the sale of the CEC to fund its development and  
9 improvement of its standards.

10           I declare under penalty of perjury under the laws of the State of California that the  
11 foregoing is true and correct.

12           Executed on this 12th day of May, 2021, at Raynham, Massachusetts.

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