

1 DEPARTMENT OF LABOR AND INDUSTRIES
2 STATE OF WASHINGTON

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ELECTRICAL BOARD MEETING
TRANSCRIPT OF PROCEEDINGS
Thursday, April 26, 2007

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BE IT REMEMBERED, that a quarterly Electrical Board meeting was held at 9:00 a.m. on Thursday, April 26, 2007, at the address of the Comfort Inn & Conference Center, 1620-74th Avenue S.W., Evergreen Room, Tumwater, Washington before CHAIRPERSON GLORIA ASHFORD and BOARD MEMBERS JIM SIMMONS (Vice Chair), TOM PHILLIPS, DAVID JACOBSEN, DON KOPCZYNSKI, VIRGIL HAMILTON, DAVID A. BOWMAN, DAVID S. BOWMAN, BRYAN DAVIS, TRACY PREZEAU, GEOFF NEWMAN, DON GUILLOT, DAVE GOUGH and SECRETARY/CHIEF ELECTRICAL INSPECTOR RONALD FULLER. Also present were ASSISTANT ATTORNEYS GENERAL DONNA EMMINGHAM representing the Board and SHELLEY MORTINSON representing the Department.

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WHEREUPON, the following proceedings were held, to wit:

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Reported by:
H. Milton Vance, CCR, CSR
(License #2219)

EXCEL COURT REPORTING
16022-17th Avenue Court East
Tacoma, WA 98445-3310
(253) 536-5824

1 Thursday, April 26, 2007
2 Tumwater, Washington

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I N D E X

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1 PROCEEDINGS

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3 CHAIRWOMAN ASHFORD: The hour is about 9:08. This is
4 April 26, 2007. Electrical Board meeting commencing.

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6 Item 1. Approve Transcript of January 25, 2007,
7 Electrical Board Meeting

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9 CHAIRWOMAN ASHFORD: The first order of business is
10 to approve the transcripts of January 25th.

11

12 Motion

13

14 BOARD MEMBER PREZEAU: So moved.

15 BOARD MEMBER: Second.

16 CHAIRWOMAN ASHFORD: We have a motion and a second to
17 approve the minutes as transcribed. All those in favor?

18 THE BOARD: Aye.

19 CHAIRWOMAN ASHFORD: Opposed? So carried.

20

21 Motion Carried

22

23 Item 2. Departmental/Legislative Update

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25 CHAIRWOMAN ASHFORD: Mr. Woods, the departmental and

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1 the legislative update. You may be here for a while.

2 Busy session?

3 MR. WOODS: What was that, Madam Chair?

4 CHAIRWOMAN ASHFORD: Was it a busy session for you?

5 MR. WOODS: Yes, indeed, Madam Chair.

6 For the record, Patrick Woods.

7 It was a busy session, and not as fruitful in some
8 ways as we hoped.

9 Last year when I had a chance to address you, we had
10 -- the well driller bill had passed, we shared about the
11 successes in bringing people together.

12 In the HVAC arena, we were not -- or the folks in the
13 HVAC/R arena, it was not as successful. But I do believe
14 that there were building blocks put in place.

15 And as we chatted earlier this morning, the well
16 driller legislation took several years. It was something

17 that was worked on over a period of time. And getting
18 people together to where they feel comfortable and are
19 supportive is so much better.

20 I go to the telecommunications bill that we had back
21 in 2001. I know Geoff was a part of the discussions of
22 that and some other -- Fred Tricarico was a part of the
23 discussions. And David, you were also part of that. That
24 was not an easy process either. The one thing I felt good
25 about it and that I'd like to check in is that it wasn't

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1 able to be implemented correctly.

2 And part of the challenge in implementation is making
3 sure that when it's built that folks are supportive. When
4 we did the telecommunications prior to us enacting it,
5 Rhode Island I believe had taken on the same type of
6 approach, and they repealed it. Because they weren't able
7 to keep the parties together. And that's one of the good
8 things in building something with an integrated approach.

9 And I look at one indicator for me is the voting in
10 the House and the Senate. If I can get a piece of
11 legislation that's going to be implemented that passes
12 unanimously or pretty close, generally I'm going to have
13 the support that's needed to make sure that it's
14 implemented correctly with enough resources, with enough
15 industry support that will make it a viable option.

16 When it passes just by a narrow margin, generally
17 there's lots of complaints that come with that. Because
18 there's a certain amount of angst that remains and people
19 have real difficulty in seeing those things implemented.

20 One good example is the bill we had last year, the
21 Wage Payment Act, which I know doesn't directly relate
22 with the electrical, but it does relate to electrical
23 workers, making sure that the workers are paid.

24 Last year, the legislature gave us the authority to
25 enforce the Wage Payment Act, which had not been adjusted

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1 since 1913. So you can imagine the difference between a
2 society in 1913 enforcing the law and today. We've
3 checked in with folks on both sides: labor and business.
4 And generally people are supportive of the way it's being
5 implemented. And again, those types of things are
6 difficult when you now have the authority to enforce a law
7 that previously was not able to be enforced.

8 The HVAC -- Madam Chair, getting back to that -- the
9 issue I think is now with the legislature. They're going
10 to be looking at what they want to do and with the
11 stakeholders and I think the Department trying to be
12 facilitator. We talked about Daniel going back into the
13 lion's den. And it was somewhat scary at times, the

14 issues that we were dealing with and the reaction from
15 both sides. But I do believe progress was made. And
16 we'll see where we go from there. We want to be as
17 supportive as possible.

18 I know you have the discussion regarding the rules
19 that will be requested and then made to the Department and
20 the Electrical Board.

21 On another arena, I did want to let you know there
22 were some other successes. Prevailing wage bill did pass,
23 dealing with a clarification on that.

24 Contractor compliance so it's a level playing field
25 for our contractors. We have a greater tool to ensure

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1 that the contractors are registered and they are playing
2 by the rules regarding workers' compensation and other
3 requirements for benefits for the workers. So those fully
4 compliant contractors will now have a little more of a
5 level playing field.

6 And in addition, we did have a staffing for the Wage
7 Payment Act, which again, it's great to have laws passed,
8 but if you don't have the ability to enforce them, it
9 makes it a hollow promise. So we have some resources to
10 enforce that act.

11 In addition, I wanted to emphasize a couple of things
12 that we're looking at in the Department. One is the
13 safety emphasis for our inspectors. We have between 140
14 and 165 inspectors at various times during the year. We
15 want to make sure that they are safe. So that is
16 something that you'll be hearing about. But it's
17 something that we feel is absolutely essential to make
18 sure that our colleagues in the field and in the central
19 office have a safe working environment.

20 In addition, Ron and his team will be providing
21 training throughout the regions to all of our inspectors.
22 I don't know if -- it's a two-day training. I don't know
23 if we're going to be opening it up to the jurisdictions
24 and municipalities. That's something we've done in the
25 past to try to make sure that whatever jurisdiction you're

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1 working with, you've got inspectors that are trained, and
2 that as a contractor or as a certified electrician, you're
3 dealing with inspectors that know their requirements.

4 The one thing I am a little bit worried about, it
5 deals with jurisdictions. We've had one jurisdiction that
6 has moved away from the electrical system that we enforce.
7 That's Tukwila, I believe it is, Ron? And that's a
8 concern to me. And it's not just because it's an issue of
9 the scale of our operation, but really the scope of the
10 services we provide are driven by the number of

11 jurisdictions that are involved in our system.
12 I would hate to see us become a balkanized system
13 where we have different coverage. It's one thing if we
14 aren't providing the service or if we are too costly. But
15 I would hate to see jurisdictions make decisions based on
16 financials. We want to make sure we are providing the
17 best services we probably can for the public and for the
18 people that we regulate.

19 So I may need some help in that, looking into that
20 issue, and getting some advice on how best to work with
21 our colleagues in the local government.

22 In addition, I just wanted to thank -- yes.

23 BOARD MEMBER SIMMONS: A quick question, Patrick. Do
24 we know why Tukwila decided to do their own? Was it a
25 financial decision? Or for some reason did they feel they

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1 weren't getting the service and able to schedule service
2 when they wanted it? Or do you know what the issue was?

3 MR. WOODS: It was -- Ron had some initial contacts.
4 But we are doing an exit conference with them. We're
5 getting the local administrator, the regional
6 administrator, myself and Ron to meet with their decision
7 makers and find out exactly the details. But Ron has had
8 some discussions with them.

9 SECRETARY FULLER: The comments from the building
10 official were that they just wanted one-stop shopping.
11 The disadvantage that I don't think they were aware was
12 how much we do electronically, especially with
13 contractors. And he was I think surprised at how big a
14 percentage of work we actually did on-line with purchasing
15 permits and doing inspection requests. So like Patrick
16 said, we'll have to see. They disavowed any financial
17 reasons. But it was all about one-stop shopping.

18 BOARD MEMBER SIMMONS: Just one comment quickly. As
19 an electrical contractor in the state of Washington, I
20 deal with many different jurisdictions getting permits for
21 jobs. And if they were all handled by the State and we
22 dealt with one location and one place to get permits and
23 dealt with one jurisdiction as far as requirements and
24 rules and how they implement them, et cetera, et cetera,
25 et cetera, that would make everybody's life much simpler.

11

1 And I think the State does overall a very good job at what
2 they do. And I personally really hate to see
3 jurisdictions go out on their own, and that was why I
4 asked the question.

5 I appreciate the answer. Thank you.

6 MR. WOODS: And again, Jim, I want to make sure that
7 it's done in a collegial manner. If there's some reasons

8 that it's best for the local government to do it, that's
9 why we want to do it with the training; we're willing to
10 spend our resources to train some of their folks. Because
11 it's a public safety issue at the end of the day. So I
12 really want to maintain a collegiate approach. You know,
13 there will always be the issue of the counties wanting to
14 do it, and that's been something the Department has gone
15 in opposition against. But I want to make sure that we're
16 doing the right thing for the right reasons. And the exit
17 conference will be helpful.

18 One thing that I felt that Ron and his team did a
19 magnificent job on is we had several jurisdictions that
20 wanted to opt out.

21 And we said, "Look, we can provide the services, and
22 you can go through us, and you can still have your local
23 perspective. But the administration, the inspections will
24 be done by L & I."

25 So that was a unique thing. It was kind of out of

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1 the box. It was a challenge. It went through the Board
2 discussing it. But that's the type of thing we may need
3 some advice. It's getting more complex out there. And we
4 want to make sure we're responding correctly.

5 The other issue that I just wanted to mention was
6 thanking the policy advisory committee. I know you've
7 done your charter.

8 And Tom, you've been fantastic in keeping on top of
9 this.

10 And Gloria, you've been at the meetings.

11 I know you're busy people doing lots of different
12 things. So thank you for being willing to take that on.
13 I know there's some members that are hopefully going to
14 participate on that advisory committee.

15 And my belief is it will help clarify issues that are
16 out there, and to find the ones where there is a
17 difference of opinion, and let's work through it.

18 Finally, I just wanted to mention the dollars are
19 looking good. I always go back to that because that was
20 the first incident I had with the Chair of the Electrical
21 Board back in 1998. So again, we always go back to the
22 occasions that bring incidents to your memory. And I see
23 that our electrical fund is increasing, even with the five
24 percent reduction. So that is helpful.

25 And I'm hopeful in the coming year we're going to

13

1 look at our inspectors' workload, and if you go to the
2 performance measures -- I think Ron shares those with you
3 -- our inspectors do about 11 inspections a day. They're
4 also involved in detecting fraud and compliance, and

5 trying to make sure that we're giving good customer
6 service, and referring underground economy activities to
7 the workers' compensation arena. But I want to make sure
8 that we're doing all we can to support them.

9 So in the coming months, we may be sharing with you
10 ideas about how we can enhance the electrical program.

11 With that, Madam Chair, members of the Electrical
12 Board, are there any questions?

13 CHAIRWOMAN ASHFORD: Going back to the HVAC, this is
14 always an issue. You said some progress was made this
15 last session. Can you expand upon that for us please.

16 MR. WOODS: Now, that's with trepidation, Madam
17 Chair. Because every time I say something, people say,
18 "Well, you're obviously on this side of the issue," you
19 know.

20 CHAIRWOMAN ASHFORD: Just the facts.

21 MR. WOODS: Exactly. But you know how people confuse
22 the facts.

23 I think it came in, there was a hearing in the House
24 that was pretty contentious. The chair of the committee
25 asked if L & I would come in and work with the parties.

14

1 We had a series -- Tracy was at almost every meeting.
2 There was about 15 meetings in a matter of three weeks.
3 We met almost every day and for several hours a day. And
4 they came up I thought with a pretty good system. They
5 looked at mechanic one, which was basically driven on two
6 principles. One is the principle of the well driller
7 model, which says the well driller model, if you're
8 involved in an activity related to your profession, and in
9 this case, the HVAC, the hours that you're involved in
10 that would count across a whole sector of endorsements.
11 And one that we already have today, which is the 06B. And
12 that was really the entry-level side, the 2,000 hours, the
13 challenging the exam at the 1,000. And with that, you
14 could have endorsements on -- and this is depending on
15 which version you're looking at -- endorsements on sheet
16 metal with piping and with refrigeration. And so some of
17 those things would fit into what you currently have with
18 the 06B.

19 The next level was a mechanic two. And that got to a
20 higher level with a 4,000 hour requirement, which is like
21 the 06A. And that again worked across the whole
22 endorsement activities of the piping, sheet metal and the
23 refrigeration.

24 The mechanic three then got to the full-blown journey
25 level. And that's where you had the expectation of

15

1 unlimited activity across all sectors of those industry

2 activities of sheet metal, piping, refrigeration.
3 Now, the item that you've got for the rules goes into
4 an expectation of some of the stakeholders that it should
5 be an open electrical full scope. And as you know, in
6 electrical it goes to all sorts of issues of where do you
7 draw the demarc line. You could have major facilities
8 that power is coming from, you know, high voltage arenas.
9 And I do not have the profound knowledge on this issue, so
10 I won't venture anymore. But Ron can maybe explain it.
11 But that was a difficult issue to figure out where
12 the demarc line is. Because that in many respects looked
13 like an O1. If it's an O1 electrician, they can do
14 everything. So I think you'll be able to delve into that
15 more.
16 The aspects of the concurrency of hours I think was a
17 big breakthrough built on the well driller model. The
18 ability to have recognition of training from different
19 aspects of training was a big issue to ensure that each
20 sector of the industry was able to be acknowledged.
21 One endorsement document for the electrician or the
22 HVAC technician -- mechanic one, mechanic two, mechanic
23 three -- the contractor would have one bond, one license,
24 one insurance. All those things were meant to streamline
25 the process.

16

1 So there were some good aspects to it. It's getting
2 to the details. And that's where there really was a
3 difference of opinion.
4 Our whole approach was keeping people at the table.
5 If you can keep people at the table working through
6 issues, there's going to be compromise. And that's always
7 a tough thing. You can never conceptualize compromise.
8 You have to be there to work through that to understand
9 what it takes.
10 I would like to thank the Board members who did
11 participate. Tracy was tremendous. David was involved in
12 it. And, of course, Ron was able to be there. And there
13 were some other members of the Electrical Board that also
14 participated.
15 CHAIRWOMAN ASHFORD: Thank you.
16 Any questions of Patrick? Tracy.
17 BOARD MEMBER PREZEAU: Patrick, I have a couple of
18 questions if you'll indulge me.
19 The first one is a financial question. And this
20 morning, Brandi passed out the most recent financial
21 report. And I can't help but notice -- and there was some
22 discussion about what I'm going to ask you about in the
23 last meeting, although unfortunately your schedule was
24 very busy during the last meeting and you weren't there to
25 answer the questions.

1 But the department -- the SCS department which I
2 think is your department has the second largest amount of
3 debt in this financial report. You actually have
4 overspent I believe your budget by nearly \$51,000 at this
5 point. And I'm just -- and going back to last month's
6 meeting, you know, Ron had made -- you know, we had
7 discussed this as well, and I'm just curious if you can
8 give the Board a little better perspective on what exactly
9 those expenditures are and --

10 MR. WOODS: Well, thank you very much. I always love
11 those tough questions.

12 BOARD MEMBER PREZEAU: And I'm sure you have an
13 answer for us.

14 MR. WOODS: I'll give opportunity to Ron to make sure
15 that we're right. But some of the issues that we've got
16 is this legislative session we put in a request for
17 \$240,000 to cover for our credit card.

18 And one of the things that we're doing -- and it was
19 great during session actually, some of the members came up
20 to me when the chair had asked me to come over to the
21 Senate -- asked about our electronic e-Commerce. It's
22 kind of like what David has mentioned, Fred: How much
23 e-Commerce do you do? Well, we now do between 60 and 70
24 percent of our permits on-line. You can pay for them
25 through the credit card. And guess who gets to eat the

1 credit card fee? It's us, not the contractors. So we
2 chose to do that. We then put in a request to get that
3 money returned to us. So meanwhile, we got all these
4 other expectations that are out there. Ron has said a
5 plan reviewer. We've had dramatic demand for our schools,
6 our plan reviews. We've had our inspectors that are
7 working 11 stops a day, trying to get them as much support
8 as we can.

9 And there were some other things, Ron, that we did.
10 Do you want to talk about the key initiatives?

11 SECRETARY FULLER: Well, I think a lot of it, Tracy,
12 has to do with our legislative activity last year and
13 Patrick had to have an extra staff member to deal with
14 that. There's always a give and take across the whole
15 program. We work the budget for the program, not just the
16 state necessarily.

17 BOARD MEMBER PREZEAU: Yeah, and I understand --

18 SECRETARY FULLER: We all have crises. This year I
19 was -- this biennium I've been lucky in some ways, unlucky
20 in others, that I couldn't bring my e-CORE people on as
21 quickly as I had the funding for them. So my variance is
22 huge, positive. But when I realized that I couldn't do

23 that, then I shared money with the regions. So I
24 basically donated \$125- or \$130,000 to them to hire
25 inspectors instead of just letting the money sit idle.

19

1 We constantly balance that back and forth. And
2 really the important page is the front page. That's the
3 projection for the program.

4 So this year -- and I was going to save this budget
5 for later, but now is as good a time as any, but we're
6 actually going to come in probably less than a half a
7 percent off on our variance this year for this biennium,
8 which is the closest we've ever been. And we're probably
9 going to be down to \$50,000 or less positive. And when
10 you think about a \$16 million a year budget, that's pretty
11 darn close.

12 MR. WOODS: And that really is the challenge. The
13 idea is that we want to make sure -- we're telling our
14 inspectors, "Work harder, faster. Get these
15 accomplishments done." We've got expectations from our
16 customers. We don't want to see places like Tukwila when
17 they come to the exit interview to say we weren't
18 delivering the service and we had complaints. That's what
19 we don't want to see happen.

20 So we're trying to get as much resources out as
21 possible. But other times, there's areas that -- hiring
22 people takes a while, so you got to get the right person.
23 Plan review is a very technical -- technically challenged
24 job. You've got to really know what you're doing.

25 Then, of course, electrical is a big program for our

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1 division. So it gets the services from IT, from research.
2 So it is a challenge. But we want to make sure that we're
3 using every penny. Because at the end of the day when
4 it's all wrapped up, I don't want the inspectors to say,
5 "You know, we wanted this equipment, we wanted these
6 vehicles, and you left \$250,000 to be put back into the
7 fund when you could have managed it more correctly." So
8 that half a percent is really a very tight arena. But
9 we're trying to keep it to that.

10 BOARD MEMBER PREZEAU: And I agree. Thanks.

11 So again, at the last meeting we were talking about
12 -- and that issue of having to pay for the use of on-line
13 purchasing and credit card fees, we had discussed that.
14 And so it was my understanding that the supplemental
15 budget package was approved by the Governor's office to
16 allow more money to pay for those fees. Is that -- so
17 that's a done deal now?

18 MR. WOODS: Yeah. And we paid for those. We didn't
19 have any choice.

20 BOARD MEMBER PREZEAU: Yes. No, I understand.
21 And then the other question I have is: The comments
22 you made about safety emphasis for the inspectors, can you
23 you kind of share some more details about that with us?
24 MR. WOODS: Well, we've had some incidents with
25 vehicles. I mean, with all the driving that they're

21

1 doing, the stops they're making. We're trying to make
2 sure that we're giving them all the tools that will keep
3 them safe on the job site. So that's something we're
4 emphasizing at each of our visits to the offices. Ron has
5 gone to certain offices that have had challenges and
6 talked to the inspectors.
7 Whether it's the way the equipment is installed, the
8 ergonomics, the number of stops, their alertness, backing
9 up. The different techniques that they've used --
10 Two of our regions are doing very well. Region 1 and
11 this region for safety. But there's others that have some
12 challenges. We want to make sure we've got a safe system
13 out there.
14 BOARD MEMBER PREZEAU: Absolutely.
15 MR. WOODS: And we are the safety agency. So we're
16 trying to make sure --
17 BOARD MEMBER PREZEAU: Absolutely. And I just wanted
18 to sort of cull out to see if there was -- you know,
19 there's perhaps times when inspectors could run into a
20 safety issue because they're giving somebody a citation
21 who may or may not be happy to see receive that citation,
22 or if it was a little bit more geared towards the
23 transportation vehicle piece or what. That's what I was
24 looking to cull out.
25 MR. WOODS: Well, the other thing too is we have an

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1 inspector who was out at a site and had a reaction. And
2 we want to make sure where they are.
3 That's another thing. Are we able to make sure our
4 inspectors are safe?
5 And if it's an incident such as you can have -- I
6 mean, we had that terrible incident with the revenue
7 officer over in the Spokane area. If you've got some
8 hostile environment and it is difficult, we want to make
9 sure we're giving every bit of support we can.
10 BOARD MEMBER PREZEAU: No, I agree. Thank you.
11 CHAIRWOMAN ASHFORD: Any other questions?
12 Thank you, Patrick.
13 MR. WOODS: Thank you, Madam Chair.
14 CHAIRWOMAN ASHFORD: You're off the hot seat now.
15 MR. WOODS: This is so less hot than what we were in;
16 I tell you. I was just going to mention it before I left.

17 But this is really in my view of -- for 16 years I
18 was in the legislature for the Senate -- the Senate staff,
19 and I was chair of the National Conference for the State
20 Legislators for the labor committee. So we visited
21 different states.

22 But really what you have here is the ideal situation.
23 You've got informed people around the table. You've got a
24 very competent staff. You've got your attorneys on the
25 side that are there representing you and us. A lot of

23

1 states do not have that. You've got this balance between
2 the administration of the agency, the policy that you
3 represent and stakeholders.

4 The one thing I am glad that isn't here is I thought
5 there would be droves of HVAC people here this morning.
6 So I just think that is wonderful.

7 Thank you.

8 CHAIRWOMAN ASHFORD: Thank you.

9

10 Item 3. Policy Review Committee Discussion

11

12 CHAIRWOMAN ASHFORD: Item number 3, in your packets,
13 you have the policy committee charter. And this is a
14 draft. So if you haven't already, would you take a moment
15 to read it.

16 (Pause in proceedings.)

