

1 DEPARTMENT OF LABOR AND INDUSTRIES

2 STATE OF WASHINGTON

3
4
5
6 ELECTRICAL BOARD MEETING

7
8 TRANSCRIPT OF PROCEEDINGS

9
10 Thursday, January 29, 2015
11

12
13 BE IT REMEMBERED, that an Electrical Board meeting
14 was held at 9:00 a.m. on Thursday, January 29, 2015, at
15 the Department of Labor & Industries, 950 Broadway,
16 Tacoma, Washington, before CHAIRPERSON TRACY PREZEAU,
17 BOARD MEMBERS ROD BELISLE, JANET LEWIS, RANDY SCOTT, DAVID
18 CORNWALL, MIKE NORD, DYLAN CUNNINGHAM, DON BAKER, DAVID
19 WARD, DENNIS TOWNSEND, BOBBY GRAY, DOMINIC BURKE, and
20 SECRETARY/CHIEF ELECTRICAL INSPECTOR STEPHEN THORNTON.
21 Also present was ASSISTANT ATTORNEY GENERAL PAM REULAND
22 representing the Board.

23 WHEREUPON, the following proceedings were held, to
24 wit:

25
26 Reported by:
27 H. Milton Vance, CCR, CSR
28 (License #2219)

29 EXCEL COURT REPORTING
30 16022-17th Avenue Court East
31 Tacoma, WA 98445-3310
32 (253) 536-5824

Thursday, January 29, 2015
Tacoma, Washington

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Thursday, January 29, 2015
Tacoma, Washington

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PROCEEDINGS

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CHAIRPERSON PREZEAU: So good morning. It's 9:00 a.m. I would like to call the January 29, 2015, Electrical Board meeting to order. So good morning, everybody.

THE BOARD: Morning.

Item 1. Approve Transcripts from October 30, 2014, Electrical Board Meeting

CHAIRPERSON PREZEAU: So the Chair would love to entertain a motion to approve the transcripts from the October 30, 2014, meeting.

Motion

BOARD MEMBER: So moved.

BOARD MEMBER BELISLE: Second.

CHAIRPERSON PREZEAU: So motion and second to approve the transcripts. Any discussion? Seeing none, all those in favor signify by saying "aye."

THE BOARD: Aye.

CHAIRPERSON PREZEAU: Opposed? Motion carries.

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1 Motion Carried

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Item 2. Departmental/Legislative Update

CHAIRPERSON PREZEAU: So Steve, are you going to give us the departmental/legislative update?

SECRETARY THORNTON: All right. So we sent out a --

CHAIRPERSON PREZEAU: Oh, wait a minute. Time out. Sorry. I got to do two things real quickly or I'll get in trouble with Elissa.

One is -- so our Vice Chair Alice Phillips, we just received word she is not going to attend the meeting. So just for the record.

And then it is my understanding that the parking passes that were issued are not good. And so I would like to ask if any Board members, including Milton at the table here, raise your hand if you used that parking pass this morning to park in the parking structure.

(Numerous hands raised.)

Because if you did, Elissa's going to fix it.

MS. ZYSKI: Thank you.

CHAIRPERSON PREZEAU: Okay. Sorry for the interruption.

SECRETARY THORNTON: That's fine.

Budget-wise, we sent out the November numbers. We've

1 since got December's. And the fund balance for December
2 is \$7,470,216, which is a little less than what it was on
3 your guys' previous notes.

4 Our average monthly expenditures are about 1.584
5 million. If we were fully staffed, that would draw the
6 fund down by the end of the biennium, but we're not. Last
7 month we were like \$121,000 short. But with our vacant
8 positions, it's still about 50,000 to the good.

9 Our vacant positions right now are keeping us kind of
10 status quo money-wise.

11 Customer service-wise, we had 27,529 permits were
12 sold last quarter. 24,891 were processed on-line. About
13 90 percent of our permits are bought through the Internet.

14 95 percent of contractor permits are purchased
15 on-line. And that's pretty consistent with the previous
16 quarters. Homeowners do about 55 percent of their permits
17 on-line.

18 On-line inspection requests were up 1 percent from
19 last quarter to about 80 percent. During the quarter,
20 customers made 66 percent of all electrical license
21 renewals on-line. So any more, a large majority of our
22 business is done through the Internet.