17 CHAIRWOMAN ASHFORD: Tom, would you like to discuss
18 this?

19 BOARD MEMBER PHILLIPS: Sure. Actually I would like
20 to propose an amendment to the charter -- draft charter.
21 That is based on a conversation that we had last month.
22 And the question I had was: Well, how are we going to get
23 these issues to the committee. And it was decided or
24 agreed that no issues would go to this committee unless
25 they were approved by the Board. So I thought maybe --

24

1 and I have a proposed sentence here that would go under
2 "Policy Criteria." It would start with the sentence that
3 said "All issues considered by the Committee must be
4 recommended to the Committee by the Board"

5 CHAIRWOMAN ASHFORD: Donna, do you have comments on
6 that?

7 ASSISTANT ATTORNEY GENERAL EMMINGHAM: Could you
8 repeat that one more time please.

9 BOARD MEMBER PHILLIPS: "All issues considered by the
10 Committee must be recommended to the Committee by the
11 Board"

12 ASSISTANT ATTORNEY GENERAL EMMINGHAM: I would say
13 that's appropriate.

14 BOARD MEMBER SIMMONS: One other thing that we might
15 consider in the same vein on this is that I don't really
16 see anything in here that directs the Committee to report
17 the findings back to the Board -- of the Committee --
18 which is the purpose, if I'm not mistaken.

19 BOARD MEMBER PHILLIPS: Right. We could put at the
20 bottom of the -- add on to the "Procedures" section just
21 another sentence that's saying "All findings and
22 recommendations of the Committee shall be reported to the
23 Board at the next regularly scheduled meeting."

24 BOARD MEMBER SIMMONS: That sounds good. I would
25 like to see something like that in there too. Thank you.

25

1 BOARD MEMBER PREZEAU: So is it my understanding --
2 Jim, and I guess this is a sort of an open discussion
3 question, but also pointed at you: It's my understanding
4 that issues will be referred to the policy committee, and
5 the policy committee will meet to discuss them and dissect
6 them, and then report back to the full Board for the Board
7 to take action. Obviously there will be a recommendation,
8 but that subcommittee is not the -- is not going to make
9 those decisions on behalf of the entire Board; is that
10 correct?

11 CHAIRWOMAN ASHFORD: That's correct.

12 BOARD MEMBER PREZEAU: And I also am wondering, has
13 the policy committee met to draft this charter?

14 CHAIRWOMAN ASHFORD: No.

15 BOARD MEMBER PREZEAU: Okay. Because I was going to
16 say I believe I'm on the committee, and I wasn't invited.

17 BOARD MEMBER PHILLIPS: I started a draft and was
18 going to send it out to the committee members but first
19 wanted to send it to the Chair for her -- for her --

20 BOARD MEMBER PREZEAU: Review.

21 BOARD MEMBER PHILLIPS: -- review. And then we send
22 it to the attorneys and to Patrick and to Ron. And there
23 was a lot of discussion at that level. And then it was
24 decided that we don't really -- that maybe the committee
25 should be -- or the charter should be approved by the

26

1 Board and not the committee members. And so then it was
2 okay, well, let's just put it on hold, let's come back to
3 the next Board meeting, let's show the charter, and then
4 we'll start now after this meeting.

5 CHAIRWOMAN ASHFORD: And Donna, you can correct me if
6 I'm wrong. But it's my understanding that the committee
7 actually is not in place until this charter is approved.

8 ASSISTANT ATTORNEY GENERAL EMMINGHAM: That's my
9 understanding too. I don't know that the actual committee
10 members have been identified officially on the record yet

11 as well.

12 CHAIRWOMAN ASHFORD: Virgil.

13 BOARD MEMBER HAMILTON: So after discussion, could we
14 reread what's the motion on the table now.

15 CHAIRWOMAN ASHFORD: There actually isn't a formal
16 motion on the table.

17 BOARD MEMBER SIMMONS: It's just for discussion.

18 CHAIRWOMAN ASHFORD: We're discussing this charter --
19 this draft charter as written. We have two additions to
20 it at this point.

21 Ron.

22 SECRETARY FULLER: For that last item that was talked
23 about here about reporting the findings, Jim, I'm a little
24 concerned I guess that "reporting back at the next
25 scheduled Board meeting" might not be the right word.

27

1 BOARD MEMBER SIMMONS: Okay.

2 SECRETARY FULLER: I'm thinking more like "reported
3 to the Board as directed" or something like that. So it
4 leaves it open to the -- when the Board gives the
5 assignment, what I'm thinking is if it's a six-month
6 assignment, it's two meetings away. It leaves some
7 discrepancy there. Because it may take longer than three
8 months.

9 BOARD MEMBER SIMMONS: That's a good point. I think
10 that my concern was that we get something in there that --
11 you know, for setting up a policy it should say what the
12 purpose of this policy is, and the subcommittee is to
13 report back to the Electrical Board. But how we do that I
14 think is a good point, Ron. We could have -- just leave
15 it at that. "Report back to the Electric Board as
16 directed." I think that's a good way to put it.

17 ASSISTANT ATTORNEY GENERAL EMMINGHAM: As directed by
18 who?

19 SECRETARY FULLER: By the Board.

20 BOARD MEMBER PHILLIPS: I think "directed by the
21 Chair."

22 BOARD MEMBER SIMMONS: "As directed by the Chair"?

23 BOARD MEMBER PHILLIPS: I think so.

24 BOARD MEMBER GUILLOT: Madam Chairman, on the
25 selection of the players on the committee, is that going

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1 to be a balance? Or how are we going to select the
2 players for the --

3 CHAIRWOMAN ASHFORD: Well, at our last meeting, we
4 had a show of hands of volunteers that would be willing to
5 and have the time to serve on this board. I referred that
6 to Tom to select his committee members.

7 BOARD MEMBER GUILLOT: I got'cha. Okay.

8 CHAIRWOMAN ASHFORD: Just about everybody raised
9 their hand I think.
10 BOARD MEMBER PHILLIPS: Well, I didn't.
11 And I had a list. And I left it at home
12 unfortunately. And I don't know if we want -- I know a
13 least four of the members. I can't remember the fifth.
14 Do we want to do that now to get that --
15 BOARD MEMBER PREZEAU: They're in the minutes from
16 the transcript.
17 BOARD MEMBER PHILLIPS: Well, not all of them. Four
18 of them are in the list.
19 Okay. There was -- and then I e-mailed because there
20 was two electrical union representatives, and I e-mailed
21 back thinking should we just have one member. Because I
22 know some of these that we are going to be discussing are
23 going to be political in nature. And I was trying to even
24 the Board out in that manner. So whether or not that's
25 appropriate, I guess that needs to be discussed.

29

1 CHAIRWOMAN ASHFORD: Well, we have diversity with the
2 Board members. I feel we should also have the same
3 diversity with the subcommittee.
4 And as far as selecting members for the subcommittee,
5 let's get the charter in place first. That should be our
6 first step.
7 SECRETARY FULLER: And just another suggestion was on
8 the first one that Tom suggested that all issues to be
9 considered by the committee must be referred to the
10 committee by the Board. That might be more appropriate to
11 be the Chair too; I'm not sure. Just a thought. Since
12 you're assigning the deadline. I don't know. Just a
13 thought.
14 BOARD MEMBER PHILLIPS: Well, my thought on that was
15 that, again, some of these issues may be political. And
16 I thought it might be better if it was a vote of the
17 Board --
18 SECRETARY FULLER: Either way. Either way it works.
19 BOARD MEMBER PHILLIPS: Yeah.
20 CHAIRWOMAN ASHFORD: Donna, you're shaking your head.
21 You must have some opinion on that.
22 ASSISTANT ATTORNEY GENERAL EMMINGHAM: I would agree
23 that it's probably more appropriate for the Board as a
24 whole to vote on the issues that go to the policy
25 committee.

30

1 CHAIRWOMAN ASHFORD: David.
2 BOARD MEMBER (D.A.) BOWMAN: A question on -- as I
3 understand this the way it is read, it does not preclude
4 Ron from coming to the Board with his own policy

5 recommendations apart from the policy committee, which is
6 what has been done over the last five years that I've been
7 on the Board. Is that still the intent with this?

8 CHAIRWOMAN ASHFORD: If this is set up as we had
9 discussed where it has to be a majority vote of the Board
10 members to send an issue to this policy committee, that
11 would even cover Ron's issues. Any disagreement about --

12 BOARD MEMBER PHILLIPS: I'm sorry, I didn't hear that
13 last part you said.

14 CHAIRWOMAN ASHFORD: Well --

15 SECRETARY FULLER: Well -- and Donna, correct me if
16 I'm wrong. But I believe that the Department is actually
17 the -- like with rules, we're the ones that actually set
18 policy. When a policy is done, I sign it. But what this
19 committee would do in my mind is act as a sounding board
20 for issues that are sensitive for whatever reason --
21 financially, politically, whatever -- and be a
22 recommending body to the Board. And the Board would then
23 -- like when I bring a policy to you, really it's for your
24 recommendation and your input. If I disagree with you,
25 which is never done, I could sign the policy anyway. But

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1 that probably wouldn't make good sense.

2 BOARD MEMBER (D.A.) BOWMAN: But that's my question.
3 There's nothing in here that precludes you from proceeding
4 as we have done up to this point in time.

5 SECRETARY FULLER: No, I don't believe so. And that
6 could very well happen with something that's -- I'm trying
7 to think of something that's -- we had a policy one time
8 between us and the elevator section, for instance, on how
9 to -- where the demarc line was going to be for our
10 inspectors. And something like that, probably not really
11 necessary to go through this kind of a process. It's an
12 internal how we manage our inspection staff inside between
13 the two programs. So something like that, I'd probably
14 come to you with a policy like I've done in the past and
15 say, "Give me your blessing" and we move forward.

16 ASSISTANT ATTORNEY GENERAL EMMINGHAM: And if I could
17 interject two comments. I'd like to amend my earlier
18 answer when I said that it was probably appropriate for
19 the Board to recommend subjects for the policy committee
20 to consider, I think I'd like to amend that and say "the
21 Board or the Chair" in the event that there's a time
22 sensitive issue that comes up that the Chair may want to
23 ask the committee to meet and gather some information to
24 report at the next Board meeting. So we may want to
25 consider saying "the Board or the Chair" in that case.

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1 And with respect to the question that was just asked

2 by Dave Bowman, unfortunately or fortunately, however you
3 look at it, the statute is written that gives the
4 Department the authority to set policy. And you advise
5 the Department. So, of course, the policy committee's
6 document cannot usurp the power that's in the statute.

7 BOARD MEMBER (D.A.) BOWMAN: I just wanted to make
8 sure we didn't have an expectation that all policies had
9 to go through the committee. That's not the way I
10 understood it.

11 ASSISTANT ATTORNEY GENERAL EMMINGHAM: Yeah, it's
12 important to clarify that.

13 CHAIRWOMAN ASHFORD: And maybe we should change the
14 name and eliminate the word "policy." This committee will
15 not be making policy. This committee in my understanding
16 and what I'd like to see the direction, if we have an
17 issue that needs more in-depth investigation and study,
18 that it would be referred to Tom's committee. They would
19 do the leg work for us, in essence, and bring their
20 findings back to the full Board.

21 BOARD MEMBER PHILLIPS: So maybe advisory committee?

22 BOARD MEMBER JACOBSEN: Policy advisory committee.

23 CHAIRWOMAN ASHFORD: Well, we have advisory committee
24 and we have policy advisory committee and -- we're playing
25 over words and names right now.

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1 SECRETARY FULLER: I don't have heartburn over the
2 word "policy" because it is -- it's an advisory committee
3 to the Board.

4 CHAIRWOMAN ASHFORD: We in here don't. But maybe
5 someone in the general public might have issue with that.
6 But it is not the intent nor purpose of this committee to
7 create policy or set policy.

8 BOARD MEMBER GUILLOT: Well, then I think it should
9 be "policy advisory committee." And that would clear it
10 up for the general public.

11

12 Motion

13

14 BOARD MEMBER HAMILTON: So moved.

15 CHAIRWOMAN ASHFORD: Okay, we have a motion to change
16 the name to "policy advisory committee."

17 BOARD MEMBER SIMMONS: I like it.

18 CHAIRWOMAN ASHFORD: That's your second?

19 BOARD MEMBER SIMMONS: Second.

20 CHAIRWOMAN ASHFORD: All those in favor of the name
21 change motion?

22 THE BOARD: Aye.

23 CHAIRWOMAN ASHFORD: So moved.

24

25 Motion Carried

1 CHAIRWOMAN ASHFORD: We have a new name. We still
2 need to go back to the issue of some language changes
3 within this charter.

4 BOARD MEMBER PHILLIPS: So Donna, did you have new
5 language for how the issues are given to the Board?

6 ASSISTANT ATTORNEY GENERAL EMMINGHAM: Perhaps I
7 could summarize for the Board the changes that I have so
8 far to the policy committee document.

9 The first heading would be: "Policy Advisory
10 Committee."

11 Under "Purpose," it would be: "The Policy Advisory
12 Committee of the Electrical Board is created to consider
13 issues regarding all aspects of RCW 19.28 and WAC 296 and
14 to propose a policy to be taken by the Board regarding
15 those issues.

16 "The Committee may at its discretion consider issues
17 proposed by any affected party, except the Committee will
18 not hear issues relating to current or pending appeals to
19 be heard by the Board."

20 Under the subtitle "Policy Criteria": "All issues
21 considered by the Committee must be recommended to the
22 Committee by the Board or the Chair. All policies
23 proposed by the Committee must be proposed in the spirit
24 of benefiting the safety or economic condition of the
25 majority of the people of the state of Washington."

1 Under the subtitle "Procedures": "The rules
2 contained in Roberts' Rules of Order, Newly Revised, shall
3 govern procedures before the Committee. The Committee may
4 adopt additional rules or procedures, provided they are
5 approved by the Chair of the Board and consistent with the
6 law.

7 "Policy recommendations shall be approved by a simple
8 majority of the Committee members. In the event of a
9 split vote of the Committee members, the Committee Chair
10 shall cast the deciding vote. The Committee's findings
11 and recommendations shall be presented to the Board as
12 directed by the Board Chair.

13 "Meetings shall be scheduled at the discretion of the
14 Committee Chair or at the direction of the Chair of the
15 Board."

16 And I would add one other suggestion, and that would
17 be language stating that "In no event should a quorum of
18 Board members attend any particular Policy Advisory
19 Committee meeting." And that way there isn't any question
20 that you're conducting any official Board business by
21 having a quorum of Board members at a meeting.

22 BOARD MEMBER SIMMONS: One point of possible

23 clarification. When you were reading that, I didn't hear
24 -- maybe I didn't hear it. But we were concerned that
25 saying that reported back to the Board at the next meeting

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1 was not appropriate, but that it would be reported to the
2 Electrical Board as directed by the Chair.
3 ASSISTANT ATTORNEY GENERAL EMMINGHAM: So it would
4 read: "The Committee findings and recommendations shall
5 be presented to the Board as directed by the Board Chair."
6 BOARD MEMBER SIMMONS: "As directed by the Chair."
7 ASSISTANT ATTORNEY GENERAL EMMINGHAM: And that
8 should be clarified as the Board Chair, not the committee
9 chair.
10 BOARD MEMBER SIMMONS: Correct. Thank you.
11 CHAIRWOMAN ASHFORD: Donna, as we discussed on the
12 phone, with regard to a quorum, may a Board member come
13 before this subcommittee as, shall we say, an expert
14 witness on a particular item and not in the capacity of a
15 Board member?
16 ASSISTANT ATTORNEY GENERAL EMMINGHAM: Yes, as long
17 as you don't have a quorum. As long as you don't have
18 more than seven Board members at any particular committee
19 meeting. So yes, someone could be called in as an expert,
20 but you just want to make sure that you are never a quorum
21 of Board members.
22 SECRETARY FULLER: At the table or in the room?
23 ASSISTANT ATTORNEY GENERAL EMMINGHAM: I would say
24 conducting business.
25 SECRETARY FULLER: What I asked was: At the table or

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1 in the room?
2 And the answer was: Conducting the business.
3 So I would assume that's at the table.
4 ASSISTANT ATTORNEY GENERAL EMMINGHAM: Yes.
5 So if someone's testifying as a witness, they're part
6 of the discussion -- the ongoing discussion.
7 CHAIRWOMAN ASHFORD: So they would still be -- okay.
8 Is that crystal clear to everyone?
9 Ron, would it be possible -- oh, David.
10 BOARD MEMBER GOUGH: I just had a question. How
11 would the meeting minutes be kept? Would that be
12 determined once a policy has been finalized and the
13 committee is selected and the group goes off to do some of
14 its work, will there be minutes kept or how would you
15 foresee that?
16 CHAIRWOMAN ASHFORD: We could discuss that.
17 BOARD MEMBER PHILLIPS: I believe Ron suggested that
18 the Department could provide someone.
19 SECRETARY FULLER: Yes. I mean, that's our job as

20 staff is to do that. So whether it's one of my staff or
21 we hire someone like Milton to actually transcribe.
22 That's something I think the committee needs to work out
23 is how detailed do they want to be at any particular
24 meeting. Because it could vary I believe from issue to
25 issue.

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1 CHAIRWOMAN ASHFORD: And in our discussion, because
2 it's not a public meeting, the minutes do not have to be
3 as detailed as they would here.

4 SECRETARY FULLER: It is a public meeting.

5 ASSISTANT ATTORNEY GENERAL EMMINGHAM: Yeah.

6 SECRETARY FULLER: It is a public meeting.

7 CHAIRWOMAN ASHFORD: It is?

8 SECRETARY FULLER: Yes.

9 CHAIRWOMAN ASHFORD: Do we have to do notices?

10 ASSISTANT ATTORNEY GENERAL EMMINGHAM: Yes. The
11 meetings have to be publicized.

12 Any gathering of more than two Board members where
13 you're discussing any Board business is subject to the
14 Open Public Meetings.

15 So there's two different issues. One is a quorum for
16 taking official action. That's why the policy committee
17 needs to stay below the quorum of the Board so that you're
18 not taking any Board action with a quorum of Board
19 members.

20 The other issue is the Open Public Meetings Act. And
21 that's anytime you have more than two Board members
22 together discussing Board business.

23 CHAIRWOMAN ASHFORD: I now do remember that
24 discussion.

25 Ron, would it be possible to have what Donna's

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1 prepared typed up and brought back to us so everyone can
2 read it before we adopt this charter?

3 SECRETARY FULLER: Yes. I think she's got it all
4 written down there. So we can run it back over to the
5 office and get it typed and brought back again.

6 Because I would like to get the Chair's signature on
7 it before we leave today.

8 BOARD MEMBER PHILLIPS: I think we have to also
9 strike the last sentence in the first -- in the "Purpose"
10 paragraph. Because it's my understanding now that the
11 committee will have no discretion on which issues will be
12 considered.

13 SECRETARY FULLER: Okay, I would agree with that.

14 BOARD MEMBER KOPCZYNSKI: I have one other clarifying
15 question.

16 In the very first sentence at the end. It's actually

17 the second sentence on the -- the second line on the first
18 sentence. It says "... propose a policy be taken by the
19 Board." And what I understood from Donna is this Board is
20 not a policy-making body. We don't have state authority
21 to do that. Ron does. So we wouldn't be making policy
22 even as it's brought back to the Board. So it's really --
23 this committee won't be proposing a policy to be taken by
24 the Board; it's going to be proposing a recommendation.
25 ASSISTANT ATTORNEY GENERAL EMMINGHAM: A

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1 recommendation or position perhaps?
2 SECRETARY FULLER: "Position." That's a good word.
3 CHAIRWOMAN ASHFORD: Virgil, you had a question.
4 BOARD MEMBER HAMILTON: Well, with the wording that
5 was talked about, am I correct in understanding that at
6 each Board meeting we'll have a full update of all
7 meetings that were held by the policy committee and what
8 was discussed?
9 CHAIRWOMAN ASHFORD: I would think that would be
10 appropriate. It doesn't have to be at length. You could
11 highlight what the committee met and the items they
12 discussed.
13 Before we send someone upstairs to redraft this, any
14 more changes?
15 BOARD MEMBER (D.A.) BOWMAN: Under "Policy Criteria"
16 then, since they are not really proposing or creating
17 policy, should we say "all policies recommended by the
18 Committee"?
19 CHAIRWOMAN ASHFORD: You changed the wording on
20 "Policy Criteria." Do you want to read that again?
21 ASSISTANT ATTORNEY GENERAL EMMINGHAM: Well -- and I
22 need to -- since we struck the last sentence under
23 "Purpose" that talks about "the Committee may at its
24 discretion consider issues," I need to move that language
25 about current or pending appeals to the end of that. So

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1 under "Policy Criteria," I now have, "All issues
2 considered by the Committee must be recommended to the
3 Committee by the Board or the Chair, except the Committee
4 will not hear issues relating to current or pending
5 appeals to be heard by the Board. All recommendations
6 proposed by the Committee must be proposed in the spirit
7 of benefiting the safety or economic condition of the
8 majority of the people of the state of Washington." So
9 taking out "policies" there and changing it to
10 "recommendations."
11 BOARD MEMBER SIMMONS: Sounds good.
12 CHAIRWOMAN ASHFORD: Any more comments?
13 ASSISTANT ATTORNEY GENERAL EMMINGHAM: And does

14 anyone have any questions, just to clarify, why you
15 wouldn't hear anything about current or pending appeals?
16 Because obviously that's your role as a board to hear
17 those. We wouldn't want the policy committee to be
18 getting information from parties before the Board has
19 actually acted in its capacity on those appeals.
20 CHAIRWOMAN ASHFORD: All set?
21 BOARD MEMBER SIMMONS: Sounds good.
22 CHAIRWOMAN ASHFORD: We'll conclude number 3 after we
23 are able to read the text of the revised draft.
24 (Brief recess taken at the
request of court reporter.)
25 ///

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1 CHAIRWOMAN ASHFORD: Would everyone please take their
2 seats again.
3 All right. Ron's in place, so we're ready to resume.
4
5 Item 4. Budget & Secretary's Report
6
7 SECRETARY FULLER: Madam Chair, we've got two budget
8 reports in your packet. One is in your book; it's for
9 January. And the updated one is for March.
10 Patrick actually did make a slight mistake because he
11 hadn't seen the March report yet. We actually dropped the
12 fund from \$12,854,000 to \$12,841,000. So it did drop a
13 few thousand dollars, but not very much for March.
14 The projection -- the latest one that I saw is that
15 we were scheduled to be at plus \$76,000 on the variance at
16 the end of June. And we're going to try to bring that
17 down even closer.
18 As Tracy mentioned earlier, we had a supplemental
19 budget request in for recouping some credit card costs
20 that we've incurred over the last couple of years. We're
21 up now to about 80 percent of all of our permits sold
22 on-line, and there's about 50 percent of those that
23 they're using credit cards for now. So quite a bit of
24 credit card charges come in.
25 The budget package did pass out of legislature. You

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1 know, as soon as the Governor signs everything off, then
2 it will be a done deal. I'm sure that will be in there
3 because it was in her proposal too. That was for \$194,000
4 I think for this year. So we have that extra \$194,000 to
5 spend between now and June 30th.
6 So our plans for that are several things actually.
7 One is to bring on inspectors early. We may be doing
8 some overtime. Right now it's very difficult to recruit
9 because business is more than booming in the state of

10 Washington right now. So we're looking at spending some
11 of it on that.

12 We're going to be replacing all the printers in the
13 inspectors' vehicles. They're three years old now, so a
14 lot of them are on their last legs. So we're going to be
15 replacing all the printers for the inspectors.

16 And the other thing that we're looking at doing is to
17 do a pilot project with GPS vehicle systems. We're
18 looking at about 40 to 50 vehicles implemented across the
19 state as a pilot project to do several things. Primarily
20 it's a safety issue with us. Raise awareness of the
21 driving habits of the inspectors. Be able to locate them
22 in case of an emergency.