23 Testing lab reports. New engineering firm has been
24 added. Talos Engineering, Jason Merrick.

25 CHAIRPERSON PREZEAU: Steve, do you know -- is this

1 the entity that sort of sparked some conversation at the
2 last Board meeting? Are they located in Kennewick?

3 SECRETARY THORNTON: Yes.

4 CHAIRPERSON PREZEAU: Beautiful.

5 SECRETARY THORNTON: So our electrical scorecard, our
6 percent of inspections within 48 hours, we want to be at
7 94 percent; we're at 89 percent.

8 Number of focus citations, our goal is 1,052, and
9 we're at 631.

10 Inspection stops per day were 10.

11 Electrical disconnect corrections, 9,668.

12 Licensing process turn-around, we do them the same
13 day.

14 Turn-around time for plan review is -- our target is
15 three weeks to get them out. And we're doing it in about
16 eight-tenths of that time. So we're doing those quicker
17 than what we had for a goal.

18 And we had a little bit of a error in the previous
19 month. Last quarter we reported 8,392 electrical licenses
20 were processed when actually it was 6,374.

21 CHAIRPERSON PREZEAU: Just a minor glitch.

22 SECRETARY THORNTON: Minor, yeah. 25 percent, yeah.

23 This quarter there were 5,340 electrical licenses
24 processed. Even with the staff shortages, we've had a
25 one-day turn-around.

1 And the quality control program is still in place
2 ensuring that work items are processed with 100 percent
3 accuracy.

4 The hold time for customers had a slight increase due
5 to short staff. But the average hold time did not exceed
6 more than a minute on the phones.

7 So that's it for that part.

8 Legislatively --

9 CHAIRPERSON PREZEAU: Before you shift gears, any
10 questions for Steve, the Chief, about departmental update?

11 I know we had conversation the last quarter about --
12 regarding the low -- not meeting the goal of focused
13 citations and warnings. So this is, you know, two reports
14 in a row that we're not there. And actually the number is
15 sort of continually decreasing. And I wonder if you have
16 any insight as to why that is happening.

17 SECRETARY THORNTON: I don't, other than we've had
18 training. So we've been out in the field. We've got new
19 inspectors, which are the gentlemen in the back row back
20 there that are just getting up to speed.

21 CHAIRPERSON PREZEAU: Our new superstars.

22 SECRETARY THORNTON: Yeah, our new superstars; that's
23 right.

24 But it's something that we're going to have on next
25 month's agenda for the supervisors to see if they've got

1 any input on that.

2 CHAIRPERSON PREZEAU: Yeah, I mean, I'm not looking
3 to make -- to be a problem creator, right? It's just a --
4 it's an interesting trend.

5 SECRETARY THORNTON: You're not the first to ask.

6 CHAIRPERSON PREZEAU: So legislative, this is going
7 to be a little bit of a hootenanny.

8 SECRETARY THORNTON: Yeah, this one might take a
9 little bit.

10 CHAIRPERSON PREZEAU: Yep.

11 SECRETARY THORNTON: So Senate Bill 5282, this
12 exempts licensing requirements for persons that want to do
13 low-voltage wiring in residences.

14 5281 --

15 CHAIRPERSON PREZEAU: So does it actually exempt --
16 it only exempts the technician or the electrician
17 performing the work from being certified? Or is it a
18 complete exemption across the board? Don't have to be a
19 contractor, don't have to have inspection, don't have to
20 have --

21 SECRETARY THORNTON: The way it's written right now
22 is --

23 CHAIRPERSON PREZEAU: Do not pass "Go" -- or do pass
24 "Go," collect \$200, and do not go directly to jail. Is
25 that what you're saying?

1 SECRETARY THORNTON: Right now it's go directly to
2 jail. No. Yeah, you don't have to be a contractor or --

3 CHAIRPERSON PREZEAU: Complete exemption from 19.28.

4 SECRETARY THORNTON: Yeah. And that's 5282.

5 5281 is a bill to have the Department create a
6 non-residential security system license. And so that
7 would be a commercial type.

8 CHAIRPERSON PREZEAU: Doesn't that already exist?
9 Isn't it encompassed in an 06?

10 SECRETARY THORNTON: 06, yeah.

11 I'm not quite sure what they are trying to accomplish
12 other than maybe another step in the ladder.

13 Bill 1609 is dealing with minor and incidental work
14 that they would like to not have to permit.

15 CHAIRPERSON PREZEAU: Do they define minor and
16 incidental work?

17 SECRETARY THORNTON: No, no. It's wide open.

18 CHAIRPERSON PREZEAU: That's convenient.

19 SECRETARY THORNTON: Yeah. Maybe it's a minor
20 remodel of a hospital. I don't know.

21 CHAIRPERSON PREZEAU: So minor and incidental
22 electrical work would be exempt from permitting and
23 inspection, licensing and certification.

24 SECRETARY THORNTON: I believe it's just permitting.
25 Licensing also? So licensing and permitting.

1 BOARD MEMBER BAKER: Is that residential and
2 commercial?

3 SECRETARY THORNTON: Yes.

4 BOARD MEMBER SCOTT: It includes plumbing.

5 CHAIRPERSON PREZEAU: And it includes plumbing work.
6 So why don't we just get rid of 19.28.

7 SECRETARY THORNTON: So 1608 addresses and deals with
8 certified HVAC and appliance repair specialty
9 electricians.

10 1590 is the apprenticeship program. I think last
11 year it was 2500. And it's -- I believe it's put back
12 through again this year exactly the same way it was
13 written last year.

14 Bill 1519 deals with the underground economy.

15 CHAIRPERSON PREZEAU: So can you tell us more about
16 that?

17 SECRETARY THORNTON: It says ensures fairness to
18 employers and employees and addresses the underground
19 economy.

20 BOARD MEMBER BELISLE: It seems contrary to all the
21 other items on the list.

22 SECRETARY THORNTON: It does, yeah. Most of the
23 others seem to go the other way.

24 1315 requires the Department to grant a variance for
25 people doing work anytime we change our enforcement, our

1 interpretations. And that could be anytime we had an
2 inspector. And we can look a little closer to people that
3 have been doing things that are maybe out of scope or
4 whatever they want to have credit for that because they
5 haven't been caught before. So that's 1315.

6 ASSISTANT ATTORNEY GENERAL REULAND: Can I just
7 interrupt a minute?

8 I think it might be helpful for the Board members if
9 you could articulate who proposed which one of these, you
10 know, which body if you have that information.

11 CHAIRPERSON PREZEAU: Well, you can tell by the bill
12 numbers. So --

13 ASSISTANT ATTORNEY GENERAL REULAND: But I mean,
14 Department proposed or --

15 CHAIRPERSON PREZEAU: Oh. I don't think there's any
16 of these -- none of these pieces are Department-proposed
17 pieces of legislation; is that correct?

18 SECRETARY THORNTON: No, none of them are.

19 ASSISTANT ATTORNEY GENERAL REULAND: Well, I figured
20 that.

21 SECRETARY THORNTON: You mean like as far as whether
22 they're Senate or House?

23 ASSISTANT ATTORNEY GENERAL REULAND: No. In terms of
24 which stakeholders are proposing them, if you know.

25 SECRETARY THORNTON: And I don't have that here,

1 but I can find out for you at break. I can look them up
2 and ...

3 CHAIRPERSON PREZEAU: So this 1315, this is across
4 the Department of Labor and Industries. So the electrical
5 program is included in that. This is not specific to the
6 electrical program; is that true?

7 SECRETARY THORNTON: I believe it is specific to the
8 electrical program.

9 CHAIRPERSON PREZEAU: And does the bill define what a
10 variance is, what that means?

11 SECRETARY THORNTON: It states that they want credit
12 for the work they've been doing that's either going to be
13 out of scope for a -- before we changed the definition of
14 what "like in kind" is or something of that nature. Then
15 if you've been doing it, they want to have credit for that
16 because now we've changed the way we're going to look at
17 things.

18 BOARD MEMBER BAKER: Is it for documenting training
19 hours for training certificates or --

20 SECRETARY THORNTON: They want to be able to claim
21 their hours. If I've been doing something, digging a
22 ditch, and all of a sudden that becomes relevant, they
23 want to be able to claim part of those hours.

24 CHAIRPERSON PREZEAU: Would this include if I was a
25 trainee and I performed 8,000 hours of electrical work as

1 a trainee unsupervised and then got caught, then I would
2 want to get a variance so that all of those unsupervised
3 trainee hours would count towards my ability to sit for
4 the 01 journeyman's test?