23 Like Patrick was talking about, the one fellow that
24 collapsed over in Yakima last year after having a reaction
25 with some chemicals at an inspection site in a house he

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1 was looking at. He collapsed on the porch and nobody knew
2 where he was at. So it took us some time to find him.
3 Just fortunately his wife called him for a "honey do," and
4 he said "Cherry." That's all he could say. And it was a
5 street. We looked up his itinerary and found him. But if
6 we would have had the GPS, we could have found him in
7 seconds.

8 These systems have the ability to help us with theft.
9 We've lost a couple of vehicles in the last year to auto
10 thieves in the middle of the night, one in Vancouver -- or
11 in Olympia that we haven't recovered yet. It's been gone
12 for about seven months now, so we'll probably never get
13 that one back. So if something moves at 1:00 in the
14 morning, we can alert places. And even if there's no one
15 there to alert like the State Patrol at the rotunda or
16 whatever, we can still have that vehicle tracked until
17 they get it disabled so we can be able to follow it a
18 little bit better.

19 The whole system really is primarily about raising
20 awareness when people are behind the wheel and getting the
21 drivers to be more safe.

22 Any accident is too many. We've had eight at-fault
23 vehicle accidents so far this year since July 1st. That's
24 more than we had all of last year. So that's not a good
25 trend. We've got two more months to go. So hopefully we

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1 won't have any more. But it's very high on the agency's
2 priority to reduce vehicle accidents right now.

3 The agency -- there was actually an e-mail from the
4 Director this week on vehicle accidents. And the agency
5 runs about just under 300,000 miles per accident. And
6 that was too high for the Director. So there's going to

7 be an agency thrust to reduce vehicle accidents and reduce
8 all kinds of safety incidents. So that's something that's
9 high on our priority list to do. So this just falls in
10 with that.

11 We actually thought about using more of the money to
12 implement GPS fully. There's two technologies actually
13 with GPS. One is a satellite/cellular. And the other one
14 is straight satellite. We're looking at going ahead and
15 getting the better system, which is satellite. That way
16 there's no cellular black holes, you know, you don't have
17 a missing area actually. Unless you're out of the line of
18 sight of the satellite, you're on the system all the time.

19 The cellular technology is quite a bit cheaper to buy
20 but more expensive to operate month to month. So this
21 will let us test the process out, see how it actually
22 works, what benefits it has for us from a safety
23 perspective. And it will also let us I think go forward
24 with a budget package then, maybe even division-wide
25 because there's other inspectors other than ours that

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1 drive vehicles, and be able to fund this thing in the
2 future. Because the operating costs are about three
3 hundred and something dollars a year per vehicle to do the
4 data tracking. So it's not a small cost, but it's not a
5 really big one. But it's enough that we want to be able
6 to fund it rather than just absorb the money.

7 CHAIRWOMAN ASHFORD: How many vehicles?

8 SECRETARY FULLER: We have 150 ourselves. So it's --
9 I mean, we have a fairly good-sized fleet.

10 And if you add the FAS inspectors, boiler and
11 elevator in and a couple of the other ones that have
12 smaller in, you're probably up to close to 200 vehicles in
13 a division.

14 So again, this gives us a good way to pilot it, see
15 how it works, work out the bugs in it, and then go for
16 the, you know, top-of-the-line system, which is the
17 satellite-based system.

18 So that's where we're at on that one with the budget.
19 Budget is looking -- it looks real good. It's the best I
20 think we've had it since I've been chief as far as coming
21 in on the zero dollar and still have our revenues up and
22 our expenditures up matching that allotment and doing the
23 things that we need to do to operate efficiently.

24 Any questions on the budget?

25 BOARD MEMBER PHILLIPS: I have a comment. We

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1 requested one of the -- when the electrical inspector
2 supervisors come to the City of Kirkland and show us --
3 demonstrate their wireless computer system because the

4 City of Kirkland was looking at getting something in, I
5 was just extremely impressed by the system that's in place
6 and how efficient it is and how the inspectors have all
7 this information available to them live time and how they
8 can -- and update L & I's computer system at realtime and
9 be able to issue correction notices with the code language
10 on the computers by a couple of pushes of a -- clicks of a
11 pen, that they don't have to write it out. They're really
12 ahead of the curve there and operating extremely
13 efficiently.

14 I was just totally impressed. And I think it might
15 be good, if possible, that Ron or someone from the
16 Department could maybe do a presentation on how that
17 system works, and I think the Board would be very
18 impressed to see it.

19 SECRETARY FULLER: I'd like to see that too.

20 CHAIRWOMAN ASHFORD: I think that's an "atta boy" for
21 you.

22 SECRETARY FULLER: Okay, in July, maybe we'll do that
23 for you.

24 Okay. Customer Service in the secretary's report
25 we'll talk about first. We're responding pretty darn

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1 quickly still. We're up to 87 percent statewide in
2 January and February. And I think it fell through March
3 actually. We're getting our inspections done within 24
4 hours. Several of the regions are working at
5 consolidating some of the areas the inspectors have.
6 Typically in the past, each inspector has had a specific
7 geographic area to work in. And more and more of the
8 supervisors are moving toward the one area per office type
9 model whenever it's possible. So, for instance, here in
10 the Tumwater area, I know they've consolidated four
11 inspectors areas into one area. And then they take those
12 four inspectors and divvy up the work equally every day.
13 So the inspector's workload is consistent from inspector
14 to inspector, and it's also letting them respond much
15 quicker because instead of having one or two areas per
16 inspector, now they've got that one geographic area that
17 they can try to cover every day. So several of the
18 regions are making a percent or two gain in their response
19 times by using that kind of methodology rather than having
20 specific areas for the inspector. So the supervisors are
21 doing a pretty good job right now of trying to make
22 everything just as tightly run as possible. Because we
23 don't have any more resources, and we may not get any more
24 next year. They're looking right now at a possible budget
25 request to get more inspectors, but you never know with

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1 the legislature how that will go. So we'll have to be
2 working on that.

3 The targeted citations that you see there are up to
4 53 percent, which is really good. Our goal is 50 percent.
5 So that's our underground economy people and unlicensed
6 contractors and electricians and no permits.

7 The licensing process turn-around time is down to 4.7
8 days. I think it's even a little less than that right
9 now. They've been doing pretty good at getting their
10 backlog caught up. We do have a backlog with the well
11 drillers because we're having to process those by hand and
12 there's no computer methods to do that. So an application
13 from a well driller actually, depending on if it's a
14 contractor or a worker, either starts with a plumbing
15 program or our program. Then we have to approve it. Then
16 it goes to the other program for them to approve their end
17 of it. There's just a long time line there. So we're --
18 I think they're about two months behind on those actually
19 because they're just so physically intensive with the work
20 that's being done.

21 CHAIRWOMAN ASHFORD: Ron, under "licensing," is this
22 overall for every license all the way down?

23 SECRETARY FULLER: Yes.

24 CHAIRWOMAN ASHFORD: Because I heard complaints that
25 as far as travelers trying to get their 01 license here in

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1 the state of Washington, it's taking five to six weeks
2 now.

3 SECRETARY FULLER: I would doubt that that's true.
4 This is -- this number is really driven down primarily
5 because of the existing people with renewals. Because
6 renewals happen pretty much instantly on a day-by-day
7 basis. But when a traveler comes in, they do have to show
8 their experience from out of state. And I'm going to say
9 that the norm is that they don't have their documentation
10 right when they come in the door. So they have to wait.
11 Because we're not going to approve them until they can
12 document that they have the appropriate hours of
13 experience for the types of licenses that we're looking
14 at. So it's really up to them. If they walk in the door
15 with a complete package and it shows everything, then I
16 think they're going to get processed within a week. If
17 not, then they're going to have to go back. And lot of
18 them really struggle with previous employers or even other
19 states getting the documentation to us that we need to
20 approve. So some of them do get extended out there.
21 Sometimes never. Sometimes they never get approved
22 because they can't document their previous experience. So
23 those are the kinds of people that will complain because
24 they're obviously -- they're dead in the water as far as

25 the application process goes. If they have their

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1 documentation, they get approved rapidly. If they don't,
2 they have to wait. Because it's not our responsibility to
3 go find it for them. And a lot of them don't understand
4 that. They think we should call Arizona or wherever and
5 talk to their contractors. That's not what we do. So
6 it's up to them. So just the back and forth takes a
7 while, depending on the situation.

8 Testing Lab Report, it's part of the Secretary's
9 Report. We haven't done no new labs for this last quarter
10 yet. There are two engineers approved to do the
11 industrial equipment review now. And they've been getting
12 a fair amount of work I think. We're due to go out of
13 that business on July 1st. So after that, we won't be
14 doing internal industrial equipment reviews any more, and
15 it'll be up to those engineers to do it. So hopefully a
16 few more engineers will come on board with that one.

17 The Class B Permits. In January and February, we
18 received 5,572. We made 974 inspections. 522 of those
19 were low voltage. 452 of those were line voltage. And
20 out of that 974 inspections we only issued 12 corrections.
21 So not very many corrections again. And that's where we
22 want it to be always. If we find that we're writing more
23 corrections, then we're going to have to be looking at
24 that line item to see if it stays on the list. It's
25 really critical with the contractors to keep their quality

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1 up because they could lose that ability real quickly if we
2 start writing corrections against them.

3 BOARD MEMBER NEWMAN: I have a question. On the
4 5,500 labels, what is the percentage of high voltage and
5 low voltage? Any idea what that --

6 SECRETARY FULLER: I don't know. It's mostly low
7 voltage. It's mostly -- it's thermostats, security
8 systems, burglar alarms. That's most of it.

9 BOARD MEMBER NEWMAN: And is there any criteria for
10 inspection on those? I mean, is one amp a different
11 weight versus another? If it's a thermostat or a
12 telephone drop or -- does anything have any kind of
13 precedence as to what gets inspected?

14 SECRETARY FULLER: No. The line voltage does. We
15 try to pull every line voltage.

16 And I say -- there is a criteria too, even on low
17 voltage. Because if we -- we review every label that
18 comes back. And if we can identify one being in an
19 institution or a school or a hospital, we pull that low
20 voltage for an inspection. So we pull all of those that
21 we can identify. If we can't identify it, then it's up to

22 the inspector to do it. But their guidelines are to
23 inspect one out of five low-voltage labels that they see
24 and to do everything in the schools, institutions and
25 hospitals, low voltage or line voltage, either one.

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1 I put a table in this time -- a chart -- about the
2 electrical plan review workload too. As you can see,
3 during December, January and February, that started
4 creeping upward. We actually have quite a few schools,
5 more than normal this year. They're backlogged, but they
6 think they're going to get all the schools done by the end
7 of June, which is the requirement for some of the funding
8 from the SBI.

9 We actually have brought on a temporary that's
10 working from one of the regions. We have used him for a
11 month in March as a light-duty and then we got him back as
12 a temporary again right now, and we've actually added
13 another one. So we've actually have six plan reviewers
14 working right now. And we're only allotted four.

15 So one of the things that I'm going to be probably
16 looking at this next year with the legislature is a budget
17 request to increase that plan review staff too. Because
18 the workload just continues to increase as with all
19 inspections. And we didn't get plan reviewers when we got
20 the eight inspectors last time. The regions took all of
21 those for field to use as inspectors.

22 The other thing that --

23 BOARD MEMBER PREZEAU: Can I interrupt you, Ron,
24 since we're on this topic?

25 So I just wanted to ask a couple of questions. Since

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1 you did hire some -- increase the plan reviewer staff,
2 obviously it will accommodate the increased requests. In
3 the last meeting you said that you were -- again, that
4 you were going to go to the legislature and ask for some
5 more FTE's. The last meeting you indicated that one would
6 probably be for plan review, and then another maybe to go
7 to the e-CORE team. Are you still thinking along those
8 lines? Or do you think that perhaps you're going to put
9 two full-time people on plan review? Or --

10 SECRETARY FULLER: That's on the next page.

11 BOARD MEMBER PREZEAU: Okay.

12 SECRETARY FULLER: My initial thought -- and there's
13 no guarantees that I'm going to be able to move this to
14 the legislature. Because it has to get through the
15 Department review first.

16 You know, the Director is the ultimate say whether we
17 even move it out of the Department or not. But my plan
18 right now at this point in time based on what I've seen is

19 that I'll be asking for two plan review staff and two
20 e-CORE people because I think we can use both of them.
21 We're up -- this last year we issued just right at
22 5,000 citations. And almost half of those were issued by
23 the three e-CORE team members. So they're doing about
24 half of the compliance in the state right now.
25 And like you saw in the earlier chart there, we're up

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1 to 53 percent of the underground economy. So we've gone
2 from when I started as chief to just about 1,200 citations
3 a year to 5,000. So we basically went up 500 percent.
4 And we've gone from about 25 percent to the targeted
5 issues back in 2000 to 53 percent today. So when you
6 start moving those numbers around, you see that we're
7 getting a huge amount of the underground economy that we
8 didn't get before. Just a tremendous amount. And it just
9 doesn't slow down. The e-CORE guys, they're all
10 backlogged. We actually lost one this last month. So
11 we're down to two members right now. The one in Tukwila
12 got a promotion to supervisor, so he's going to be the
13 supervisor in Tukwila now. So we're starting the
14 recruiting process to get that position filled right now.
15 But we're actually down to two right now.
16 We did some research this last month on what do our
17 citations look like, how much do we write that are bad
18 citations, how many appeals do we lose, that sort of
19 thing. But out of those 5,000 that we issued, we've
20 actually only had about 400 appeals. So about ten percent
21 get appealed. And the Board actually only heard 12 in the
22 last 12 months before this meeting. So that just I think
23 shows that the citations that we're issuing are good ones.
24 Because if they weren't, they'd get appealed in the first
25 place. And if they were bad, then we'd be losing them.

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1 And we're just -- we just don't lose them even at the law
2 judge level. So I guess we probably win 90 percent there.
3 And of the ones that came to the Board, we lost one I
4 think. One or two.
5 CHAIRWOMAN ASHFORD: Ron, going back to plan review,
6 that's always an issue, whether it's the Department or a
7 municipality. Would it be practical, cost effective,
8 whatever, to contract that out?
9 SECRETARY FULLER: It's still all about money. And
10 without the allotment, we can't contract it or hire a
11 person, either one. What I'm actually muddling over in my
12 mind is that in reality we may -- with two positions that
13 we would actually probably bring one on permanent and use
14 the other position as part-time and bring two people on in
15 the spring when the schools start up. Because that's when

16 we really have the most work is from basically March until
17 July 1st. And then once that time period ends, the work
18 drops off again for them typically. So I think it would
19 probably be more efficient to do it that way.

20 We've got the ability to contract out now, but --
21 plan review is something that I think I would rather keep
22 internal if I can rather than external.

23 CHAIRWOMAN ASHFORD: Yeah, it seems like there's
24 always the issue of staff.

25 SECRETARY FULLER: Uh-huh. But like I said,

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1 regardless, contracting out still requires the money. And
2 without the allotment you can't contract with either.

3 BOARD MEMBER PREZEAU: And I think -- you know, in
4 the last meeting we talked about, and Ron, you identified
5 that in the coming years the Department is going to
6 experience the same thing that, you know, you're going to
7 see in the field where as baby boomers begin to retire,
8 you're going to have a problem potentially recruiting.

9 I think it was 40 percent supervisors and techs
10 potentially could retire in the coming years?

11 SECRETARY FULLER: Right.

12 BOARD MEMBER PREZEAU: And then I think you guys
13 internally have developed a subcommittee or a committee to
14 develop a long-term plan -- recruitment plan; is that
15 true?

16 SECRETARY FULLER: Correct.

17 BOARD MEMBER PREZEAU: And then would you continue to
18 share that information with us? Because obviously I think
19 myself and Jim and the others, you know, have always been
20 talking about more full-time employees and more people on
21 the e-CORE team. And I think everybody in this room can
22 agree that the results that they produced are pretty
23 tremendous. And we certainly don't want to see that
24 compliance team or any other part of your staff diminish
25 to a nonfunctional level because we can't recruit the

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1 people to perform the job. So I mean, that to me going
2 forward is a huge, huge issue coming down the pike, and I
3 would very much like to see the Department create those
4 strategic plans and make sure that the program remains as
5 strong as it is.

6 SECRETARY FULLER: We actually have four work groups
7 going right now. They came out of our January off-site
8 when we had all the supervisors and regional
9 administrators meeting together. We met for three days.

10 I think I reported that to you at the January meeting.

11 One group is for technology. One group is for
12 education. One group is for everything in the hiring

13 process from recruitment to retention. And then the other
14 final group is more of a management-based group. That's
15 the key group that I'm actually chairing. And then we
16 take the other groups' work process and combine it into a
17 strategic plan. So we're getting ready to meet the 7th
18 actually on that again.

19 And by the time you meet next time we will have that
20 plan done. So that was my plan was to share that with you
21 at that point. It covers all of those areas basically. I
22 think comprehensively that will give us a pretty good plan
23 to work off of for the next couple of years. And that's
24 much more direct in the short term than the agency's
25 strategic plan because some of those things are out five

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1 or ten years in our long-term situations.

2 One other thing that did get in the budget this time
3 that's important is we had a package with all of SCS
4 basically.

5 As you know, we started the computer systems and
6 everyone's pretty much tagged along and added onto us. So
7 now we've got elevator and contractors and FAS and the
8 electrical program, and I think even maybe some of the
9 prevailing wage stuff is on our systems that we started
10 out on. We've got them -- because of all the add-ons
11 we've got multiple pockets of computer systems now.

12 And we proposed a package this time for almost \$2
13 million to basically rewrite all of our systems. And
14 they're going to be -- and that's part of the budget that
15 passed also. So we will be tapping our fund for a
16 significant part of that \$2 million. But everybody else
17 will pay their share too.

18 But that's about a two-and-a-half to three-year
19 project. And it should really speed up even our Internet
20 systems.

21 One of the complaints we have with on-line licensing
22 is that it's too slow. And I think it's too slow too. It
23 took me 14 minutes to renew on-line. It would have been
24 faster for me to put my check in an envelope and mail it
25 back from an electrician point of view.

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1 So things like that, internal processes, we're going
2 to speed up with the consolidating of those systems.

3 Some of the changes that we've had to do because of
4 accounts receivable, for instance, actually doubled and
5 sometimes tripled the time line to move from screen to
6 screen internally. And when you have a licensing person
7 that's processing hundreds of documents a day, and you
8 move them from one minute to two minutes, then you've
9 significantly increased their workload. So there's going

10 to be a lot of improvements I think in the next few years
11 off of this budget package. It's going to be a really
12 good one for us.

13 This is the first time we've had a really big rewrite
14 in about six years. Maybe seven years, even now. So this
15 is a big change for us. And it should really improve the
16 system's operation.

17 BOARD MEMBER (D.A.) BOWMAN: A question for you.
18 Ron, going back to plan review and along the sufficiency
19 issue, is plan review handled similarly to what you
20 described happening for the local offices in terms of the
21 workload is shared equally around the state or are they
22 divided up into regions which I know has happened in the
23 past. That's part one.

24 Question two: A few years ago or several years ago I
25 guess it became a requirement for plan reviews to have an

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1 engineer actually submit the plans to you. Has that made
2 a difference in the ability of plan reviewers to complete
3 them faster because the submittals are better? Or what is
4 the quality or status of submittals as they come in now?

5 SECRETARY FULLER: I think they've improved. But
6 they're still not what they should be coming from
7 engineers.

8 I mean, in reality, if it comes from an engineer,
9 they should be right. We still have to reject a fair
10 amount. And it still takes us some time to get the
11 answers to some of our questions and design changes made.

12 But we don't do the geographic thing anymore. There
13 used to be a geographic area, and everybody had an area in
14 the state. And that doesn't exist anymore. We do have
15 some of the more qualified, higher level staff that
16 concentrate on bigger jobs, the hospitals especially.
17 Because they can be quite complicated.

18 The good side to that is you have a really qualified
19 reviewer looking at it. But the downside is that there's
20 only so much that they can do. So sometimes those build
21 up. It's not unusual for a hospital to have 50 or 70
22 sheets in electrical. And those things can take a
23 reviewer six to eight weeks to get out just that one plan.
24 When you get something in like that that's really big, it
25 pretty much devastates your workload because there's just

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1 so many people.

2 So we do have -- we primarily now delegate those
3 bigger jobs out to specific people. And the small jobs
4 with the review process that we have now, the preliminary
5 review that they get, we actually I think save ourselves a
6 lot of time. Because if we see something blatantly

7 wrong, we don't just let it sit there until we get to it
8 to review it; we send it back right then.

9 BOARD MEMBER (D.A.) BOWMAN: That was my next
10 question.

11 SECRETARY FULLER: So that's raised the level of
12 submittal somewhat because people don't want to get
13 rejected because then they fall to the back of the line
14 again. So that has raised the level. But there's still
15 many more problems than there should be from some of the
16 submittals that we see.

17 Reciprocity. We have been approached by Virginia to
18 become a reciprocity state. They've told us recently that
19 they're really interested in becoming reciprocal with us.
20 They have a fairly large journeyman base like we do. They
21 have essentially the same standards that we do. They're
22 going to hold off on proceeding any further because they
23 are going to attend a multi-state meeting in August
24 because they want to be in the big group, not just with
25 us. I think once they see how long that process can take,

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1 that they'll probably go ahead and sign an interstate with
2 us like Texas did.

3 We're looking at trying to get every state that
4 regulates electricians to be in that reciprocity group.
5 And most are right now. I think I counted yesterday -- I
6 think there's only about eight or nine states left that
7 actually have electrician certification that aren't in our
8 reciprocal group. So it's a pretty substantial group that
9 we have now. Very impressive when you look at the map
10 about who is in and who is out now that has certification.

11 I was told also that I believe Maine and Vermont are
12 actually -- and maybe Massachusetts are going to come to
13 the state meeting in August also. So that'll be another
14 fairly significant group if we can get those people in
15 too. Then it would just be a few states on the East Coast
16 and a couple in the South that aren't in the reciprocal
17 group with us.

18 BOARD MEMBER GOUGH: Ron, is Oregon -- do you
19 anticipate at some point in time that they're going to
20 have a reciprocal in place or joining this national
21 reciprocal agreement that there would be reciprocity
22 between Washington and Oregon just to help the contractors
23 that work that Oregon/Washington border? Granted, they
24 can apply for certification in Oregon, but I think at this
25 time you have to complete a 32- or 40-hour class. It's

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1 not as simple as just filling out documentation; there's
2 some additional things that they're requiring that just
3 add to getting that certification accomplished.

4 SECRETARY FULLER: Well, we no longer have
5 reciprocity with Oregon or Idaho. They both dropped out
6 of the reciprocal agreement. Because they want -- if
7 you're not an apprentice graduate, they want you to have
8 eight years worth of experience. And the difficulty with
9 that is that nobody tracks eight years worth of
10 experience.
11 Idaho -- I think I talked about Idaho at the last
12 meeting. They have a secondary plan that will let you
13 challenge an apprenticeship -- they have an apprenticeship
14 first year, second year, third year, fourth year exam. So
15 if you challenge each of those exams and pass, you get to
16 take the -- if you pass the first one, you take the second
17 one. If you pass the second one, you take the third.
18 Pass the third, take the fourth. Pass that, then you
19 still have to go take the journeyman exam. So it's really
20 burdensome.
21 And they are -- neither state seems to be at all
22 interested in having reciprocity straight across the
23 board.
24 That was a very hot topic at the last reciprocal
25 states meeting with Idaho. I don't know if they will ever

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1 be back or not unless they change their mindset and
2 consider hour-for-hour reciprocity. I don't know.
3 Difficult discussion.
4 Okay, one more thing. We haven't quite gotten there
5 yet because we haven't gotten our typed thing back yet.
6 But before we leave the Secretary's Report, Patrick
7 mentioned it and some of you know about it, but we do have
8 a petition for WAC rule to change the scope of work for
9 HVAC.
10 What I've talked about internally and with Gloria
11 about is that we have to respond back to that petition
12 with what we're going to do. Since the HVAC bill failed
13 at the legislature this year, what we would like to do is
14 open a CR101 up and start the rule-making process for the
15 scope of work section in the WAC rule. Only open that
16 scope of work section up, none of the other sections.
17 And I would like to defer the discussion to the
18 Policy Advisory Committee to deal with, rather than try to
19 bring the TAC committee together, for instance. That's a
20 50-member committee that I think will just bogged down
21 with this discussion.
22 So that would be -- my druthers is to ask the Board
23 to consider that discussion of WAC rule possibly being
24 changed at the committee level and then with the Board
25 recommendation back to the Department before we move

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1 forward to the 102 and file that for public hearing.