5 SECRETARY THORNTON: It's very wide open to what the
6 variance would be for. Like it's written for any kind of
7 a change we would make, then they want credit for stuff.
8 And so it could be any number of things.

9 BOARD MEMBER BELISLE: Low voltage.

10 CHAIRPERSON PREZEAU: Points for creativity.

11 SECRETARY THORNTON: They are getting creative on how
12 they write these things.

13 And that's what I've got for new bills.

14 CHAIRPERSON PREZEAU: When -- is this a long session
15 or a short session?

16 UNIDENTIFIED: Long.

17 CHAIRPERSON PREZEAU: It's long? When does it --
18 when does the regular session come to a close?

19 BOARD MEMBER SCOTT: April something. The 2nd of
20 April I believe.

21 CHAIRPERSON PREZEAU: And the reason why I ask that
22 question is because if the regular session closes before
23 our next regular Board meeting, it is not unprecedented
24 for the Electrical Board to author correspondence and send
25 it to -- with respect to pieces of legislation that impact

1 the electrical program. And we've done it more than once.
2 And I don't know what impact it has. But typically those
3 pieces of correspondence either in support of legislation
4 and/or policy or in opposition get sent to the Governor,
5 the Speaker and the majority leader in the Senate.

6 And I know there's not a terrific amount of
7 information this morning regarding these pieces of --
8 these pending pieces of legislation that directly impact
9 the electrical program.

10 But I'm curious if there is desire from the Board to
11 weigh in in a formal way or to investigate more deeply
12 potential impacts of these pieces of legislation and then
13 to consider authoring formal correspondence to the three
14 corners, as it is, the Governor, the Speaker of the House,
15 and the majority leader.

16 Because if there is a desire to do that, what we can
17 do is put a subcommittee together basically to work with
18 the Department and work with others to understand what
19 these pieces of legislation, what their impact could
20 potentially be and weigh in in the political legislative
21 process.

22 So any thoughts about that?

23 BOARD MEMBER BAKER: We definitely need to weigh in.

24 CHAIRPERSON PREZEAU: Yeah. Because the problem is
25 -- and, you know, I mean, some of these bills are not

1 going to make it to -- you know, there's -- obviously
2 there's multiple cut-off points. But what I've learned
3 about the political legislative process is no bill is dead
4 until the final -- until signing the document, till the
5 final gavel comes down.

6 So -- but since we will not reconvene this body until
7 after the regular session concludes -- I mean, some of
8 these -- you know, I have done some research on my own,
9 right? and have sort of monitored pieces of legislation,
10 and there are others that, you know, could potentially --
11 it's my understanding there's another piece of legislation
12 that impacts the electrical program and that it would
13 potentially -- and I am not an attorney -- but it would
14 potentially prohibit electrical inspectors to perform
15 inspections on private property. It's an access bill.

16 And so I'm not -- you know -- but there's -- I have
17 tremendous concern about some of these pieces of
18 legislation and the fundamental impact they potentially
19 have on the electrical program and 19.28 which, you know,
20 is a statute that has been on the books in Washington
21 state since '72.

22 So I would love to understand what -- is there, you
23 know, volunteers that want to work this project?

24 (Board members Townsend, Belisle and Nord raising
25 hands.)

1 So Dennis, Rod, and Mike.

2 I would very much -- all right. So what I would like
3 to do is -- so Dennis Townsend, Rod Belisle, Mike Nord and
4 myself will work with the Chief and will craft -- will do
5 a more comprehensive investigation of potential impacts.

6 And some of these bills I would imagine may or may
7 not have a huge amount of substance in them, right?

8 Because bills can be filed without -- with just basically
9 a title. But we'll do the necessary due diligence, and
10 then follow past practice in terms of the tone of those
11 letters to the three corners.

12 BOARD MEMBER NORD: Madam Chair, can the Department
13 furnish this --

14 THE COURT REPORTER: I can't hear.

15 SECRETARY THORNTON: Oh, yeah. And if --

16 THE COURT REPORTER: A little bit louder from that
17 side of the table.

18 SECRETARY THORNTON: If we have a hard time hearing,
19 I'm going to say something about we need to speak up a
20 little bit.

21 CHAIRPERSON PREZEAU: So Mike's question was, Will we
22 have access to bill analysis from -- that the Department
23 has done.

24 SECRETARY THORNTON: They're not top secret, are
25 they?

1 MR. MUTCH: We should check with our "leg" director.

2 CHAIRPERSON PREZEAU: Yeah, I think that -- so I
3 think that we can work in tandem with the Department on
4 what they --

5 SECRETARY THORNTON: I'll give you anything that I
6 can.

7 CHAIRPERSON PREZEAU: Okay.

8 BOARD MEMBER TOWNSEND: Tracy, I see a little more
9 global than that. I see an element of just public safety.
10 You know, the whole idea of the electrical program is
11 public safety.

12 Where I see this committee going -- (inaudible) -- to
13 respond, and the time he has to respond -- (inaudible) --
14 on the last day and show up. There's thousands of them.
15 A lot of them die in the meantime. So I don't want to
16 spin our wheels on a lot of stuff that's not going to go
17 anywhere, but also respond -- (inaudible).

18 CHAIRPERSON PREZEAU: Correct. And it might be, you
19 know, just to alleviate some of the work or some of the --
20 this could be potentially an onerous task. But it might
21 be that we can craft some -- you know, all of these from
22 my perspective that the Chief referred to thus far with
23 the exception of 1519 because we don't really know what
24 that does undermines all of those pieces of, you know,
25 consumer protection, public safety, level playing field.

1 And so it very well may be that we can respond in more of
2 a blanket statement in that regard if a piece of
3 legislation is seen as undermining those fundamental
4 principles.

5 Very good. Okay.

6 Any other questions about political legislative
7 update, department update?

8 Do you have any additional comments, Steve?

9 SECRETARY THORNTON: No. That was all I had.

10 CHAIRPERSON PREZEAU: Okay. I have one more question
11 -- or one more thing I want to get in the record before we
12 move on to agenda item 3. And that is: Do we know if all
13 of the current Board members have complied with the
14 statutory requirement to be trained in the Open Public
15 Meetings Act and watched the 16-minute video?

16 Elissa, do we know, have all of our Board members
17 completed that?

18 MS. ZYSKI: I am going to have Steve watch it. That
19 was the only person. So ...

20 Sorry, Steve.

21 CHAIRPERSON PREZEAU: Okay. So let the record
22 reflect that all the Board members have watched the --
23 have met our statutory requirements to be trained on the
24 Open Public Meetings Act and have watched our 16-minute
25 video. Brilliant.

Item 3. Appeals

CHAIRPERSON PREZEAU: Okay. So agenda item 3. And we have -- as you can see, 3.a. has been withdrawn. And I'm going to -- we are going to have -- hear two appeals this morning.

Item 3.e. Interpretation Request of RCW 19.28.121
- Gesa Credit Union

CHAIRPERSON PREZEAU: But before we do that, I want to very quickly give the Board an update on agenda item 3.e., the interpretation request of RCW 19.28.121.

We -- there has been a communication between their representatives and the Chief and at this time we believe that that matter will not come before the Board today. It will either potentially be continued or it may be resolved. We will not hear that today.

Additionally, a final order that is not on here -- you guys remember we heard the Earthwise Excavation appeal. And as you recall, both counsel for the Department and for Earthwise felt that they could craft a final order that was reflective of the Board's decision. That has been accomplished, and I have signed that order this morning.

1 Item 3.d. Legacy Telecommunications - Presentation of
2 Final Order

3
4 CHAIRPERSON PREZEAU: The Legacy Telecommunications
5 presentation of final order, I know that Mr. Zeb Madison
6 is here. Would you -- certainly.

7 Is Mr. Ehlke in the room this morning?

8 MR. SALAZAR: He is not. But I am here, Mr. Salazar.
9 I was contacted by him yesterday because he's in trial.

10 He actually handled the companion case of Burriss
11 Electric that was intertwined with this case. And I do
12 have his proposed order that he e-mailed to me yesterday.

13 CHAIRPERSON PREZEAU: So Mr. Salazar's -- as the
14 Board may recall, there were two cases that were
15 inextricably linked, and it was Legacy Communications and
16 Burriss Electric. And I understand that Mr. Salazar wants
17 to present this final order. But here's what I very much
18 want to get in the record.

19 So we heard the Legacy case at the July 31, 2014,
20 meeting. And it was the final -- the proposed order was
21 set for presentment in October 30th, in this room, 2014,
22 if you may recall. And you may recall that Assistant
23 Attorney General Madison did appear at the meeting and
24 presented a proposed order. And if you recall, Mr. Ehlke,
25 attorney of record, had a family emergency and was not

1 able to be present. And this body actually moved,
2 seconded and approved a motion to have final order
3 presented in January.