2 So I'd like for this one to go through the Board. I
3 think it's a good agenda for it. I think it's probably
4 not the easiest topic to start off with. But a lot of
5 Board members have experience with it.

6 So that would be my request for the Board after we
7 approve the charter the get it in place that you do that
8 as an advisory committee basically for the Department.

9 CHAIRWOMAN ASHFORD: Ron --

10 BOARD MEMBER GUILLOT: I'm sorry, Madam Chair.
11 Through the Chair, just my indication for something like
12 this, would this -- you're not taking it to the TAC
13 committee. Could this be viewed as circumventing the TAC
14 committee? Or does it go back to the TAC committee? What
15 -- just -- I need your education.

16 SECRETARY FULLER: Well, the TAC committee is
17 something that I dreamed up a few years ago actually.
18 When I first started, there was no TAC committee. The
19 Department basically wrote the rules. We negotiated with
20 independent stakeholders and drafted rules and went to
21 public hearing, and that was that. And I wasn't
22 comfortable with that, so I started the TAC as an advisory
23 piece to the Department.

24 So to me I'm comfortable with either group operating.
25 I think the TAC has a very good place in line. I don't

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1 think necessarily for this kind of a discussion, though,
2 because I know it's going to be contentious.

3 Ultimately the Board has to review and recommend on
4 any WAC rule anyway. So I think it's better just to move
5 it along at this point. Because I don't believe this
6 discussion can be handled with a 50-member committee. I
7 just don't think it could be possibly done.

8 BOARD MEMBER GUILLOT: So is it your intent to
9 disassemble the TAC committee?

10 SECRETARY FULLER: No, no, no. We're not going to do
11 any other rule -- there's going to be one other CR101
12 filed. And that's going to be for the -- potentially for
13 extending the temporarily permit fee decreases, the five
14 percent decrease. Because that expires December 31st. So
15 I'm going to file another 101 for that. And as we watch
16 the budget, if we see that we can still extend that
17 decrease out, we will do that.

18 But this other 101 will just be for the scope of work
19 section of the WAC rule, not the entire WAC.

20 We had no -- Patrick didn't say it. But we have not
21 legislation this year. It's a very good thing for us for
22 a change. Because this is the first year in eight years
23 now that I've been here that we haven't had a piece of
24 legislation.

25 So I'd like to concentrate on this HVAC issue and get

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1 that done with. And then we'll probably be filing a
2 another CR101 in September when the National Electrical
3 Code is published. And it will become official then.
4 Then we'll be bringing the TAC back, doing the normal
5 process for that one.

6 And part of what we'll be talking about is -- if
7 you'll remember, Tom had a concern about the actual format
8 of the WAC rule and the abilities of a city to adopt the
9 technical pieces -- do that process. And that one would
10 technically open in September when we file that 101. But
11 that will probably be a full-year process. And that's
12 when the TAC would come back. Because then we're going to
13 be talking about technical issues, you know, what the code
14 changes did to us, and those kinds of things, the more
15 normal things that they would deal with.

16 So the TAC's not going away. It's still a very
17 useful tool for us.

18 CHAIRWOMAN ASHFORD: Tracy had a question.

19 BOARD MEMBER PREZEAU: Well, I was just going to
20 comment, to sort of answer your question perhaps, Don, is
21 there's actually 19.28.051 gives the Electrical Board the
22 -- defines it as our purpose and function to create
23 specialties I believe. I mean, I'm sort of paraphrasing.
24 But I mean -- so I definitely think that in this case this
25 discussion is appropriate for the Board to undertake.

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1 Because that's, you know, as stipulated in statute.

2 And then, Ron, I was curious of what you were just
3 talking about is having these -- you know, after the NEC
4 is adopted and potentially opening the rules up again down
5 the road to have more technical discussion, at the last
6 meeting we were talking about the number of questions you
7 wanted to have for the trainee-related supplemental
8 instruction or continuing education classes piece. And we
9 had talked about increasing the number -- potentially
10 increasing the number of questions per hour as that
11 trainee gets closer to completion of their 8,000 hours
12 towards the journeyman's -- ability to sit for a
13 journeyman's test. And I'm wondering when would it be
14 appropriate to have that discussion now when you thought
15 that that might be a rule change? Is it appropriate to do
16 that now? Or is it appropriate to do that when we're
17 having more of those technical discussions?

18 SECRETARY FULLER: During the technical process.
19 Because there will be we other things that we'll want to
20 address that are back in the administrative section too;
21 I'm sure. There are always typos that we find and those

22 kind of things. But like the discussion that we're -- you
23 know, one thing that I think the Board still hasn't
24 resolved was Gloria's issue: Is it 70 percent or 75? And
25 one of the things that we have tried to ferret out is that

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1 -- and we're not quite sure because of the reports that we
2 get from LaserGrade -- but it looks like somewhere between
3 15 and 20 percent would fail if we raised the pass rate
4 five percent. So that again, that's in the Board's
5 purview to raise that score if they want to. But that's
6 something that you're going to have to discuss.

7 So things like that would be what go into the CR101
8 that gets filed in September. So that's the whole -- when
9 that one gets filed, we'll be opening the entire rule up,
10 though, for discussion and proposal. So anybody that has
11 one, that's the time to do it at that point.

12 But this HVAC one is going to be I think -- the
13 Board's had it before. We've had special meetings on this
14 exact issue. And it's going to be so contentious that I
15 think it needs to be a little more tightly controlled in
16 how it's heard and how the resolution comes out of it.

17 BOARD MEMBER GOUGH: What is the concern, Ron, in the
18 current WAC how HVAC is defined as far as the scope of
19 work goes? Where do you see that there's issues
20 currently?

21 SECRETARY FULLER: Well, they weren't specific in
22 their petition. They just want to open the scope of work
23 up. So I'm not sure if they want another specialty or if
24 they want to expand what's there; I don't know. We'll
25 have to see what they have when they come forward.

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1 CHAIRWOMAN ASHFORD: Geoff.

2 BOARD MEMBER NEWMAN: Ron, I have a couple other
3 questions. On the March Electrical Currents that came
4 out, there's some stuff in there relating to camera
5 installation questions, 06 or 09. And I'm curious: Is
6 this -- how were these interpretations made? As a
7 telecommunications contractor, the market, if you will, is
8 heading towards convergence, and the work is tending to be
9 the same anymore as it relates to security. So the work
10 tends to be the same. It's not a separate, you know, 18
11 gauge, two conductor type thing for an IP camera. It's
12 all Cat 5 UTP. It's the same work. How is this line in
13 the sand drawn, if you will?

14 SECRETARY FULLER: Well, the line for controls has
15 always been that if there was an integrated system,
16 whether it be an optical cable that includes the class 2
17 cable, that if it includes the class 2 that it would be 06
18 work, not telecommunications work. So there's really not

19 been any changes.
20 We just -- what we're trying to do right now in a lot
21 of the Currents articles is resurface some of the ones
22 that were published, you know, five or six years ago that
23 are still pertinent, and this is one of them. Because we
24 realize too that a lot of the cable technologies now are
25 integrating. And when they do that, they're actually

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1 moving in some cases some of the work from
2 telecommunications into the 06 arena by the methods and
3 manufacture.

4 Another good example is cable tray. The primary
5 maker of the tray that the telecom industry used to use
6 has gone and got their tray listed as a grounding
7 mechanism. As soon as they did that, it became eligible
8 to put electrical cables in it too. And by default then,
9 they can't install that tray anymore. So they're very
10 limited now, the telecom installer is, about what kind of
11 tray they can put up.

12 It's always been the same rule. If it can be used
13 for electrical, they can't hang it.

14 But the main manufacturer got --

15 BOARD MEMBER NEWMAN: Which manufacturer?

16 SECRETARY FULLER: I can't even remember their name
17 now. I think it was actually --

18 BOARD MEMBER NEWMAN: Because you could also relate
19 that back to that's cable pathway and wire management type
20 stuff. So regardless of whether or not it's listed for
21 that, it's not used for that.

22 SECRETARY FULLER: The use doesn't matter, though.
23 Once it's approved for grounding, then it's an electrical
24 method.

25 BOARD MEMBER NEWMAN: You could say the same thing if

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1 you go back to Coluccio (phonetic) Brothers carrying PVC
2 pipe, having laborers do that work.

3 SECRETARY FULLER: That would be a rule change that
4 would have to happen. Because I'm not prone to changing
5 that interpretation.

6 BOARD MEMBER NEWMAN: Okay. So what is the
7 interpretation on the cable tray? Who does that work
8 then? Does an 06 contractor do that work?

9 SECRETARY FULLER: An 06 could.

10 BOARD MEMBER NEWMAN: 06 could?

11 SECRETARY FULLER: Yes. Because they can do hiring
12 methods. An 01 could obviously too. But most of the
13 other specialties could not install.

14 BOARD MEMBER NEWMAN: Any other limiting things as
15 far as environments and that kind of stuff? I mean, this

16 stuff comes up in data centers is where it comes up.
17 SECRETARY FULLER: No. It's strictly how the
18 equipment, what it's evaluated to be. And if it can be
19 used for electrical work under our rules, you know,
20 electrical equipment's very defined. And a raceway is
21 electrical for us.
22 So that's a dilemma that they've gotten themselves --
23 that the manufacturer got the industry in. Because most
24 of the states don't regulate telecom. So they don't
25 really care what they put up. But we do. That's been our

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1 stance from the first day that the telecom bill passed.
2 And as far as I can see, that will be where it's at unless
3 someone changes the rule or the law.
4 BOARD MEMBER NEWMAN: Well, I disagree with that
5 interpretation.
6 Okay. So back to the cameras then, it's the same
7 thing regardless of the media? I mean, the media is all
8 -- it's unshielded twisted bare cable. It could be used
9 for anything.
10 SECRETARY FULLER: And if it's only used for
11 telecommunications, they can install it. But as soon as
12 they use it for a class 2 system, then it's 06 work. Even
13 if it's a multimedia cable. Because you can't
14 differentiate that out.
15 There comes a point when I've got to draw that line
16 in the sand from a line's point of view.
17 BOARD MEMBER NEWMAN: Why?
18 SECRETARY FULLER: Because that's what the rules say.
19 That's what the law says.
20 BOARD MEMBER NEWMAN: But it's -- but when the
21 telecommunications bill was drawn up ten years ago, that
22 was a different issue then.
23 SECRETARY FULLER: Technologies are changing.
24 BOARD MEMBER NEWMAN: Exactly. I mean, that's the
25 point. The technology is changing. It's just a

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1 telecommunication cable.
2 SECRETARY FULLER: The rule hasn't changed, though.
3 So when the rule changes, then I'll enforce it a different
4 way. But, you know, most camera systems -- well, I won't
5 even say most then. A lot of them then were stationary
6 cameras. But if it was a movable camera, we controlled
7 and required 06's to do the control work for moving that
8 camera from pan field to zoom. Always have, always will.
9 BOARD MEMBER NEWMAN: It depends. I mean, if it was
10 an optical fiber in that, then no, you didn't. But --
11 SECRETARY FULLER: Well, the rules have to change
12 before I change my interpretation.

13 BOARD MEMBER NEWMAN: Okay. That's all I have.
14 CHAIRWOMAN ASHFORD: Ron, do you have more?
15 SECRETARY FULLER: No.
16 CHAIRWOMAN ASHFORD: My partner here has a question.
17 BOARD MEMBER SIMMONS: Before we get completely away
18 from you, Ron, back in the last Electrical Board meeting,
19 the discussion was brought up about public service
20 announcements and those kinds of things, and you talked
21 about you're building a portion on your web site or
22 something to educate the public a little more about what
23 permits are required and when permits are required. And
24 this is a real issue with me. I run into these people
25 working and doing the work themselves all the time and not

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1 getting permits, and I'm just wondered if there's been
2 anything moving forward on that at all or have you had
3 time to do that.
4 SECRETARY FULLER: Haven't had time.
5 BOARD MEMBER SIMMONS: Okay. I thought that would be
6 the answer because the legislature's just over.
7 SECRETARY FULLER: The legislature's just over. And
8 we've had Doug -- Doug and like Tracy can vouch for Doug.
9 Doug and Tracy have been tied up for weeks and weeks now
10 on HVAC. And I've been gone some too.
11 BOARD MEMBER SIMMONS: So just a reminder then. I
12 would --
13 SECRETARY FULLER: That still is really high on my
14 priority list actually for the web. Because the most
15 troublesome group we have are the homeowners and what they
16 do. And really the only way we can outreach to them is
17 through something like the web technology or like we
18 discussed last time, doing public service announcements or
19 something like that. But financially, those are probably
20 out of the question. So we're pretty much stuck with the
21 web. And anybody that we can get to let us put a poster
22 up in their place of business selling retail.
23 BOARD MEMBER SIMMONS: And I talked last time about
24 the possibility of me talking to the supervisor at Home
25 Depot. I haven't had that meeting yet. I was supposed

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1 to, and it got cancelled and we haven't got back to that.
2 But that is one thing that I will bring up to them and see
3 if we can get something done. Because I think that some
4 kind of public outreach needs to be done to educate people
5 as to the requirements. Even if they do their own work,
6 they need to get a permit. And people don't know that or
7 are ignorant of that or don't care. And it's really a big
8 problem.
9 I appreciate anything you can do to help me out on

10 that. Thank you.

11 CHAIRWOMAN ASHFORD: Now, my turn. Going back to
12 LaserGrade, at the last meeting you said that the reports
13 we were getting were not accurate with the information
14 that we wanted. Is this report more in line?

15 SECRETARY FULLER: We're still not happy. And Doug
16 and I were actually talking about that this morning.

17 In the next few weeks he's going to be going down to
18 Vancouver and trying to lay out for them exactly what we
19 need.

20 Because what we're getting isn't -- Doug did his best
21 to lay out something for you there. But it's not -- we
22 don't get it in a format that we're comfortable with. So
23 we're going to continue to work on that problem. Because
24 to us it's a problem. Because I don't want to expend the
25 manpower trying to regurgitate raw data into a format

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1 that's usable for the Board and for us. So we're still
2 working that issue. But we're not happy with the reports
3 yet.

4 CHAIRWOMAN ASHFORD: Well, looking at the period
5 January 1st to January 31 of the 01 specialty licensing,
6 58 tests taken first attempt, 42 passed with an average
7 score of 77. Can I take that as somewhat accurate?

8 SECRETARY FULLER: Yes.

9 CHAIRWOMAN ASHFORD: Thank you.

10 SECRETARY FULLER: And we haven't talked about it,
11 but the Board, you've got different exams for every
12 category. And in reality there's -- you know, one of the
13 issues that I have with the 70 percent pass score is
14 having to defend it at the multi-states group because over
15 half of them require 75. And we're only reciprocal with
16 01 certificates. So there really isn't anything to
17 preclude the Board from making the decision just on 01's
18 and not the rest of the specialties necessarily too.

19 CHAIRWOMAN ASHFORD: Well, the 01 would be the key,
20 but then I would have to -- because you (Mr. Simmons) do
21 more residential work. But would you also like to see an
22 02 license?

23 BOARD MEMBER SIMMONS: We already have an 02 license.

24 CHAIRWOMAN ASHFORD: Would you like to see a 75
25 percent passing score there also? We're a professional

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1 industry for the 01's. And as time goes on, this industry
2 is going to continue to change, and we're going to need
3 the best of the best out there.

4 BOARD MEMBER SIMMONS: I agree. And I think that --
5 we've talked before in the Board meetings about education
6 and the requirements for education now, helping that

7 process. Because people are not getting the education
8 simply in the field that they need to be able to pass the
9 test, especially in the 02 category.

10 In my opinion, I am not sure that raising the test
11 score requirements would help anything at this point.

12 You're going to limit a field that already doesn't
13 have in my opinion enough workers. And we just talked
14 about a future shortage of workers. So we're going to
15 draw a higher standard. And I understand that. And I'm
16 for higher quality personnel being put out in the field.
17 But do we really want to limit the industry to a reduction
18 in people of 10, 15 percent being qualified and then
19 passing the test, at least having those people available
20 for employers and to be able to do the work? I'm not sure
21 that's the direction that we need to go. I think that we
22 need to -- I am for the requirements for education 100
23 percent, and I think that we need to up that. I think
24 that eight hours a year is -- we've talked before -- is a
25 starting point, and that needs to be increased.

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1 I would be willing to go along with the 75 percent
2 requirements for 01. As Ron said with the reciprocal
3 agreements, I think that makes sense.

4 But I think for all the specialties, leaving them at
5 70 percent at this point helps us get people that are at
6 least licensed into the field. And that's my opinion. I
7 would like to see it stay there for right now. But I am
8 for more requirements for education. I think that's where
9 we need to start. Thank you.

10 CHAIRWOMAN ASHFORD: Well, also the way I understand
11 this report, if today we raised it to 75 percent, that
12 would not happen for 8,000 hours. Everyone that is
13 working on a training card or in an apprenticeship program
14 right now, they would be grandfathered in at the 70
15 percent. So we're looking at the future. And I think
16 four years from now it's going to be critical to have a
17 well-trained professional workforce out there.

18 Virgil.

19 BOARD MEMBER HAMILTON: The IBEW gives a test very
20 similar to the state test for our certification because we
21 certify people as a journeyman nationwide. And I have for
22 years tried to say that a written test does not show what
23 I feel is journeyman qualifications.

24 When you go to get a commercial driver's license or a
25 driver's license, you have to take a physical test to

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1 prove that you know how to do what you're getting the
2 license for.

3 And somebody with great factual recall can do very

4 well on the state electrical exam and not really be able
5 to do the work when they get in the field.

6 So my personal opinion is that raising the percentage
7 isn't going to be what we're trying to accomplish in the
8 end of getting more qualified people to be in the
9 electrical industry. I see people that have gotten
10 extremely high scores on the state electrical exam not
11 really understand basic electrical safety with they're
12 trying to work inside of a piece of 480 switch gear. So I
13 would rather see some kind of a physical test than just
14 raising the score on the exam. But I know that that's
15 extremely costly.

16 We're doing some of that in Seattle, and we're
17 spending somewhere around \$3- or \$400 per person to take
18 that test I believe.

19 CHAIRWOMAN ASHFORD: Well, our JATC has a skills test
20 before you progress to the next level. There is now a
21 skills test. And on the state level, I can understand
22 where that would be acceptable. It would be cost
23 prohibitive. But there again -- or have a two-level
24 license. There's a lot of work out there that's running
25 conduit or pulling wire.

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1 BOARD MEMBER SIMMONS: Don't we have enough licenses?

2 CHAIRWOMAN ASHFORD: You know, in this conversation
3 -- and, you know, I've been sitting on our JATC for ten
4 years and watching the graduates with the low test scores
5 and how they progressed in the industry with the graduates
6 that had the higher test scores.

7 Tracy.

8 BOARD MEMBER PREZEAU: Well, I just wanted to bring
9 up -- I didn't realize that the case was -- that if the
10 Board did make a change that everyone that's within the
11 program right now is grandfathered in. And I would just
12 ask -- I too agree that taking a practical exam -- or I
13 mean, taking a written exam doesn't necessarily measure
14 your complete skills, especially if you're talking about
15 installation knowledge and methods. But, you know, we
16 have changed this legislation that came out of last year
17 with the requirement of eight hours per year for a trainee
18 -- you know, an electrical trainee. And all of that is
19 basically geared towards electrical theory and code. And
20 so don't you think that if you're raising the bar to a
21 certain extent for all of those individuals that are
22 learning the trade, that potentially it's reasonable to
23 assume then you could raise the test level, the passing
24 level, because you're already going towards that training.

25 And additionally, I agree with -- like Virgil said,

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1 you could have somebody that really knows how to
2 manipulate a resource document, you know, a code book, and
3 perform very well on the exam but not necessarily be as
4 successful in the field as that test score would indicate.
5 However, you know, I think that you may want to consider
6 if you raise that threshold that maybe individuals will
7 actually seek additional training in order for them to be
8 successful on the exam.

9 Now, is that cost prohibitive? I don't know. It
10 depends on the individual case. But perhaps by raising
11 the threshold you actually will increase that level of
12 qualification because individuals are actually going to
13 seek more test preparation or classroom preparation in
14 order to be successful on the exam.

15 CHAIRWOMAN ASHFORD: I can't argue with that.

16 BOARD MEMBER SIMMONS: Well, one thing -- and I think
17 that all the points have some valid issues.

18 But looking at our passing score now, the average
19 score for an 02, 71 percent. The average passing score
20 for an 01, 77 percent. What we would do if we raised the
21 requirement to 75 percent for all of these specialties is
22 you're going to knock out people. And I'm not sure that's
23 what we want to do. Don't we want licensed professionals
24 to be out doing the work? I just think that we're
25 eliminating some people from being able to be out on their

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1 own and making more money and contributing to the economy
2 and doing work that we need those people to do. And are
3 those people creating a hazard now? Are they unqualified
4 to be out there doing the residential work now? Is there
5 a lot of problems with them? I don't think so.

6 And I guess that's where I'm coming from. If there's
7 not a problem, what problem are we solving by raising the
8 requirement? I don't see that as being a benefit.

9 I do understand and agree with the improvements and
10 requirements to raise the education. Let's start there.
11 When we see these passing scores start going up to 80
12 percent all the time, I am all for that. I think all of
13 us are. Then let's raise the bar to 75 percent. But
14 right now if they're just squeaking by, I'm not sure we're
15 benefitting anybody by raising the requirement.

16 Let's force them to get more education. I am all for
17 that. Let's raise that eight hours to 16 next year. The
18 year after that, let's raise it to 24. Let's keep moving
19 this up. Force these people to get some book training
20 which is lacking in their education. And then let's see
21 where it goes.

22 That's my opinion. Thank you.

23 CHAIRWOMAN ASHFORD: Would you agree to at this point
24 in time addressing just the 01 license?

25 BOARD MEMBER SIMMONS: Yes, I would agree to that.

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1 Because I think that Ron makes a valid point. And there
2 is a valid concern there because if we are having
3 reciprocity issues with other states, there is a reason to
4 do that. I can see that. And I think that may be
5 justified. But requiring all the others to follow suit,
6 all the specialties, I don't see that as being a benefit
7 to anybody.

8 CHAIRWOMAN ASHFORD: Virgil -- and actually I want to
9 hear from Tracy too because you guys are licensed 01's.

10 BOARD MEMBER HAMILTON: Well, this is a question for
11 the Chief.

12 The biggest problem with Oregon and Idaho is the fact
13 that they have the apprenticeship and we have the ability
14 for somebody to come up through with 8,000 hours of being
15 a trainee. Is raising the test scores going to make any
16 headway towards resolving our issues with Oregon and
17 Idaho?

18 SECRETARY FULLER: I don't believe it will with -- I
19 haven't discussed it with Idaho. But with Oregon, I
20 actually tried to get them to reciprocate with us at a
21 passing rate of 85. And they would not do it.

22 BOARD MEMBER HAMILTON: Thank you.

23 CHAIRWOMAN ASHFORD: Do you have any comment, Tracy?

24 BOARD MEMBER PREZEAU: Well, I have a question for
25 Ron also.

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1 Since you indicated that this is -- you know, Doug
2 Erickson put a lot of work in working collaboratively with
3 LaserGrade to get the information that you guys really
4 want and you indicated you're not satisfied with this
5 report, do you think that it would be prudent -- and it's
6 a pretty big decision, and I certainly think that one
7 should -- that it should not be taken lightly -- do you
8 think that if Doug continued to work with LaserGrade and
9 at our next meeting had perhaps some additional
10 information, perhaps we should wait until we have that
11 information to make a more educated decision?

12 SECRETARY FULLER: That would be my advice. In fact,
13 on this whole scenario, I kind of side with where Jim is
14 at I think. The primary thing is not the test scores;
15 it's the education that they're required to get. Because
16 from what I've seen, the 02 industry in particular has one
17 of the lowest pass rates that we've got, but they also
18 seem to have the lowest incentive internally in their
19 industry to provide education for their people. HVAC is
20 the exact opposite. We have fairly high pass rates from
21 HVAC. But they're continually training their people with

22 factory training and all kinds of things. You see them
23 doing that as an HVAC industry, but you do not see that in
24 the residential arena. They just send the guys out and
25 teach them to wire a house the easiest way they can. And

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1 they don't seem to be interested in promoting the quality
2 of their industry.

3 Obviously we were in support last year of the
4 legislation for eight hours of classroom time. But I
5 would have been in support 40 hours too just as quickly.
6 More quickly possibly. Because eight is just a start.
7 It's not nearly enough.

8 CHAIRWOMAN ASHFORD: When we get LaserGrade's report
9 at the next meeting we will discuss this further.

10 (Off the record briefly.)

11 CHAIRWOMAN ASHFORD: Ron, do you have any more on
12 your report?

13 SECRETARY FULLER: No. That's all I have.

14 CHAIRWOMAN ASHFORD: Do we have the revised draft?

15 SECRETARY FULLER: She's making copies of it right
16 now.

17 CHAIRWOMAN ASHFORD: Okay.

18

19 Item 6. Presentation of Final Orders

20

21 CHAIRWOMAN ASHFORD: So we can go on to the
22 presentation of final orders.

23 ASSISTANT ATTORNEY GENERAL EMMINGHAM: There are no
24 orders, Madam Chair.

25 CHAIRWOMAN ASHFORD: Oh, that was an easy one.

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1 Item 7. Statement Regarding Solar Motive/Kirk Doray

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3 CHAIRWOMAN ASHFORD: Okay. Item number 7, and you
4 should have them in your packets, the statement in regards
5 to Mr. Doray and Solar Motive.

6 ASSISTANT ATTORNEY GENERAL EMMINGHAM: I don't think
7 it is in their packets, Madam Chair. I apologize.

8 (Comments off the record.)

9 ASSISTANT ATTORNEY GENERAL EMMINGHAM: If anybody
10 would like a copy, I have extra copies. But primarily
11 it's just to read into the record that there was no action
12 taken by the Board on the petition for reconsideration.

13 CHAIRWOMAN ASHFORD: This is a statement to be read
14 into the record regarding Kirk Doray and Solar Motive,
15 request for reconsideration.

16 (Reading) "On February 1, 2007, the Board received a
17 petition for reconsideration from Kirk Doray requesting
18 reconsideration of the Board's final order dated January

19 25, 2007, with respect to citation number EMOSR00209 and
20 EMOSR 00210.

21 "Background: Under docket number 2006-LI-0031, the
22 Office of Administrative Hearings issued its findings of
23 fact, conclusions of law and proposed order on August 7,
24 2006, which upheld the citations issued by the Department
25 and the associated penalties.

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1 "At the July 25, 2007, Board meeting, the Board heard
2 argument on behalf of the Department. Mr. Doray was not
3 present at the time the issue was discussed despite
4 receiving notice of the date and time of the Board
5 meeting.

6 "Motion for reconsideration: The Administrative
7 Procedure Act addresses motions for reconsideration. RCW
8 34.05.470 states that 'Within ten days of the service of
9 the final order, any party may file a petition for
10 reconsideration, stating the specific grounds upon which
11 relief is requested.'

12 "It further provides that 'The agency is deemed to
13 have denied the petition for reconsideration if, within
14 twenty days from the date the petition is filed, the
15 agency does not either a) dispose of the petition, or b)
16 serve the parties with a written notice specifying the
17 date by which it will act on the petition.'

18 "Since the Board took no action within twenty days of
19 receiving Mr. Doray's petition for reconsideration, the
20 motion is deemed denied under the Act."

21 Milton, would you like a break? Ten minutes?

22 THE REPORTER: I'll never say "no" to those.

23 CHAIRWOMAN ASHFORD: So let's be back in our seats at
24 11:25 please.

25 (Recess taken.)

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1 Item 3 Revisited

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3 CHAIRWOMAN ASHFORD: Okay. Everyone should have the
4 revised policy advisory committee charter.

5 I understand that Ron has some comments to make and
6 we have a couple of typos.

7 SECRETARY FULLER: Actually I only have the two
8 typos.

9 There's a typo in the fourth line of "Policy
10 Criteria." It should say "... in the spirit of
11 benefiting."

12 And on the second line of "Procedures," in the first
13 paragraph it should say "procedure."

14 So I think for Milton's benefit, I probably should
15 just read this whole thing.

16 CHAIRWOMAN ASHFORD: Please. I've done my public
17 reading for the day.

18 SECRETARY FULLER: (Reading) "Policy Advisory
19 Committee Charter, April 26, 2007.

20 "Purpose: The Policy Advisory Committee of the
21 Electrical Board is created to consider issues regarding
22 all aspects of RCW 19.28 and WAC 296-46B and to propose a
23 position to be taken by the Board regarding those issues.

24 "Policy Criteria: All issues considered by the
25 Committee must be recommended to the Committee by the

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1 Board or the Chair, except the Committee will not hear
2 issues relating to current or pending appeals to be heard
3 by the Board. All recommendations proposed by the
4 Committee must be proposed in the spirit of benefiting the
5 safety or economic condition of the majority of the people
6 of the state of Washington.

7 "Procedures: The rules contained in Robert's Rules
8 of Order, Newly Revised, shall govern procedures before
9 the Committee. The Committee may adopt additional rules
10 of procedure, provided they are approved by the Chair of
11 the Board and consistent with the law.

12 "Policy recommendations shall be approved by a simple
13 majority of the Committee members. In the event of a
14 split vote of the Committee members, the Committee Chair
15 shall cast the deciding vote. The Committee's findings
16 and recommendations shall be presented to the Board as
17 directed by the Board Chair.

18 "Meetings shall be scheduled at the discretion of the
19 Committee Chair or at the direction of the Chair of the
20 Board. In no event shall a quorum of Board members attend
21 a Policy Committee meeting."

22 And it ends with a signature by the Chair and is
23 dated.

24 BOARD MEMBER PREZEAU: I don't -- certainly don't
25 want to be problematic, but I think there might be a few

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1 other issues we may want to look at.

2 The first one specifically is under "Policy
3 Criteria." I think we want in the second line where it
4 says "Board or the Chair," I think we want to be very
5 cautious and make sure that we clarify that this is the
6 Chair of the Board, not chair of the committee. Right?
7 So "All issues considered by the Committee must be
8 recommended to the Committee by the Board or the Board
9 Chair," not the committee chair.

10 SECRETARY FULLER: Okay.

11 BOARD MEMBER PREZEAU: Isn't that what we discussed?

12 SECRETARY FULLER: Got that.

13 BOARD MEMBER PREZEAU: Additionally I think it's
14 potentially problematic to include the word "majority"
15 when you're talking about "the spirit of benefiting the
16 safety or economic condition of the people of the state of
17 Washington." Oftentimes I think we're going to be
18 undertaking ideas, issues, proposals that in no way will
19 come anywhere near affecting the majority of the people of
20 the state of Washington. We're talking about maybe
21 individual workers. We may be talking about individual
22 exceptions within the individual segments within the
23 industry. And -- I mean, potentially you could make the
24 case that whatever decision comes out of it is always in
25 the spirit obviously of benefiting the safety or economic

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1 condition, but it's probably not going to be the majority
2 of the people of the state of Washington. And I don't
3 know if anybody else shares that comment.

4 And then I also think we probably need to include in
5 here we're going to have -- if it's the intent to have a
6 set number of people on the committee, I think that number
7 should be included in the charter. I know we had
8 discussions about this at that last meeting, and I know
9 that we have to have less than seven, which is a quorum,
10 then I think it should be stipulated in here how many
11 people are going to comprise this committee.

12 And additionally, you know, if in the event -- in
13 terms of voting and in the event that there's a tie, the
14 committee chair casts the deciding vote. So does that
15 mean the committee chair doesn't vote unless there's a
16 tie?

17 You know, there's some additional things I think that
18 need clarification perhaps. And again, I don't want to be
19 problematic. I just want to make sure that the document
20 that comes out of this group is as polished as possible.

21 CHAIRWOMAN ASHFORD: Well, I believe following
22 Robert's Rules would clarify the chair's position of this
23 committee for voting purposes.

24 Going back to "Policy Criteria," would you like to
25 see the word "majority" struck? Is that what you're

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1 asking?

2 BOARD MEMBER PREZEAU: That's what I'm asking. I
3 think that -- I don't think that it is necessary.

4 BOARD MEMBER SIMMONS: I agree.

5 BOARD MEMBER PHILLIPS: I like the word "majority"
6 because the intent for me was that when a member is making
7 a decision on a policy that they consider the impact of
8 the policy on the entire state and what would be best for
9 the state and not any particular groups within the state.

10 BOARD MEMBER PREZEAU: Well, I understand that. But,
11 you know, I think the decisions that you're going to be
12 making don't necessarily have a direct impact on even a
13 majority of people in the state of Washington anyway.
14 And I think, you know, the spirit of this Board is
15 also to make decisions based on the integrity of the
16 entire industry and not subsections. And I think --
17 believe that a subcommittee group would actually have to
18 have that clarified when it's basically known that we all
19 come here from different segments of the industry and
20 everybody is coming here with the ability and the intent
21 to have the entire industry represented and not specific
22 groups. I don't think that should be a problem in the
23 subcommittee since it's not a problem on the Board.
24 CHAIRWOMAN ASHFORD: Donna, your comments.
25 ASSISTANT ATTORNEY GENERAL EMMINGHAM: I don't think

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1 this really represents a legal question. I think this is
2 more of a policy issue for the Board to decide what you
3 want the committee to represent.
4 BOARD MEMBER PHILLIPS: So you're proposing that it
5 would read -- just cross out "majority"; "... benefiting
6 the safety or economic condition of the state of
7 Washington"?
8 BOARD MEMBER PREZEAU: "... the people of the state
9 of Washington."
10 BOARD MEMBER PHILLIPS: I'm okay with that.
11 SECRETARY FULLER: Okay. So I'm going to strike out
12 "of the majority"?
13 BOARD MEMBER PREZEAU: Correct.
14 CHAIRWOMAN ASHFORD: As far as putting in this
15 document the number of committee members, it can fluctuate
16 at any time. The legislature can choose to add a Board
17 seat or decrease a Board seat, which means we would have
18 to go back to this charter and change it. So I would
19 rather not see a specific number of committee members
20 placed in this document.
21 BOARD MEMBER PHILLIPS: There is a typo also on the
22 second line of the second to the last paragraph, the word
23 "event." It's spelled "even."
24 BOARD MEMBER (D.A.) BOWMAN: As well as the spelling
25 of the word "benefiting" on the fourth line of "Policy

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1 Criteria."
2 SECRETARY FULLER: Where is that one at?
3 BOARD MEMBER (D.A.) BOWMAN: The word "benefiting" on
4 the fourth line of the "Policy Criteria."
5 SECRETARY FULLER: Oh. Okay.
6 BOARD MEMBER GUILLOT: Madam Chairman, just to

7 address what you're talking about, do you see any issue
8 with a minimum number and it shall consist of an odd
9 number? Somebody's going to be the deciding vote if we
10 had a minimum number.

11 SECRETARY FULLER: That may not necessarily be true
12 because you could have an abstainer. My recommendation is
13 that you put the maximum number that's possible, which is
14 six, on this committee, and then let it live that way.

15 CHAIRWOMAN ASHFORD: Even though --

16 SECRETARY FULLER: I think you'll --

17 CHAIRWOMAN ASHFORD: -- the makeup of the Board could
18 change as far as seats --

19 SECRETARY FULLER: I mean, the maximum for the -- I
20 agree with you; I don't think it should be in here. But
21 having six people under the current number of Board
22 members is appropriate to me more than an odd number or
23 anything less. Because it gives you the biggest cross
24 section of the Board at that point that you can have. So
25 want the most members you can have under the quorum.

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1 CHAIRWOMAN ASHFORD: I would like to see it left "In
2 no event shall a quorum of Board members attend" It
3 does keep it very simple if there are adjustments in the
4 Board seats, whether they are added or deleted.

5 BOARD MEMBER GUILLOT: I concede to the Chairperson.

6 CHAIRWOMAN ASHFORD: Pardon?

7 BOARD MEMBER GUILLOT: I concede to you.

8 BOARD MEMBER (D.A.) BOWMAN: Do we need a motion to
9 proceed with this as discussed in the last few minutes?

10 CHAIRWOMAN ASHFORD: Yes, I believe we do.

11

12 Motion

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14 BOARD MEMBER (D.A.) BOWMAN: So moved.

15 BOARD MEMBER: Second.

16 MR. GRUNWALD: Can I speak on the motion please.

17 CHAIRWOMAN ASHFORD: Please identify yourself.

18 MR. GRUNWALD: And I will apologize for not signing
19 up as a speaker. I didn't realize you were going to
20 discuss this item as detailed as you are.

21 My name is Mike Grunwald, and I represent the
22 International Brotherhood of Electrical Workers,
23 international office in Washington D.C.

24 I have some concerns. And I want to give you a
25 little bit of history on how I think this policy committee

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1 was formulated and how the idea was hatched. Because it's
2 been about a six or seven month process and a very large
3 group of industry stakeholders that included the IBEW. It

4 also included contractors' representatives, both
5 electrical and in portions of the industry that have
6 smaller play in the electrical.

7 We're expressing our concerns that policy decisions
8 that impact us as people in the industry every day are
9 being made under the cover of darkness, that they're being
10 made by one or two people in the Department. The
11 decisions are being made without getting industry input
12 prior to the decisions being made.

13 And the one of the ways of avoiding that was to say,
14 "Let's have a policy subcommittee that we vet some of
15 these things through before we implement them," which I
16 think is a great idea. Whether I think it's a great idea
17 for it to be subcommittee of the Board or not, you know,
18 I'll leave that up to you. I think it really should be an
19 industry subcommittee, but that certainly is not my
20 decision.

21 What I'm concerned about the way you have this
22 committee structured, however -- and I don't know whether
23 it's purposely or accidentally -- is there is no
24 requirement at this point for these meetings to be public.
25 You are not going to have a quorum of the Board. And so

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1 now industry stakeholders who are going to be impacted by
2 the decisions of the policy subcommittee and the large
3 Board are still going -- those decisions are still going
4 to be made without input from stakeholder groups. So I
5 just want that on the record.

6 And maybe somebody could give me a commitment today
7 that every one of these policy subcommittees will be
8 announced as if they were a public meeting and you will
9 solicit input and discussion and ideas from the industry
10 stakeholders.

11 Those are the ones -- we're the ones that actually
12 brought these concerns to the Department, saying, "You
13 can't make these policy decisions without involving us
14 because it impacts what we do every day. It impacts what
15 our workers in the field do every day and what our
16 contractors do every day. And you can't make them without
17 at least vetting them through us and letting us know what
18 you're thinking about.

19 Sort of this theory of no surprises. Don't throw a
20 policy change out there that surprises the industry. So I
21 just want to go on record concerned about these committee
22 meetings potentially not being public and not open to the
23 public, and the fact that industry stakeholders are still
24 going to express concern about how policy is made and how
25 policy is implemented until the industry stakeholders

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1 actually get to play a role in that policy setting.

2 Thank you.

3 CHAIRWOMAN ASHFORD: Thank you, Mike.

4 But please understand -- and I can't speak for
5 everybody on this Board. It's not my intention for this
6 committee to make any policy whatsoever. It is my
7 intention to see this committee do a little more in-depth
8 study of an issue that came before it and bring that
9 information back to the full Board.

10 I also understand from comments made earlier that
11 these will be public meetings. They will be announced.
12 Minutes will be kept. But there will be no policy made by
13 this subcommittee. They're a fact-finding committee for
14 the entire Board.

15 MR. GRUNWALD: Thank you.

16 CHAIRWOMAN ASHFORD: Mr. Fuller.

17 SECRETARY FULLER: Actually, the way the laws are
18 structured, these have to be public meetings. It's not a
19 choice really. So we have to publish the meetings in
20 advance 30 days and post in a location and they have to be
21 publicly accessible.

22 CHAIRWOMAN ASHFORD: We have a motion and a second.
23 Do we have any further discussion? All those that want to
24 accept the revised policy -- revised committee charter
25 with the grammatical corrections made, please signify by

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1 saying "aye."

2 THE BOARD: Aye.

3 CHAIRWOMAN ASHFORD: Opposed? So moved.

4

5 Motion Carried

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7 CHAIRWOMAN ASHFORD: We do have a new committee in
8 place.

9 Tom --

10 Do you have something?

11 SECRETARY FULLER: No. Go ahead.

12 CHAIRWOMAN ASHFORD: Tom was in the wrong place at
13 the wrong time and volunteered to be chair of this
14 committee. Actually he has spearheaded and did an awful
15 lot of work putting this charter together, and we all owe
16 him a big debt of thanks.

17 At our last meeting we had a show of hands of
18 volunteers that would like to sit on this committee.
19 Personally with the current number of seats on the Board,
20 I would like to see including the chair five other members
21 on this committee.

22 Keep in mind, though, that you may have nothing to do
23 or you may have a lot to do. So if you are willing to
24 volunteer to participate in this committee, you may be

25 asked to give up a lot of personal time on it. So think

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1 very hard about that before you raise your hand and make
2 the commitment.

3 So now I will turn it over to Tom.

4 BOARD MEMBER PHILLIPS: Okay. Well, my thought was
5 that -- we went through this last quarter. And I believe
6 there was five people. And I ended up with a list of
7 five. The minutes show five people. But two of them were
8 electrical union. And I e-mailed them and asked them my
9 concerns that I didn't want -- some of the issues are
10 going to be political, and I want to make sure that this
11 committee had the appearance of fairness and nonpartisan
12 and that no groups or factions being built within that.
13 So it seemed wise to me to do that.

14 So with that, Virgil had offered then to step down.
15 And I appreciate that.

16 So that left us in my mind with five members, not
17 including myself. But I can't remember -- and I left the
18 lift at home. But I know it was Don and David S. and
19 Tracy and Fred who's gone. And I think there was one more
20 member. Do you remember who you were? So I guess if
21 maybe we could get -- if we got one more volunteer, then
22 I'd have the five.

23 CHAIRWOMAN ASHFORD: Would we also consider possibly
24 having an alternate?

25 BOARD MEMBER PHILLIPS: Sure.

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1 CHAIRWOMAN ASHFORD: If an issue came before the
2 committee that required a little more technical knowledge,
3 that we could call upon --

4 CHAIRWOMAN ASHFORD: And I think actually Virgil
5 offered to be an alternate in the e-mail.

6 BOARD MEMBER HAMILTON: And I would suggest that each
7 committee member would have a designated alternate, so
8 that if they couldn't make a meeting, you would still have
9 all sectors of the industry represented.

10 BOARD MEMBER SIMMONS: I'll volunteer, Tom. You
11 don't have a contractor on here yet. So --

12 BOARD MEMBER PHILLIPS: Great. Thanks.

13 BOARD MEMBER PREZEAU: So could we -- so who --
14 you're the chair of the committee. Jim Simmons is on the
15 committee, myself, Don and Fred. Is that correct? Oh,
16 and excuse me, David S.

17 ASSISTANT ATTORNEY GENERAL EMMINGHAM: A point of
18 order. I would suggest to the Board this is done in the
19 form of a motion.

20 BOARD MEMBER PHILLIPS: The members be a motion?

21 ASSISTANT ATTORNEY GENERAL EMMINGHAM: Yes.

22 BOARD MEMBER PHILLIPS: Okay. I guess I would make a
23 motion --
24 CHAIRWOMAN ASHFORD: Now, do we have to make a motion
25 to appoint Tom as the chair of this also?

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1 ASSISTANT ATTORNEY GENERAL EMMINGHAM: You could do
2 that separately or part of the same motion. It's up to
3 you.
4 BOARD MEMBER PHILLIPS: Why don't you --
5 BOARD MEMBER PREZEAU: I'd like to ask actually a
6 point of order. Because I thought when we developed a
7 subcommittee to create a letter to respond to the HVAC,
8 the certification of mechanical licensing, it was a
9 volunteer issue. There was no motion. There was no
10 designee. And since this is technically I believe people
11 who are volunteering to be on a subcommittee, I don't
12 quite understand why we have to go through a formal
13 process with the motions. So if you could clarify for me,
14 I would appreciate that.
15 ASSISTANT ATTORNEY GENERAL EMMINGHAM: You either
16 need to have the Chair appoint the committee members or
17 you need to as a Board make a motion as to who the
18 committee members are. The Chair appoints, then she can
19 appoint other people at another meeting if she so chooses.
20 CHAIRWOMAN ASHFORD: Okay. I'll appoint you. We
21 will appoint Tom as the chair. Tracy, committee member;
22 David S. Bowman, committee member; Fred, committee member;
23 Jim Simmons, committee member; and Don, committee member.
24 Now, Ron, you are going to propose an issue to come
25 before this newly formed committee.

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1 SECRETARY FULLER: Yes. The Department would like to
2 ask the Board to ask the committee to review and evaluate
3 the petition that we have from a portion of the HVAC
4 industry to modify their scope of work for HVAC. And we'd
5 like to have that -- as we've said, we have to post these
6 meetings for the committee. So I'd like to be able to
7 post -- you know, work with Tom to set up some initial
8 meetings, and then have a result by the January meeting.
9 That's nine months.
10 CHAIRWOMAN ASHFORD: Tom and committee members, do
11 you think that would be possible?
12 BOARD MEMBER PREZEAU: I think the charter clearly
13 states that we report back when we're ready. And being
14 that this is -- I mean, it certainly is good to set a
15 goal. But I don't think it's appropriate to put a time
16 line on exactly when we're going to come back. We might
17 hopefully be able to resolve it earlier than that or maybe
18 not.

19 SECRETARY FULLER: And I'd like to just see that as a
20 goal is my --
21 CHAIRWOMAN ASHFORD: We're looking at that for the
22 next legislative session then.
23 SECRETARY FULLER: Possibly. I mean, we may need to
24 have some results by then.
25 I'd like to see a report back, regardless of the

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1 status. I suppose that's what I should be saying here to
2 clarify is that I don't necessarily need or expect a final
3 report, but I think that the Board -- and it may be
4 resolved just by some of the comments from somebody
5 earlier that the Board gets a report every meeting. But
6 I'd like to see something fairly comprehensive I guess by
7 the January meeting.
8 CHAIRWOMAN ASHFORD: I think it would be reasonable
9 to have a status report at every meeting. Not necessarily
10 a final report, but a status of what's been done.
11 BOARD MEMBER GUILLOT: Madam Chairman, are the rest
12 of us here going to get a copy of what they're looking at
13 so we can look at it ourselves personally? Or are we just
14 going to wait on the recommendation from them? Do we get
15 a sneak peek?
16 BOARD MEMBER PHILLIPS: I'm sorry. I was not --
17 BOARD MEMBER GUILLOT: Let me redirect this.
18 Mr. Chairman (Board Member Phillips), are the rest
19 of us going to get a copy of what you guys are doing and
20 studying before you make your recommendations so we
21 could --
22 BOARD MEMBER PHILLIPS: Before we make the
23 recommendations?
24 BOARD MEMBER GUILLOT: Yeah.
25 CHAIRWOMAN ASHFORD: Well -- going back to that, each

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1 issue that goes before the subcommittee will come from
2 this Board.
3 BOARD MEMBER GUILLOT: That's fine.
4 So is that what you're looking --
5 BOARD MEMBER GUILLOT: Yes, ma'am.
6 CHAIRWOMAN ASHFORD: So they can't take an issue on
7 themselves.
8 BOARD MEMBER GUILLOT: Okay. Thank you.
9 CHAIRWOMAN ASHFORD: So it has to come from this
10 Board.
11 BOARD MEMBER GUILLOT: Thank you.
12 CHAIRWOMAN ASHFORD: Ron.
13 SECRETARY FULLER: An example I think that's parallel
14 to what you're planning on doing here with this committee
15 is what the State Building Code Council does with their --

16 they don't call them TAC's; they have a different name for
17 it. But those committees that they have that are working
18 on their rules and policy issues meet just like this
19 committee is going to meet. Each committee has a
20 chairman. That chairman, he is a board member of the
21 Council. And they don't pass out all that information as
22 the process with the committee is going along.
23 As you heard here, you're not on the committee. So
24 you're legitimately able to sit in the audience and watch
25 or talk to a Board member about what's going on. But they

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1 typically don't produce that massive paperwork that would
2 be required for something like this during the process.
3 CHAIRWOMAN ASHFORD: I need to back up for a moment
4 with my committee appointments. I also appoint Virgil as
5 the alternate, for the record.
6 Do we need to send that to the committee via motion?
7 SECRETARY FULLER: No. The Chair or the Board can do
8 it.
9 CHAIRWOMAN ASHFORD: I think I'll refer this to the
10 entire Board and ask for a motion.

11

12 Motion

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14 BOARD MEMBER PREZEAU: Madam Chair, I would move that
15 the issue of the petition requesting the Electrical Board
16 review specialty licenses as they relate to the HVAC
17 industry to the Policy Advisory Subcommittee.

18 BOARD MEMBER HAMILTON: Second.

19 CHAIRWOMAN ASHFORD: We have a motion and a second.
20 Any further discussion? All those in favor?

21 THE BOARD: Aye.

22 CHAIRWOMAN ASHFORD: Opposed?

23

24 Motion Carried

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1 CHAIRWOMAN ASHFORD: You have your first project.
2 Congratulations.

3 BOARD MEMBER PHILLIPS: Thank you.

4 One question on that. We talked about other members
5 sitting in on the meeting. But I think that they can sit
6 on the meeting -- is sitting in and listening to the
7 meeting, does that -- could that constitute a quorum? I
8 guess that's for the legal.

9 ASSISTANT ATTORNEY GENERAL EMMINGHAM: My
10 recommendation would be that you not have more than seven
11 -- or six or seven Board members -- we have 15 Board
12 members currently; is that correct? So if you have more

13 than seven Board members there, I believe that you are
14 conducting official business of the Board; you have a
15 quorum. So whether you're sitting in the audience and you
16 feel compelled to speak up or not, I just would recommend
17 you not have more than six or seven Board members there.

18 CHAIRWOMAN ASHFORD: Thank you, Donna.

19

20 Item 8. Appeals

21 Item 8.a. ITC Systems, Inc.

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23 CHAIRWOMAN ASHFORD: Appeals. Our first appeal is
24 ITC Systems.

25 Shelley, I believe -- we do have a representative

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1 from ITC here?

2 ASSISTANT ATTORNEY GENERAL MORTINSON: Yes. And they
3 are represented by an attorney and they are here.

4 (Pause in proceedings.)

5 CHAIRWOMAN ASHFORD: It looks like everyone's ready.
6 Gentlemen, for the record, would you please state your
7 name.

8 MR. LITTENEKER: Thank you, Madam Chair.

9 I'm Ed Litteneker. I'm an attorney licensed in
10 Washington with my offices in Lewiston, Idaho.

11 With me today is Kerry Cox, the owner and
12 administrator of ITC Systems.

13 CHAIRWOMAN ASHFORD: Would you spell your last name
14 for the record?

15 MR. LITTENEKER: Litteneker, L-I-T-T-E-N-E-K-E-R.

16 CHAIRWOMAN ASHFORD: Let's see. Since you're
17 bringing the appeal --

18 ASSISTANT ATTORNEY GENERAL MORTINSON: It is their
19 appeal, Madam Chair. So I believe they should be allowed
20 to speak first.

21 MR. LITTENEKER: We're delighted to go first.

22 CHAIRWOMAN ASHFORD: And please understand you can
23 bring no new testimony forward. We're only dealing with
24 what is before us.

25 MR. LITTENEKER: And we will be diligent on resisting

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1 the temptation to supplement the record based upon our
2 comments this morning.

3 Though, I want to start out with the idea that some
4 of the issues that you talked about today are exactly the
5 issues that a telecom contractor has.

6 And it was interesting listening to your Chief talk
7 about targeted citations and the policy that you have
8 about aggressively going after what was characterized as
9 the underground market or the underground economy. And

10 that's an issue that I want you to know that we are
11 concerned about as well.

12 Because this isn't an "Ah, shucks, you caught us"
13 kind of appeal. This appeal raises we think some
14 significant issues with the interpretation and
15 applications of the WAC provisions.

16 And so we don't want you to think that we're trying
17 to get something for nothing by coming to you saying, "Ah
18 shucks, dang," you know, "we did it this way and we got
19 caught and we're sorry." That's not the approach. And I
20 want you to know that coming in.

21 I think you have -- and based upon how well you've
22 been prepared this morning so far -- a packet that
23 adequately sets out the factual issues, sets out the
24 administrative law judge's decision. And we have supplied
25 a written statement to the Board for purposes of targeting

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1 what we thought were the issues or issue that we wanted to
2 discuss with you. So I'm not going to go over those in
3 substantial detail.

4 We did have telecom work done at 825, 827, 829, 831
5 Sixth Street in Clarkston, Washington. And I'm here to
6 suggest to you that that work did not trigger the permit
7 and inspection requirements contemplated by your WAC
8 provisions.

9 ITC Systems and Cox are professionals engaging in the
10 telecom profession, understanding the definite public
11 safety concerns present in telecom installations and
12 needing and wanting to comply with those regulations.

13 This is an opportunity I think for the Board to look
14 at at least the entirety of those regulations and WAC
15 provisions that apply to this particular set of facts and
16 make a decision consistent with those regulations and
17 those public safety issues.

18 I think to understand the nature of the appeal, the
19 Board begins with its provisions at 296-46B-900, paragraph
20 (2), that the permit is for a site specific address, and
21 that the regs call that particular provision out, that
22 when you apply for a permit it is for a particular or a
23 specific address. And here in this particular case, there
24 are four separate addresses, four individual power
25 connections, four individual telephone services, four

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1 individual addresses. Each occupant of these four
2 individual addresses and spaces are free to connect any
3 necessary horizontal cabling and provide the
4 particularized service to their individual space. It
5 isn't a situation where we're trying to get under a
6 connective requirement in terms of outlets. We're not

7 trying to do a job based upon having something less than
8 what would be required so we didn't have to get an
9 inspection permit. Instead, it's satisfying the
10 particular requirements of the building owner who says, "I
11 want the four occupants of the building to be able to
12 direct what their power, what their telecom, what their
13 computer network needs and services are." So there were
14 four separate individualized units, if you will, that Cox
15 and ITC Systems did work in.

16 Then I think it's necessary to look at your
17 provisions at 296-46B-900(9) that a permit is required for
18 the installation of telecom systems on the customer's side
19 of the demarcation point.

20 I know when you looked at the record and saw both
21 have in terms of testimony wrestled with identifying the
22 demarcation point, where it is, what it means, that that
23 was an issue wrestled with in terms of the fruit of the
24 hearing. It was obviously an issue that was wrestled with
25 by the administrative law judge in terms of identifying

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1 that demarcation point.

2 What's significant based upon this record is the
3 demarcation point was on the inside of each of those four
4 individual units. There are four individual demarcation
5 points. And I suggest to you that means based upon the
6 language in your regs that you have four different
7 customers.

8 Now, your very talented and very expressive attorney
9 general argued that there was one customer, and that was
10 the owner of the building directing the work being done.

11 Our suggestion to you is that that's a great
12 argument, but it's not consistent with the regs and the
13 entirety of the regs when you look at them in their whole
14 part.

15 First, we talked about the site specific permit
16 application. And now I want to tell you a little bit
17 about the implication of the word "customer." And I
18 wrestled with this because I couldn't find "customer" as
19 it stood defined either in the RCW's or in the WAC. I
20 couldn't find it. I thought I had a fairly good idea of
21 what it meant. So I made the mistake of going to the
22 ANSI/TIA definitions to see if I could find something that
23 said here is what a "customer" is. And, of course, it
24 would surprise you that "customer" isn't defined, but
25 "customer premises" is defined. And the "customer

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1 premises" defined in Section 568A on page 10, at least of
2 the edition that I have, is the customer premises are
3 buildings with grounds and appurtenances belonging or --

4 belonging under the control of the customer.

5 ASSISTANT ATTORNEY GENERAL MORTINSON: Excuse me.

6 Pardon the interruption, Madam Chair.

7 I need to ask Mr. Litteneker at this point if this
8 definition was part of the hearing. Because if it was
9 not, this is new evidence.

10 MR. LITTENEKER: Well, I would be troubled to learn
11 that what you incorporate by reference in your regs would
12 be new evidence. I would hope the definition that you
13 have referred to in your regs is these particular
14 provisions are referred to in your regs for purposes of
15 supplementing what the WAC says would be new evidence. I
16 think they are a standard if they weren't part of the
17 record. But if you can't look at that as a standard to
18 understand what the hearing officer did and what the
19 particular issues are, then the process is problematic.
20 Because we're not introducing new evidence. We're
21 suggesting to you that you've adopted a standard by
22 reference in your regs that these particular industry
23 standards.

24 ASSISTANT ATTORNEY GENERAL MORTINSON: If I might
25 answer, Madam Chair, I don't think that's the issue. What

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1 I was trying to make clear by my objection is: If this
2 was not an argument presented at the time of hearing about
3 the definition, it's the Department's position it's not
4 proper to bring it up now. Because if it was not argued
5 at the hearing, it's not part of the record and what you
6 have is an appeal to the record made at OAH at the time of
7 the hearing.

8 Now, if Mr. -- I don't recall -- I've reviewed the
9 record. I don't recall this in the argument. If it was,
10 I would be glad to have it pointed out to me.

11 But I don't think you should be -- attention should
12 be diverted about whether this is part of our regulations
13 and incorporated by reference or you should consider it.
14 I think we need to keep the concentration on the fact that
15 this is an appeal to a record already made. If that
16 argument was not made at OAH about definitions and part of
17 the argument there, I'm not sure it's appropriate to bring
18 it in now at this stage.

19 CHAIRWOMAN ASHFORD: I'm going to have to agree with
20 Ms. Mortinson. If this was not brought up at the hearing,
21 it would be considered new testimony.

22 MR. LITTENEKER: If I may then --

23 CHAIRWOMAN ASHFORD: If you can cite within the
24 transcripts where you brought this up?

25 MR. LITTENEKER: Well, what I would like to cite for

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1 you is the Department's posthearing argument which you
2 will find on pages 66, 67, 68 and 69.

3 CHAIRWOMAN ASHFORD: Are those the handwritten
4 numbers, sir?

5 MR. LITTENEKER: Yes, they are.

6 BOARD MEMBER GUILLOT: Could you repeat the numbers
7 please.

8 MR. LITTENEKER: 66, 67 -- I'm reading through page
9 68 in the handwritten numbers in the record.

10 And I'm looking at lines -- beginning at line 12
11 where the Department argues that they installed -- that
12 ITC Systems and Cox installed telephone wires from the
13 customer side of demarcation point. On line 18 it talks
14 about the customer's side of the demarcation point. And
15 then beginning at line 20, the Department argues that the
16 installation of telecom wires and equipment at the
17 Broemmeling building was one project, suggesting one
18 customer, not four customers.

19 I think this is precisely the argument that the
20 Department made and was precisely the consideration that
21 the hearing officer had at the time that he made his
22 decision. What is significant is all of your standards
23 considered by the hearing officer in the entry of the
24 hearing officer's decision. It's not a supplementation of
25 the record; it's simply pointing out to you the entirely

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1 of the rules, regulations and standards to be considered
2 by the Board in determining whether to adopt or reject the
3 hearing officer's decision.

4 So I think it is an important consideration. I think
5 the definition of "consumer" or "customer" in this setting
6 is something appropriate to look at those specific
7 standards the Board's adopted by reference.

8 CHAIRWOMAN ASHFORD: Ms. Mortinson.

9 ASSISTANT ATTORNEY GENERAL MORTINSON: Yes.

10 Again, if Mr. Litteneker can point to where in the
11 record that the standards he's referring to now were
12 admitted -- for instance, there was a lot of testimony
13 about customer side of the demarcation point. That's
14 clear from the transcripts. But there was no testimony
15 about a definition from another source.

16 Now, there was part of the exhibit starting on
17 handwritten page 137, our TIA/EIA standards, there was
18 much testimony about those.

19 Now, if Mr. Litteneker can point to me where in the
20 standards that were admitted as an exhibit at the hearing
21 and were talked about where his argument that he's making
22 now comes from, the Department will withdraw its
23 objection. But it's still the Department's position that
24 he is bringing in a new definition from a standard that

25 may be incorporated by reference but that wasn't part of

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1 the hearing. And again, you can see the standards that
2 were referred to and were part of the hearing, they're
3 part of the exhibits.

4 So if there's -- I would be glad to have it pointed
5 out where in those that were at the hearing and the
6 specific standards that were part of the hearing if the
7 definition Mr. Litteneker is making now is there, I'd be
8 happy to have it pointed out.

9 CHAIRWOMAN ASHFORD: Can you do that?

10 MR. LITTENEKER: If I may, if you look specifically
11 at your administrative law judge's decision on page -- the
12 handwritten page 14 --

13 CHAIRWOMAN ASHFORD: Well, now, that's the decision.
14 But that was not part of the testimony, correct?

15 MR. LITTENEKER: Well, that's correct. But here's
16 what's important: In the conclusions of law, okay, not
17 the factual conclusions, okay, what counsel is arguing to
18 you is that there is a new fact that wasn't considered by
19 the administrative law judge and therefore shouldn't be
20 considered by you. But I suggest to you this isn't a new
21 fact; this is a legal issue. And that is part of what
22 this Board is charged to do.

23 Beginning on page 13 of the hearing officer's
24 decision, you'll see conclusions of law. And then you'll
25 see in paragraph 6 that "The Telecommunications Industry

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1 Association/Electrical Industry Association ... publishes
2 commercial building telecommunications cabling standards.
3 The standards have been adopted by the State of
4 Washington," and there's the WAC citation.

5 I don't want you to be led down a path where you're
6 being asked to confuse a legal conclusion or argument with
7 a factual argument or conclusion. And I suggest to you
8 that where the law is is fair game for this consideration.
9 It may not be a fact that was before your administrative
10 law judge in terms of the record. But the law in its
11 entirety is certainly before your hearing officer and
12 certainly before you in terms of considering whether there
13 was a violation of the WAC provision. So this isn't a
14 factual issue. We're not dealing with a factual issue
15 about what's in or out of the record. What we're dealing
16 with is a legal issue specifically addressed at the
17 conclusions of law that your ALJ makes.

18 I understand counsel's argument. It makes perfect
19 sense. But we're really talking about apples and oranges,
20 and we should focus on this particular orange which is a
21 question of law, not a question of fact.

22 ASSISTANT ATTORNEY GENERAL MORTINSON: Once again, I
23 would disagree that it's a point of law.
24 There are standards that are incorporated by
25 reference by the WAC. But you'll notice that the judge

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1 lays out some specific definitions. They are on page 14
2 of his decision, conclusions of law.

3 And again, the definition you're asked to consider
4 now was not considered by the ALJ. What was considered by
5 the administrative law judge is in the exhibit -- I
6 believe it starts on page 137 of the standards that were
7 brought to the hearing that were part of the discussion.

8 So if you're being asked to look at the judge's
9 decision -- which you are; you're asked to review the
10 decision and the whole record -- and make the final
11 decision in this case, the Department still thinks it's
12 inappropriate for you to consider a definition that was
13 not before the ALJ, not part of his decision. It's a
14 specific definition of "consumer" that wasn't before the
15 judge. What was before the judge is part of the exhibits.
16 And the Department feels this is a new evidence that isn't
17 appropriate.

18 MR. LITTENEKER: And what counsel's arguing then is
19 that the entirety of your regs and what you incorporate by
20 reference in your regs isn't before you. And not only is
21 that problematic; I think that's dangerous.

22 Counsel is saying to you that you should not consider
23 clearly the regulations and standards and provisions that
24 you've adopted and incorporate, and that you should limit
25 your analysis on appeal to simply what the hearing officer

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1 did with the facts, not what the hearing officer might
2 have done with the law. And that distinction is very
3 important here because we shouldn't have to supplement the
4 record as a factual matter to determine whether there is a
5 standard that says what a "customer" is. And that's
6 what's troubling me about counsel's argument.

7 CHAIRWOMAN ASHFORD: Well, it appears to me that you
8 are asking us to supplement the record by bringing in
9 these regs that you state, your definitions that were not
10 part of the original testimony. So you're --

11 MR. LITTENEKER: And Madam Chair, I understand. And
12 what I want to make sure is I create my record in terms of
13 what was before you and make sure that I understand that
14 what I am hearing is the Board saying that the standards
15 that are adopted by the Board are not going to be
16 considered by the Board in determining whether the ALJ
17 made a correct legal decision. And that's all I want to
18 do. I want to make sure that I have correctly created my

19 record in terms of how you do that.
20 So we disagree. And whether we do it with passion in
21 terms of that, you all have to decide that. So I think
22 the issue is well before you.
23 And I think, Madam Chair, I'm going to defer to
24 whatever your ruling is regardless of whether I agree or
25 disagree.

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1 CHAIRWOMAN ASHFORD: You're obviously there to
2 disagree with her (AAG Mortinson).
3 MR. LITTENEKER: Well, if she was right, I wouldn't
4 have to disagree, you're right.
5 CHAIRWOMAN ASHFORD: I will have to say if it is not
6 -- if this is not within the testimony before the ALJ we
7 cannot hear it, and it would be considered new testimony.
8 MR. LITTENEKER: And I simply want to point out to
9 you that in 296-46B-900(9)(e), definitions of
10 telecommunications technical terms will come from chapter
11 19.2 RCW, this chapter, TIA/EIA standards, and the NEC. I
12 just want you to know that that's what your regs say.
13 So having said that and got my last word in, I'll go
14 on.
15 Here's the point: The hearing officer is wrong.
16 Okay? And you all have the chance to say here the hearing
17 officer was wrong about determining whether if you have
18 four units, four separate addresses, four separate
19 telecommunications closets, four separate power
20 connections, four separate network connections, telephone
21 connections, that means that you have four customers. And
22 you don't lump all of the telecommunications outlets in
23 that building in order to get to whether you have ten or
24 more telecommunications connections.
25 Because as 296-46B-900 goes on, we understand the

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1 public safety issue here that's presented by how these
2 regulations address us. We understand the installations
3 that trigger those safety concerns. The backbone issue,
4 we understand that. The hearing officer resolved that
5 backbone issue. We understand the penetration of fire
6 barrier as being a safety issue. We understand the
7 installation of telecommunication cables in the hazardous
8 areas and all that, we understand those issues. We also
9 understand the requirement that if there are more than ten
10 outlets that you deal with weight and cable mass issues.
11 We understand those issues in terms of addressing the
12 safety concerns.
13 Here, you had none of those safety concern issues
14 because all four of the customers had their own individual
15 connections and their own individual ability to make the

16 telecommunications connection anticipated by this work.
17 CHAIRWOMAN ASHFORD: Mr. Litteneker, Mr. Newman on
18 the Board has a question for you.
19 BOARD MEMBER NEWMAN: How many invoices did you
20 write?
21 MR. COX: The invoices?
22 BOARD MEMBER NEWMAN: Yeah. Did you write four
23 invoices or one invoice?
24 MR. COX: One invoice.
25 BOARD MEMBER NEWMAN: That tells me it's the same job

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1 then.
2 MR. COX: Can I speak?
3 MR. LITTENEKER: He's talking to you. I think you
4 got your chance.
5 MR. COX: Okay. When we were first asked by the
6 owner of the building --
7 ASSISTANT ATTORNEY GENERAL MORTINSON: Madam Chair,
8 excuse me once again. If Mr. Cox speaks, we are entering
9 the realm again -- unless it's already in the record,
10 we're getting I think crossing the line a little bit
11 again. No new testimony.
12 Now, if there's something -- and perhaps the question
13 of the invoice -- there weren't invoices at the hearing
14 either -- to clarify that point, I would direct the
15 Board's attention to the testimony on page 81 of the
16 transcript that talks about Mr. Broemmeling -- and Milt,
17 that's B-R-O-E-M-M-E-L-I-N-G -- if he wants to expound on
18 the issue --
19 BOARD MEMBER SIMMONS: What page?
20 ASSISTANT ATTORNEY GENERAL MORTINSON: It's page 81.
21 Now, each transcript page is divided into four. So it's
22 on the lower left hand page starting 81, 82, 83, 84.
23 CHAIRWOMAN ASHFORD: I'm sorry? The handwritten
24 numbers?
25 MR. LITTENEKER: It's on page 41 of the record.

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1 ASSISTANT ATTORNEY GENERAL MORTINSON: Sorry about
2 that. I was looking at my own little copy of the
3 transcript. Yes. Sorry members of the Board.
4 It is page 41 in the lower left hand. And it's my
5 answer, Mr. Newman's question as well, where there was
6 testimony from Mr. Cox about "Mr. Broemmeling asked me to
7 connect outlets for voice and data communications in his
8 office building at 831, and to do like connections in the
9 four -- or excuse me, the three adjacent office buildings
10 to his."
11 Now, I think the picture makes it clear. It's one
12 building, not four office buildings. But if that was the

13 question Mr. Newman was asking, certainly testimony on
14 that point could be made.

15 But anything else -- and I would caution against
16 having Mr. Cox speak unless it's to a specific part of the
17 record. Because, again, we're back to the original point.
18 You're coming close to testimony not in the record, and
19 anything he says today that isn't already in the record is
20 probably not appropriate.

21 And if you wish -- I mean, Donna can also give you
22 any advice if you choice. And, of course, you know that.

23 MR. LITTENEKER: And I'm not going to disagree with
24 Counsel's analysis there. If we had a chance, we were
25 going to take it. So --

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1 CHAIRWOMAN ASHFORD: At this point, I'd like you to
2 continue with your case.

3 MR. LITTENEKER: Okay.

4 I am sure that Kerry's going to want to talk to the
5 Board member because you heard an expression within the
6 industry and you saw his face and you saw Mr. Newman's
7 face, and I liked it. Because it does point out in the
8 industry whether that's an issue. And I enjoyed the
9 earlier discussion about whether the enforcement should
10 keep up with the technology and do you have to change the
11 regs to do that.

12 CHAIRWOMAN ASHFORD: I'm going to have to stop you,
13 and would you please, you know, do the testimony and
14 present your case.

15 MR. LITTENEKER: And you know what's unique about
16 this Board -- and you can tell I've had a little bit of
17 opportunity to work with similar boards -- is that when
18 you take the appeals --

19 CHAIRWOMAN ASHFORD: I think I'm going to interrupt
20 you again. And please --

21 MR. LITTENEKER: Okay, okay.

22 CHAIRWOMAN ASHFORD: -- direct your discussion to
23 what's before us and the testimony before us and present
24 your case on that.

25 MR. LITTENEKER: In closing, this is a uniquely

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1 complicated area of regulation. The goals should not be
2 to play got'cha with the language of regs and the
3 professional telecom installers. But instead you should
4 be able to create an even-handed enforcement of the WAC
5 provisions consistent with those public policy issues.

6 The appropriate remedy is set out in the compliance
7 statement, to exercise your discretion to reject the ALJ's
8 decision and find that a permit was not required
9 consistent with the regs and the record that was created

10 in this case.

11 Thank you.

12 CHAIRWOMAN ASHFORD: Ms. Mortinson, your turn.

13 ASSISTANT ATTORNEY GENERAL MORTINSON: I think any --

14 the Board members in my experience usually do review the

15 transcripts before the meeting, and I think you can tell

16 from the transcripts there was indeed, as Mr. Litteneker

17 has referred to, there was a lot of testimony, very

18 technical testimony, about backbones, demarcation points,

19 and customer side of installations. Frankly I think the

20 judge was not the only one that got a little lost in that

21 technical discussion. I think, however, that our

22 inspector -- the Department's inspector did a good job of

23 describing what his interpretation of a backbone was and

24 why he considered this a backbone. However, the ALJ did

25 find that there was not a backbone. I think there may be

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1 an issue there. But I will concentrate on the ten outlet

2 because that is ultimately what the judge's decision came

3 down to.

4 There may be four tenants in this office building.

5 But I believe there was only one customer based on

6 Mr. Cox's testimony that Mr. Broemmeling hired him to do

7 it all. He hired him to do -- separate customers didn't

8 hire ITC Systems and Kerry Cox. Mr. Broemmeling hired him

9 to do the whole building, all four tenant spaces, his and

10 the three others. That's one project. In the

11 Department's view that is one project.

12 I'd also like to highlight briefly the business about

13 the four separate permits. And again, I think the

14 inspector's testimony was pretty clear that the reason he

15 asked for four, he said one would do, but because of the

16 way you look up permits for future changes or alterations,

17 he asked that four be taken out. But I believe, if I

18 remember his testimony on my recent review, he did say

19 that one -- it could be done under one permit. So I think

20 that takes care of that issue.

21 I think the -- again, sorry to refer to this, but he

22 did a much better job than I would have. The inspector

23 also was pretty clear on the reason for the more than ten

24 outlet regulation. And along the lines of changing

25 technology, I think he did a pretty good job of a

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1 complicated issue of explaining that when you do the

2 original installation and the original outlets, that's

3 where you want to have the inspection and permit for

4 safety reasons. If you add outlets or alter some after

5 that, there are safety concerns, but they're not the same

6 as when you do the original installation. And in his

7 opinion, that was why this project with more than ten
8 outlets was one that did require a permit and inspection.

9 So on that basis, it being the Department's
10 interpretation that this does -- this project of greater
11 than ten outlets required a permit and inspection under
12 296-46B-900, the Department would ask that this Board
13 affirm the ALJ's decision affirming those citations and
14 their associated penalties.

15 CHAIRWOMAN ASHFORD: Thank you.

16 Mr. Simmons.

17 BOARD MEMBER SIMMONS: Shelley, maybe you can't
18 answer this. But I'm trying to understand where the
19 Department's coming from on this.

20 As another example, for clarification to me, if we
21 had a 12-unit dwelling apartment complex, for example, and
22 a telecommunications guy -- a phone guy was asked to come
23 in and install one phone jack in each unit to a central
24 connection that would be connected by the phone company so
25 that each unit could have a phone line, would that then

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1 require a permit because it's one structure? Can you
2 answer that question? Or could Ron? I'm asking for
3 clarification here.

4 ASSISTANT ATTORNEY GENERAL MORTINSON: I would not
5 want to try to answer that question.

6 If the Board -- and I don't know that that is
7 something that the Board should answer in connection with
8 this testimony.

9 BOARD MEMBER SIMMONS: Well, I guess I'm trying to
10 understand the Department's -- the problem I have with it,
11 and I'm just trying to understand, is that we've got one
12 building, and I understand that. We have a building. We
13 have four different units occupied by four different
14 people that have five jacks in each unit. I'm trying to
15 understand how that constitutes a single installation of
16 more than ten jacks that the ALJ found as requiring a
17 permit. I just want to understand the distinction and
18 where the Department draws the line. Because I have a
19 little trouble understanding where that line is drawn.

20 I can understand if the building has ten outlets in
21 one building and didn't have the three demising walls or
22 whatever they may be. I can understand that very clearly.
23 And I think anybody can. But if we're going to enforce
24 the law and expect contractors to understand what the law
25 is and cite them for not understanding it, I think that

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1 clarification needs to be made on that.

2 ASSISTANT ATTORNEY GENERAL MORTINSON: In the spirit
3 of limiting this, I think probably -- again, this will be

4 the Board's decision. I think it might be appropriate to
5 get the Department's interpretation, as long as we're
6 talking about this installation and about the testimony
7 that was taken during this hearing.

8 CHAIRWOMAN ASHFORD: A simple question then, Ron, in
9 this instance: Why were four permits taken, not one?

10 SECRETARY FULLER: I --

11 ASSISTANT ATTORNEY GENERAL MORTINSON: Madam Chair,
12 if it's four permits you're asking about, in the
13 transcript the inspector said there could have been one.
14 He requested four of Mr. Cox because if you go to look up
15 a permit by an address, you would get one of the addresses
16 -- building, but as I understand the system maybe not all
17 four. So in the future if you looked up the address by
18 the building because it has four numbers, four spaces, it
19 would be a difficulty for the future. He said he could
20 have taken out one.

21 So maybe I can answer that question. But as far as
22 Mr. Simmons' questions about the ten outlets or how we
23 counted the outlets in this particular case, perhaps
24 that's something you might want to ask Ron about.

25 BOARD MEMBER SIMMONS: Yeah, I'll point the question

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1 at Ron then and try and phrase it so it's easy to answer,
2 Ron.

3 How is a contractor or owner of a property to
4 understand the requirement for the ten-outlet rule and to
5 be able to properly buy their permits and properly know
6 when that is required?

7 ASSISTANT ATTORNEY GENERAL MORTINSON: And again,
8 Madam Chair, perhaps we could clarify --

9 BOARD MEMBER SIMMONS: To this case. Pertaining to
10 this case.

11 ASSISTANT ATTORNEY GENERAL MORTINSON: Pardon me for
12 repeating, but --

13 BOARD MEMBER SIMMONS: In this building we've got a
14 building with four units. How are they supposed to know?

15 ASSISTANT ATTORNEY GENERAL MORTINSON: Thank you.

16 BOARD MEMBER SIMMONS: Per this case, yeah.

17 SECRETARY FULLER: I don't think I should be
18 answering that question because I didn't testify.

19 BOARD MEMBER SIMMONS: Okay. All right.

20 Then it's back to you, Shelley.

21 ASSISTANT ATTORNEY GENERAL MORTINSON: I will give
22 you the answer that I -- the interpretation based on the
23 inspector's testimony.

24 Again -- and it's from memory. This might get
25 tricky. From my memory of the inspector's testimony and

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1 the hearing, I believe his focus was on this was one
2 project, there was one beginning point, the pedestal.
3 There are pictures of that in the hearing. There was some
4 testimony about the pedestal and the connections that led
5 to that I believe to all four spaces. Now, I may be wrong
6 on that. So I believe that the inspector's focus was on
7 the fact that this was a project of greater than ten
8 outlets and that it was one project, not four. Even
9 though this is a -- it gets a little complicated because
10 it's one building. It does have four separate numbers,
11 four spaces. But again, we also base the one project on
12 Mr. Cox's testimony that he was hired by Mr. Broemmeling
13 to do the work in all four areas.

14 CHAIRWOMAN ASHFORD: Mr. Hamilton had a question.

15 BOARD MEMBER HAMILTON: I was just going to ask for a
16 clarification on handwritten page number 12. It said that
17 on March 9, 2006, the Department issued a noncompliance
18 citation. And then below there on 5 and 6 it talks about
19 the separate areas and it says that the electrical
20 inspector asked Mr. Cox to obtain a separate permit for
21 each address. Mr. Cox obtained an electrical work permit
22 for each of the four separate addresses. So the citations
23 were written on March 9th. And when were the permits
24 purchased? I didn't see a date.

25 ASSISTANT ATTORNEY GENERAL MORTINSON: I might be

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1 able to help with that. On my review I believe that they
2 were admitted as exhibits, but let me see if I can find
3 them.

4 BOARD MEMBER NEWMAN: Page 83 there's testimony from
5 the inspector. And it has a date on it of 3/1/2006.

6 BOARD MEMBER SIMMONS: What page is that?

7 BOARD MEMBER NEWMAN: Handwritten 83.

8 BOARD MEMBER HAMILTON: That's when the permits were
9 purchased?

10 BOARD MEMBER NEWMAN: Well, that's when the memo was
11 written. I don't know about when it was purchased.
12 That's when the inspector directed him to purchase four
13 permits.

14 BOARD MEMBER JACOBSEN: Yeah, the permits are at page
15 84.

16 BOARD MEMBER HAMILTON: Yeah, and that's what I'm
17 trying to establish is the time line. I understand what
18 happened. I'm just trying to understand when it happened.

19 BOARD MEMBER NEWMAN: 3/1/06.

20 BOARD MEMBER SIMMONS: And so the permits were
21 purchased probably the next day or two after the inspector
22 was there because the inspector was there on the 28th day
23 of February and the permit was bought 3/1 of 2006. Do you
24 see that? It's right under. "This permit expires one ...

25 year from the date of last activity." On page 84 on the

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1 left-hand side, it says "Applied." That's when it was
2 purchased.

3 BOARD MEMBER NEWMAN: Well, the reason that I was
4 trying to get to a common-sense answer here, and the
5 reason I asked you how many people you billed is I think
6 it would be difficult -- it would be a stretch to say that
7 this was four different jobs if you only billed one
8 person. Okay? If you billed four separate tenants
9 separately, then I could say I would buy that that was
10 four separate jobs. So if you lump them together, it gets
11 you over the ten outlets, there's the reason.

12 Now, what I don't understand is why when the
13 inspector talked to you later, he asked you to buy four
14 permits, one for each, which you did, and he still cited.

15 MR. COX: Yeah.

16 BOARD MEMBER NEWMAN: I don't understand.

17 MR. LITTENEKER: And if I may, the inspector's
18 statement is at record handwritten page 226. And it's
19 always interesting looking at someone's testimony live and
20 the affidavit or statement that they make
21 contemporaneously at the time. And this is the last page
22 in your record.

23 BOARD MEMBER SIMMONS: It's also on page 83.

24 MR. LITTENEKER: That's the same one.

25 Because your inspector says there "Based on the fact

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1 that these are four separate units having four separate
2 addresses for each, and each having an independent
3 backbone ... from the other ..., I asked Kerry to obtain a
4 separate permit for each address." He agreed and got the
5 permits, and there are the numbers.

6 Policy consideration that I've heard argued by the
7 assistant attorney general is that the reason that you
8 have those four addresses is for the future dealing with
9 those safety concerns about what happens if you have a
10 modification of the original installation. And that's why
11 you have four addresses because you have four separate
12 systems. And that's why you now have the same frustration
13 and concern that Kerry Cox had in dealing with what he
14 thought the rules required of him and what he was being
15 cited for, particularly as set out in the inspector's
16 statement.

17 So that -- I am glad you share our frustration about
18 that process because that's the problem. We have four
19 separate permits, four separate addresses, and those four
20 separate addresses are now lumped together to find that a
21 permit was required, when based upon clear language of

22 your regs each of those separate addresses do not have
23 more than ten telecommunications outlets, and therefore,
24 would not trigger the permit inspection requirement.
25 CHAIRWOMAN ASHFORD: Tom.

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1 BOARD MEMBER PHILLIPS: I agree that the codes are
2 complicated and that the inspector admitted that he didn't
3 understand the system. It's hard to understand the codes.
4 It's hard to understand what an installation is or what a
5 project is. If I were to read this, my own opinion would
6 have been there's four separate projects, four
7 installations, particularly when you look at the
8 requirement for permits. In my mind that's what would
9 trigger it. And the number of invoices wouldn't trigger
10 it. You can always lump whatever you want onto an
11 invoice.

12 I think if it's unclear and the contractor is acting
13 in good faith and it comes down to a misunderstanding, and
14 I don't even know if the Department has an interpretation
15 or policy on this, I think either that is needed or a
16 clarification of the code, a code change is needed to make
17 it clear what a project or what an installation is.

18 So in my opinion that if the code is not clear
19 enough, you should not be citing the contractor. I think
20 there was good communication. I think the inspector
21 called the contractor to let him know what his position
22 was. The contractor went and got the permit right away.
23 That should have been the end of the story. I don't think
24 it should have been escalated to the level it was.

25 BOARD MEMBER SIMMONS: I'm basically going to second

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1 what he just said. I think that in this case if you've
2 got a problem and the guy's giving the inspector a hard
3 time and says, "Hey, shove it. I'm not getting a permit.
4 I'm out of here. Do what you want," that's one thing. He
5 didn't do that obviously. He went down and says, "Well,
6 maybe I made a mistake. Let me just get the permits.
7 Let's move this forward."

8 I have trouble understanding why that's not adequate.
9 Why we don't just give somebody like that a warning and
10 say, "Look, next time if this happens, we understand
11 there's a little bit of confusion in the law; let's
12 clarify that." Because if you've got four permits on a
13 site that's required by the state, I have trouble
14 understanding why that's one job.

15 And I'm an electrical contractor. If we have a
16 multi-occupancy building, we're wiring a strip mall with
17 20 units in it, I'm sorry, that is not one building; it's
18 20 jobs. Even though I may bill it to one contractor. I

19 still got to get 20 permits for each building. Each
20 occupancy has a separate permit, separate job. I just
21 have trouble understanding why this has come to this
22 point.
23 Thank you.
24 BOARD MEMBER HAMILTON: Well, I'm trying to get an
25 understanding around the time line.

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1 It's my understanding that when the inspector was
2 called for the rough-in there was only stubs for future
3 telecom, and then when he came back for the final
4 electrical inspection he saw that there was telecom wiring
5 installed, and it was at that point that he contacted you
6 (indicating) and talked about the need for permits. And
7 when there is 5- to 6,000 square feet of space and there's
8 a good amount of work being done, you know, I think at
9 that point you would want to contact the electrical
10 inspector and say, you know, "Do you feel that I need an
11 electrical permit" rather than just saying, "Well, I'm
12 going to interpret the regulations one way and say that I
13 don't need a permit and try and argue it later." Because
14 if you were to do a strip mall, you would get a permit and
15 do the basics. And then when the tenants come in, they
16 would each do their own tenant improvements.

17 So personally I don't think the question is one
18 permit, four permits. I think it's permitting, period.
19 And the work was done before there was any permits pulled.

20 BOARD MEMBER SIMMONS: Right. But if there's only
21 five outlets in each unit, if you were going by the units,
22 and that's the requirement, then no permits are required
23 by law.

24 BOARD MEMBER HAMILTON: Yeah. But I'm saying --

25 BOARD MEMBER SIMMONS: Where do you draw that line?

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1 And see, that's what I'm saying. He didn't understand.

2 Is calling it one building or one occupancy -- you
3 can't call it one occupancy. It's not. It's four.

4 BOARD MEMBER HAMILTON: And that's why I'll kind of
5 refer to Mr. Newman's interpretation a little bit because
6 I think it is one occupancy until you get the separate
7 tenants. Because it's one job, one invoice, one building
8 separated into four spaces.

9 BOARD MEMBER SIMMONS: Okay. So you're saying that
10 if I, you know, wire a ten-unit strip mall and I put one
11 phone outlet in each one, that I've got to get a permit
12 for that whole building because that's what I'm doing?

13 BOARD MEMBER HAMILTON: I think that was the
14 intention of the regulation.

15 BOARD MEMBER SIMMONS: Even though there's ten

16 specific occupancies and I'm only running one phone jack
17 in each one? That's the question.

18 BOARD MEMBER HAMILTON: I could build a four million
19 square foot mall and divide it up into ten by ten
20 partitions and put four -- you know, thousands of jacks in
21 that building and not need a permit because in no one
22 space is there ten. I'm thinking as one job, one building
23 divided into four spaces. There were not four tenants.

24 That's my opinion.

25 CHAIRWOMAN ASHFORD: Geoff.

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1 BOARD MEMBER NEWMAN: I think some of this comes down
2 timing unfortunately. If there were tenants already in
3 there, this probably would be a different discussion.
4 Because then if they would have subcontracted later down
5 the road, it would have been individual spaces and it
6 would not have been required.

7 But being as that he did this earlier before there
8 were spaces, he was contracted to wire the whole building.
9 I believe that the intent is that's one job. He billed
10 one customer, not four customers. And it's a project at
11 that point.

12 But I do think that having to buy four permits and
13 spend \$160 on permits for 20 bloody drops is ridiculous.

14 BOARD MEMBER PREZEAU: I just want -- you know, this
15 is sort of an issue that Fred has spearheaded. Not
16 specifically this issue, but the idea of the point of
17 demarcation. This Board has brought this up before.

18 And maybe I'm going to get in trouble for going off
19 in a different direction. But, you know, part of the
20 thing -- it's a little bit of apples and oranges in my
21 opinion in what you guys were talking about, a strip mall.
22 Because you guys I think are looking at it more in terms
23 of line voltage.

24 This telecom side of things is completely different.
25 Because not only is it the ten outlets, but it's also if

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1 any backbone of any size, period, is installed, then it
2 has to be inspected.

3 And what Fred was bringing up before is it depends on
4 the utility or the phone company that you use. They have
5 different standards for points of demarcation. So it
6 makes this even more confusing.

7 If you had a different provider that put that demarc
8 -- that refused to put that point of demarcation into any
9 tenant space, this would be a totally different question,
10 and I understand that.

11 So there's not a lot of uniformity across this
12 industry. And Fred has championed this issue that, you

13 know, potentially then you could have a huge office
14 building with multiple tenant spaces and depending on the
15 provider that you used, if they are willing on bring the
16 point of demarcation into the individual tenant space
17 rather than to the entire building itself, and each
18 individual tenant space had less than ten outlets, you
19 could have a huge structure that never gets inspected. So
20 I mean, that's the other risk that you run.

21 And I'm certainly not an expert in this part of the
22 industry. And there's some significant challenges there.
23 And in my understanding of the material provided in this
24 packet, when they were talking about -- I don't have the
25 page specifically, but it's part of the exhibits -- when

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1 they were talking about hierarchy of backbone and you have
2 main connects and intermediate interconnects and then this
3 horizontal cross-connects -- excuse me, that's the term --
4 you know, this structure, this installation had -- only
5 has these horizontal cross-connects.

6 So my question then -- and I'm not in this industry.
7 So does that mean that those are main cross-connects?
8 And, therefore, that they are actually backbone material?

9 I'm not sure that I completely agree with the ALJ's
10 decision that there was no backbone installed. You know,
11 that's the other issue I think that needs to be
12 identified. And again, I'm not an expert. But because
13 the much more complex hierarchy is not seen in this
14 installation, can one assume that the individual
15 horizontal cross-connects put in the individual tenant
16 spaces are truly backbone? I don't know the answer to
17 that question.

18 CHAIRWOMAN ASHFORD: Well, you're talking about
19 individual tenant spaces. From what I understand, this is
20 a structure but has individual mailing and street
21 addresses.

22 BOARD MEMBER PREZEAU: Correct. And to make even
23 more complicated is: What's the answer to the question if
24 they were all suites and didn't have individual addresses?
25 If they didn't have individual mailing -- if they were

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1 suites within a building. I don't know the answer to that
2 question either.

3 ASSISTANT ATTORNEY GENERAL MORTINSON: And I think
4 you're touching on some of the things that were struggled
5 at at the hearing exactly.

6 CHAIRWOMAN ASHFORD: I'll take one more comment or
7 question, and then I will ask you both to summarize your
8 positions.

9 BOARD MEMBER JACOBSEN: Madam Chair, Tracy's point, I

10 also think the ALJ missed the point on the backbone.
11 However, that's not on appeal.
12 BOARD MEMBER SIMMONS: That's not before us.
13 BOARD MEMBER JACOBSEN: This is distribution or
14 horizontal cabling is the question. And as much as I'd
15 like to go back and revisit the backbone question, it's
16 not before us.
17 ASSISTANT ATTORNEY GENERAL MORTINSON: I'm not sure
18 that it's not. Because I believe this Board has the right
19 to reverse, modify or affirm the ALJ's decision. And I
20 might look to Donna for this, but I believe this Board has
21 the right to disagree with the judge about the backbone
22 issue.
23 ASSISTANT ATTORNEY GENERAL EMMINGHAM: Only if the
24 Department appealed that issue.
25 And I don't know, Shelley. I didn't see that in

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1 here.
2 ASSISTANT ATTORNEY GENERAL MORTINSON: It wasn't my
3 appeal. I didn't appeal it. I'm not sure that ITC
4 Systems and Kerry Cox appealed it because I believe their
5 stance was it was not -- there were not any backbones.
6 So that is a tough question. I'm not sure I know the
7 answer.
8 CHAIRWOMAN ASHFORD: Would you like to briefly
9 summarize your position?
10 MR. LITTENEKER: I will try and be brief.
11 It is ITC Systems and Kerry Cox's position that just
12 as you have wrestled with the understanding and the
13 application of these regulations in your discussion this
14 morning, that he made an appropriate reasonable
15 professional decision about the need for a permit
16 application by understanding that he did not have more
17 than ten telecom outlets in any one of these separate
18 units. And when the inspector said, "You need four
19 permits because there are four addresses because you have
20 four systems," that that not only created more confusion
21 for him, it created more confusion for you, it created
22 more confusion for counsel and for the ALJ.
23 The solution I think here is for the Board to find
24 that the hearing officer's decision should be rejected in
25 its entirety and that Mr. Cox and ITC Systems should be

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1 relieved from the citations issued to them.
2 Thank you.
3 CHAIRWOMAN ASHFORD: Shelley.
4 MR. LITTENEKER: Don't give her the last word because
5 it's our --
6 ASSISTANT ATTORNEY GENERAL MORTINSON: I get the last

7 word.

8 MR. LITTENEKER: You do.

9 ASSISTANT ATTORNEY GENERAL MORTINSON: I'd better not
10 try to sit here and think. It is such hard work, and you
11 can see the smoke coming out of my ears.

12 The only thing I can say, again, in wrapping up is
13 ultimately the Department's position is one project.
14 Mr. Cox was hired at the same time to do all the spaces.
15 He did all the spaces. Yes, they have separate addresses.
16 They're in one building. And it was one project with more
17 than ten outlets. And I don't have much to add beyond
18 that, of course, except for we would like the Board to
19 affirm the ALJ's decision.

20 CHAIRWOMAN ASHFORD: Thank you.

21 MR. LITTENEKER: And Madam Chair, since we have the
22 burden on the appeal, could I -- because I really do think
23 that counsel has put this issue to you in a way now that
24 makes sense.

25 There are not more than ten outlets on the customer's

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1 side of the demarcation point. The telephone systems
2 installation of demarcation point is in each one of these
3 individual addresses. And in each one of these individual
4 addresses there are not more than ten telecommunications
5 outlets. Therefore, by the code, by the regs, a permit is
6 not required.

7 Thank you.

8 CHAIRWOMAN ASHFORD: Mr. Hamilton.

9 BOARD MEMBER HAMILTON: Can I make a motion?

10 CHAIRWOMAN ASHFORD: Yes.

11 If -- and everybody completely understands that we
12 have just two choices here. We either affirm the ALJ's
13 decision or we reverse it.

14 BOARD MEMBER (D.A.) BOWMAN: I beg to differ. We
15 have the option to modify the decision, not to simply
16 affirm or reject.

17 ASSISTANT ATTORNEY GENERAL MORTINSON: Yes, I
18 believe that's so. I believe you have that as an added
19 option.

20 CHAIRWOMAN ASHFORD: Mr. Hamilton.

21 BOARD MEMBER HAMILTON: I want to think on this.

22 BOARD MEMBER GUILLOT: Madam Chairman, I'm not sure
23 if this was in the testimony or if it was a question
24 because I certainly haven't studied it as hard as counsel
25 has. But I just have one question. Who did the

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1 electrical inspection for the building as it applied to
2 the household current?

3 BOARD MEMBER SIMMONS: The same inspector.

4 CHAIRWOMAN ASHFORD: The same inspector.
5 BOARD MEMBER GUILLOT: How many permits were required
6 for that? Four.
7 ASSISTANT ATTORNEY GENERAL MORTINSON: I don't think
8 that was part of the testimony. I think all that's here
9 is the inspector's statement, Don, that says who he did
10 the inspection for. And he named the electric company.
11 But I don't believe there is any discussion of the permits
12 for the main -- the one that did the first work, not the
13 telecom work. I don't believe that was part -- what you
14 got is the inspector's statement and the name of the
15 electrical contractor.
16 MR. LITTENEKER: And if I may address the record, the
17 record clearly indicates that there are four separate
18 power connections on the exterior of the building. There
19 is a photograph that shows that installation by the power
20 company.
21 CHAIRWOMAN ASHFORD: Virgil has a question to ask of
22 Ron.
23 BOARD MEMBER HAMILTON: I do, Chief. I got a
24 question regarding -- and I understand there's four
25 separate electrical connections. But you also have four

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1 future tenants that are going to pay their own electrical
2 bill.
3 Now, if I have a building and I'm going to break it
4 into offices, divide it into offices, but I am in the
5 initial stages of building that building, how many
6 electrical permits will I be required to get?
7 ASSISTANT ATTORNEY GENERAL MORTINSON: I think we're
8 getting into trouble here.
9 CHAIRWOMAN ASHFORD: I don't think Ron can answer
10 that question because it doesn't pertain to the issue
11 before us.
12 BOARD MEMBER HAMILTON: I thought I might get that
13 answer.
14 CHAIRWOMAN ASHFORD: After the meeting.
15
16 Motion
17
18 BOARD MEMBER SIMMONS: Well, I think I'm going to
19 make a motion. And my motion is this based on the
20 testimony that I've heard and the discussion I've heard,
21 my motion is to overturn the ALJ's decision and for the
22 Department to give Mr. Cox and his company a warning for
23 this and also -- I'll leave it at that.
24 Thank you.
25 ASSISTANT ATTORNEY GENERAL MORTINSON: Again, I think

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1 any new action like a warning can't -- I don't believe
2 that can be part of it. I think, again, the parameters
3 are reverse, modify or affirm.
4 CHAIRWOMAN ASHFORD: You want to rephrase your --
5 BOARD MEMBER SIMMONS: Yes, I will.
6 My -- I think there is so much misunderstanding here
7 in my opinion. It's not clear. I don't think that there
8 -- out of the Board we can't understand this clearly and
9 all agree in my opinion. I'm going to make a motion that
10 we overturn the ALJ's decision.
11 BOARD MEMBER JACOBSEN: Second.
12 BOARD MEMBER (D.S.) BOWMAN: Second.
13 CHAIRWOMAN ASHFORD: We have a motion and a second to
14 overturn the ALJ's decision. Any further discussion?
15 BOARD MEMBER NEWMAN: Well, I believe that there was
16 a violation because of the size of the job. But I also
17 believe that it probably should have been a warning. It
18 should have been communication with the inspector. What I
19 would think would be appropriate would be to modify the
20 ALJ's decision to waive the fees, waiving the penalty fees
21 paid for permits. You could make an argument about well,
22 okay, you can waive the fees, keep the citation there, so
23 that next time if it comes back it's going to come back a
24 little harder, so remember to get your permits.
25 MR. LITTENEKER: And you don't think paying my fees

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1 will be enough for him to remember?
2 BOARD MEMBER NEWMAN: So maybe I'd throw that out
3 there as an option to waive the citation fees.
4 CHAIRWOMAN ASHFORD: That issue's come before us
5 before -- waiving fees. Can you address that, Ron?
6 SECRETARY FULLER: I think I actually can. But --
7 BOARD MEMBER (D.A.) BOWMAN: It has come before us
8 before, and we have done that before. But I believe we
9 have done that in error. Because there is a WAC rule that
10 says if there is a violation this is the fee, this is the
11 penalty.
12 ASSISTANT ATTORNEY GENERAL MORTINSON: There is a way
13 I believe you can do it. It's not waive the penalty; it
14 is waive collection of the penalty. Now, we have done
15 that before, and I believe that is within legal bounds.
16 Because that way you've assessed the penalty. But I
17 believe the Department has the discretion to say, "You
18 have the penalty, but we will waive collection of it."
19 CHAIRWOMAN ASHFORD: Tom.
20 BOARD MEMBER PHILLIPS: I think we should -- I would
21 support the original motion. I think this defendant has
22 suffered enough financially going through legal fees, the
23 time for the hearing. I don't think he'll soon forget
24 this experience, if that's a concern, that anything was

25 learned from it.

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1 Also I believe that the whole ten-outlet rule should
2 be reviewed. If four different contractors would have
3 come in and each done a unit, there would not have been
4 any permits required. So I don't believe that there is a
5 real safety issue here. So I'm not sure why we even have
6 that rule. I think the rule should be reviewed to see
7 what we are trying to accomplish. Are we trying to
8 regulate telecommunication contractors or what? So I
9 would support the original motion.

10 CHAIRWOMAN ASHFORD: Ron.

11 SECRETARY FULLER: Can I have a five-minute break?
12 Seriously.

13 CHAIRWOMAN ASHFORD: Okay. We'll reconvene at 1:00.
14 (Brief recess taken.)

15 CHAIRWOMAN ASHFORD: At this point we have a motion
16 and a second on the table.

17 MR. LITTENEKER: Madam Chair, if I may, in discussion
18 with staff, there are some opportunities at the
19 administrative level we would like to pursue. And we
20 would request that you table consideration of this matter
21 until the next meeting so that we could pursue and review
22 those administrative matters.

23 CHAIRWOMAN ASHFORD: I will defer to the maker of the
24 motion that we have on the table.

25 BOARD MEMBER SIMMONS: I will rescind my order or my

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1 request for a motion.

2 The second would have to do the same.

3 BOARD MEMBER JACOBSEN: I'll withdraw the second.

4

5 Motion Rescinded/Withdrawn

6

7 CHAIRWOMAN ASHFORD: Do we have a motion on the floor
8 to table this until the July meeting?

9

10 Motion

11

12 BOARD MEMBER: So moved.

13 BOARD MEMBER JACOBSEN: Second.

14 BOARD MEMBER SIMMONS: All I wanted to say is: Is
15 the Department in agreement with this request?

16 ASSISTANT ATTORNEY GENERAL MORTINSON: Thank you. I
17 was about to speak up, and you saved me that trouble too.
18 Thank you, sir. The Department is in agreement with this
19 request.

20 BOARD MEMBER SIMMONS: Thank you.

21 CHAIRWOMAN ASHFORD: All those in favor?

22 THE BOARD: Aye.
23 CHAIRWOMAN ASHFORD: Opposed? So moved.
24
25 Motion Carried

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1 Item 8.B. Woodford Electric, Inc./John Morrison
2
3 CHAIRWOMAN ASHFORD: The next appeal, Woodford
4 Electric, John Morrison. Do we have any representatives
5 from Woodford or Mr. Morrison?
6 Mr. Hawk.
7 ASSISTANT ATTORNEY GENERAL HAWK: Madam Chair,
8 members of the Board, James M. Hawk, assistant attorney
9 general representing the Department.
10 One objectively looking in today when an appellant
11 puts this whole matter in process, and one perhaps being
12 the legislature, couldn't -- Mr. Morrison on this matter
13 has wasted so much of our time.
14 I do have, however, some substantive information to
15 bring to the Board's attention. The Attorney General does
16 not wish to waste the Board's time and wants to well
17 represent the Department.
18 The Attorney General's office has prepared final
19 orders which should suffice but do make some material
20 changes to the proposed decision that the administrative
21 law judge came up with. Those final orders as proposed
22 have been reviewed by the Board's counsel, Ms. Emmingham.
23 But I probably should touch on a couple of discrepancies
24 or revisions to the proposed decision so that the full
25 membership of the Board knows what the Department is

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1 proposing.
2 Rather than give a complete chronological recitation
3 or complete regurgitation, if you will, of the judge's
4 decision and the evidence, I could answer questions along
5 the way if interrupted. I hope to just take a few
6 minutes, though, in order to package up what the
7 Department is requesting to see happen in the way of final
8 orders.
9 My office has received no communication from
10 Mr. Morrison of his intent to not show up. And it's my
11 understanding that the Department has not had that
12 communication or the Board that communication, and so this
13 matter should go forward in the Department's submission
14 today towards final order.
15 And materially importantly, the Department has
16 alleged in the citations to Mr. Morrison that these are
17 third offense citations. The judge with the evidence
18 before her concluded one was a third offense, but the

19 other one was somehow a second offense. And the
20 Department is objecting to that and seeks to have that
21 remedied. As Exhibit 11 clearly shows, the Department has
22 submitted by certified letter that there are two predicate
23 citations that form for the administrator citation the
24 basis to allege a third offense. So even though the
25 Department has not appealed, I think with this appeal in

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1 place, the penalty amount should be affirmed at the amount
2 assessed by the Department in the initial penalty
3 assessment, and that is a third offense at the standards
4 that existed at the time. And we're going back to
5 January 2005 because of the unique chronology here. And
6 third offense citation to the administrator under that
7 subsection of 915 is \$1,500.

8 So even though the Department has not appealed, that
9 is the appropriate response by the Board in the
10 Department's submission here.

11 And I would also point out that this appeal is
12 deficient under the Department's expectation in the WAC.
13 An appellant is supposed to put forward specific
14 contentions of why one is appealing. In this case, the
15 Board received through its secretary basically the appeal.
16 And that's all it says. Whereas, you should be receiving
17 specific contentions and specific objections to specific
18 findings of fact and that kind of thing. So perhaps
19 there's a future opportunity in other appeals to address
20 that deficiency. But I point that out, and that's also in
21 the Department's favor here in what it is asking.

22 So again, I don't want to make a burdensome display,
23 but I think for the totality of the record which is
24 subject to additional review in superior court
25 potentially, I'll just highlight with respect to the

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1 Woodford Electric Service what the final order is
2 purporting to accomplish and what the Department seeks
3 from the Board.

4 For those of you who have studied or may have
5 specific questions about specific findings of fact and
6 conclusions of law, maybe my statements will speak to
7 those and remedy some of the concerns.

8 Because the judge got quite a few things wrong, even
9 though the judge's ultimate conclusion to affirm the
10 citations was appropriate and the judge's ultimate
11 determination to affirm penalties was appropriate, except
12 for the one instance in the one administrator citation
13 that I've spoken to.

14 So in the final order as the Department proposes it
15 for Woodford Electric Service, the Board would affirm the

16 findings of fact 1 through 9 and reverse finding of fact
17 number 10.

18 The final orders as proposed here would also make the
19 violation date uniform throughout all four citations. The
20 violation date should appropriately be what the
21 Department's inspector concluded, and that's January 20,
22 2005. And the judge was all over the map with respect to
23 what the date was for the violation. I think that is a
24 uniform and appropriate approach based on the record.

25 The Department also accomplishes through the final

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1 order the proper designation of this violation as a
2 serious noncompliance. And that is a defined term in the
3 Department's standard. The evidence is consistent with
4 that. The exhibits which include the Department's
5 citation in the description section call the violation
6 with respect to the 47369 citation serious noncompliance.
7 That had to do with the cutting off of the ground rod. So
8 that's put in place to properly affirm what the judge
9 missed.

10 On the conclusions of law -- and this would be
11 confusing perhaps to hear for the first time. The
12 Department is submitting some of the conclusions of law to
13 be affirmed and some reversed. 1 through 6 affirmed. 8,
14 10, 11 and 13 and conclusions of law 9, 12, 14 are
15 reversed for the two citations. The judge's proposed
16 decision incorporate both of those citations.

17 The Department as a housekeeping and proper
18 informative measure in a conclusion of law also seeks
19 conclusion of law 7 is adopted, but it is corrected to
20 reference the administrative code subsection that was
21 applicable on violation date. And that specifically,
22 46B-250, subsection 052, sub part (3).

23 Additionally the Board concludes if the Department
24 presents here the final orders proposed to cite WAC
25 296-46B-990, subsection (3), subsection little (h) which

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1 relates to this cut off ground rod citation contention.
2 And the Department has in rule form stated there
3 installing a shortened rod type, grounding type electrode
4 is part of the definition of "serious noncompliance." So
5 it wraps it into a more appropriate package for a fairly
6 traditional review.

7 As you can well imagine, the population of superior
8 court judges that have ever dealt with an Electrical Board
9 matter, very, very limited. So the Department has tried
10 to accomplish getting the right findings and order product
11 for superior court in the case of an attempted appeal in
12 this matter.

13 Therefore, the final order with respect to Woodford
14 Electric, if there's a violation of the statute as alleged
15 in each case, and that is Department's final order cites
16 to the specific WAC subprovision that supports that and
17 the penalty assessment of \$250, which is the lowest in
18 each case for contractor, is affirmed.

19 And that is the essence of the final order with
20 respect to Woodford Electric.

21 John Morrison on the other hand, the findings of fact
22 -- proposed findings of fact number 10 is reversed.
23 There's extraneous information in there. The two
24 administrator citations are deemed -- called third offense
25 here, just as the Department concluded and Exhibit 11

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1 supports. And then incorporates the proposed decision
2 conclusion 1 through 6, 8, 10, 11, 12, except for the last
3 sentence of conclusion of law 12 which is stricken.
4 Conclusion of law 7 and goes on to be adopted but revised
5 as previously stated. And then the Board concludes the
6 civil penalty schedule in effect January 20, 2005, applies
7 to the citations and that they're deemed third offense
8 violations.

9 So the largest material change to the John Morrison
10 citation, the one where the judge took it from a third to
11 a second is bring it back to where the Department has
12 alleged where the proof is appropriate and to call that
13 third offense with the proper penalty being \$1,500.

14 So this effective appeal in the Department's
15 submission should translate into the Board making it a
16 \$750 calculation for Mr. Morrison having done this to the
17 Board and done this to the Department.

18 All of this formality I believe is important so that,
19 Madam Chair, you and the Board understand what the
20 Department's final product should be as the Department
21 sees it, subject to additional review.

22 This case -- for those of you who did carefully
23 review the record, you saw that Mr. Morrison representing
24 himself and the company didn't have any evidence. So this
25 is not a difficult proposition in the Department's opinion

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1 to win.

2 At the end you had some arguments about who has the
3 burden of proof. And when the judge nailed him on that
4 basic premise, then he decided to put no evidence forward,
5 and in this case he didn't give up, if you will, the name
6 of the person who did that alleged cutting off of the
7 ground rod. And I think the Board should review that and
8 find that's probably not the way the Department expects
9 business to be conducted and expects candor from

10 contractors, that kind of thing.

11 But at the end of the day, as the Board has so many
12 times done, concluding with the Department, concluding
13 with the administrative regulation, that the Board should
14 agree with the administrative law judge that the appellant
15 has the burden of proof.

16 Any questions?

17 CHAIRWOMAN ASHFORD: I was going to ask if everyone
18 followed your progression. And I'm sorry, I'm not
19 laughing at you.

20 But can you summarize this for us?

21 ASSISTANT ATTORNEY GENERAL HAWK: Yes. The judge in
22 the Department's estimation as reflected in its final
23 order, the judge got it right. The proposed decision and
24 order was right in substantial part.

25 She made mistakes various times as to WAC reference.

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1 She called the administrator's violation 5D violations.
2 They should have been 5B violations. At one point she
3 cites RCW 010, and the citation is to 101. So that kind
4 of housekeeping, even though it's not the Department's
5 appeal, takes place here. And that should not be seen as
6 problematic by the Board based on your jurisdiction and
7 authority as the legislature has provided.

8 Again, back to the penalty, however. Three of the
9 penalty assessments as affirmed by the judge are
10 undisturbed as proposed here. But in one case, in order
11 to conform to the evidence and the citation, the
12 Department is asking the Board to affirm the proper
13 penalty amount's a third offense for the second
14 administrator citation, and the Department submits the
15 Board has that authority under the administrator scheme
16 including the APA and the RCW 19.28.

17 There are a myriad of issues that can go -- I wish
18 the party was represented here -- as to whether the ground
19 rod was cut off or whether the request for inspection
20 happened in time, that kind of thing. But he's not here.
21 And I don't know if the Board wants to indulge all that.
22 The record is complete, and I think the Department's
23 presentation is sufficient in the record.

24 CHAIRWOMAN ASHFORD: Clear?

25 BOARD MEMBER: Not much.

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1 CHAIRWOMAN ASHFORD: Jim.

2 BOARD MEMBER SIMMONS: I think Dave had a couple of
3 comments too.

4 I just wanted to say that I am very surprised that
5 Mr. Morrison of Woodford Electric did not show again. We
6 have had his name before us several times. And my

7 tendency is to go along with the Department in this case.

8 And Mr. Hawk, I believe you're right. This is a
9 third offense. And I don't think there's any leeway or
10 that leniency should be given in this case. And that's my
11 opinion.

12 Thank you.

13 BOARD MEMBER (D.A.) BOWMAN: I appreciate your
14 summary and what you've gone through. But it has been --
15 it's happened very quickly. And rather than -- I don't
16 want to belabor it, but can you go through specifically
17 just the changes that your final order has and what is in
18 the findings of facts and conclusions of law? And not
19 doing any expounding, you know, if there's an addition of
20 a parenthesis B on a reference or changing a wording.

21 BOARD MEMBER SIMMONS: Do you really want him to do
22 that?

23 BOARD MEMBER (D.A.) BOWMAN: I don't want to belabor
24 it. But I want to understand really what's changing.

25 ASSISTANT ATTORNEY GENERAL HAWK: Well, I can attempt

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1 that compilation for you.

2 The documents that would be necessary to have, it
3 would be the proposed decision and then perhaps even the
4 WAC and the statute as there are revisions to those.

5 As I communicated with my client, the Department of
6 Labor and Industries, here are the substantive differences
7 between the proposed decision and order and final order:

8 As to citation 47369, that was to the company for the
9 ground rod cut off, serious noncompliance as alleged, it's
10 affirmed as a serious noncompliance. The judge didn't do
11 that. She merely affirmed it. And moreover, conclusion
12 of law 7 is amended to correct the WAC reference having to
13 do with the NEC provision on shortened ground rod.

14 On the 47370, this is to the administrator for
15 responding to that cut off ground rod issue citation, the
16 final order as proposed corrects the RCW reference and in
17 the violation date to the date that the inspector was on
18 the scene and determined the violation to have occurred,
19 the original penalty is affirmed, finding that it is a
20 third offense rather than a second offense.

21 Then as to 47371, this is the citation to the company
22 for not calling in the inspection within three days of
23 completion of the work, which I believe is addressed in
24 990, subsection 10, subpart little (a), the Department
25 proposes to correct an RCW reference which the Department

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1 assesses the judge got wrong. And the WAC reference in
2 the order section is also changed.

3 As to 47372, corresponding administrator citation,

4 the Department proposes to correct an RCW reference and
5 again identify appropriate violation date.

6 So that's a high-level summation. But the Department
7 in its final order makes a couple other modifications.
8 Ms. Emmingham has reviewed and obviously you would have
9 that opportunity too.

10 CHAIRWOMAN ASHFORD: What would be the Board's
11 pleasure?

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Motion

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15 BOARD MEMBER PREZEAU: Madam Chair, I move that we
16 adopt the final order as presented by the assistant
17 attorney general here today. And please don't ask me to
18 read the whole thing.

19 BOARD MEMBER SIMMONS: Second.

20 CHAIRWOMAN ASHFORD: We'll have Milton do that.

21 We have a motion and a second. Any further
22 discussion?

23 ASSISTANT ATTORNEY GENERAL HAWK: For the record, as
24 submitted, the final order corresponding to the two pairs
25 of citations, and that's what counsel for the Board has in

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1 her possession right now.

2 BOARD MEMBER PREZEAU: Correct.

3 CHAIRWOMAN ASHFORD: All those in favor?

4 THE BOARD: Aye.

5 CHAIRWOMAN ASHFORD: Opposed? So moved.

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Motion Carried

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9 CHAIRWOMAN ASHFORD: Thank you.

10 ASSISTANT ATTORNEY GENERAL HAWK: Thank you for your
11 time today.

12 CHAIRWOMAN ASHFORD: Folks, it's just about 1:30.

13 We have a couple of choices here. We can adjourn the
14 meeting and all go back to work. We can break for lunch
15 and come back and have some open discussion. What would
16 be your pleasure?

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Motion

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20 BOARD MEMBER GUILLOT: I move we adjourn.

21 BOARD MEMBER PREZEAU: Second.

22 BOARD MEMBER SIMMONS: All those in favor?

23 CHAIRWOMAN ASHFORD: Okay. We have a motion and a
24 second to adjourn and reconvene in July. All those in
25 favor?

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1 THE BOARD: Aye.
2 CHAIRWOMAN ASHFORD: Opposed?

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4 Motion Carried

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6 (Whereupon, at 1:30 p.m.,
7 proceedings adjourned.)
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1 C E R T I F I C A T E

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3 STATE OF WASHINGTON)

4) ss.
5 County of Pierce)

6 I, the undersigned, a Certified Court Reporter in and
7 for the State of Washington, do hereby certify:

8 That the foregoing transcript of proceedings was
9 taken stenographically before me and transcribed under my
10 direction; that the transcript is an accurate transcript
11 of the proceedings insofar as proceedings were audible,
12 clear and intelligible; that the proceedings and resultant
13 foregoing transcript were done and completed to the best
14 of my abilities for the conditions present at the time of
15 the proceedings;

16 That I am not a relative, employee, attorney or
17 counsel of any party in this matter, and that I am not
18 financially interested in said matter or the outcome
19 thereof;

20
21 IN WITNESS WHEREOF, I have hereunto set my hand on

15 this 1st day of June , 2007, at Tacoma,
Washington.

16

17

18

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