4 ASSISTANT ATTORNEY GENERAL REULAND: There was -- my
5 understanding was it was either in January but counsel had
6 indicated they hoped to have it to the Board in the --
7 within the following month.

8 CHAIRPERSON PREZEAU: Correct.

9 So during the interim, between the October Board
10 meeting and the January 29, 2015, Board meeting, it is my
11 understanding that there was communication between both
12 Mr. Madison and Ms. Reuland and Mr. Ehlke, and there was
13 no substantive work to achieve agreement on a final order.

14 On the 9th of January 2015 I authored a letter that
15 was sent to Mr. Ehlke notifying him that if he did not
16 respond to the Department's proposed final order by
17 January 21st, I would under advice of counsel sign the
18 Department's proposed order because it was in agreement
19 from -- it was consistent with the Board's actions as
20 advised by counsel.

21 So as much as I appreciate you being here today,
22 Mr. Salazar, Mr. Ehlke from my perspective was given ample
23 opportunity to work with Mr. Madison even in light of the
24 fact that he experienced some terrible family emergencies.
25 But given the fact that Mr. Ehlke did not respond in a

1 timely fashion as stipulated in the correspondence that
2 was sent to him on January 9th, it is my -- unless my
3 attorney tells me to do something else ...

4 ASSISTANT ATTORNEY GENERAL REULAND: I would just
5 give Mr. Madison an opportunity to address -- his
6 understanding and situation is different than the Board's.

7 ASSISTANT ATTORNEY GENERAL MADISON: Thank you.

8 For the record, Zeb Madison, assistant attorney
9 general. I would echo Madam Chair's recitation of what's
10 gone on procedurally up until this point.

11 I did receive a letter from Madam Chair via fax, I
12 believe it was January 9th, that indicated that she was
13 allowing Mr. Ehlke until the 21st at noon I believe. And
14 in the event that he did not respond to her, she would
15 sign the proposed order that was submitted to this Board
16 back in October.

17 I will tell you that I received an e-mail from
18 Mr. Ehlke in the afternoon of January 21st, and he had a
19 slight modification that he was asking me to incorporate
20 into my proposed order. I was unwilling to do that at
21 that time. My staff had already invested significant time
22 and resources, and his response was after the date that
23 was provided by Madam Chair. So for that reason, I was
24 adamant that my previous proposed order that was submitted
25 should be entered. And it was also my assumption that it

1 had probably been signed at that point anyway since that
2 was after the deadline that was given by Madam Chair.

3 I'd also indicate that Mr. Ehlke in his
4 correspondence never included the AAG Pam Reuland nor did
5 he submit any proposed order of his own to Madam Chair.
6 He was simply asking that I craft additional language onto
7 my proposed order. I was unwilling to do that because I
8 believe my order accurately reflects the decision that was
9 made by this Board, and I'm unwilling at this point to add
10 any additional language to it.

11 So thank you.

12 CHAIRPERSON PREZEAU: Thank you, Mr. Madison.

13 Mr. Salazar, I would love to give you an opportunity
14 to share your position this morning.

15 MR. SALAZAR: Yesterday afternoon I was at --

16 THE REPORTER: I'm sorry, I can't hear you.

17 CHAIRPERSON PREZEAU: Yeah, please speak up.

18 MR. SALAZAR: Oh, sorry.

19 CHAIRPERSON PREZEAU: Gentlemen, you can sit down if
20 you care to sit down. You might be closer to the
21 microphone.

22 MR. SALAZAR: Yesterday afternoon I got an e-mail or
23 I believe it was yesterday afternoon asking me if I could
24 fill in for Mr. Ehlke. Last night I received from him his
25 proposed order after I left my office. So I went and

1 printed it out this morning, and I have a copy of it to
2 file if it's appropriate to do that.

3 Otherwise, I have no comment on the procedural
4 history that's occurred over the last couple of months
5 since I didn't participate in that.

6 His proposed order adds one paragraph to findings of
7 fact II, paragraph 3. And I believe that's what he's
8 provided you language for.

9 I do recall what you said at the hearing on the 31st.
10 I think it is accurate as to my recollection. But I don't
11 have the record in front of me. And I certainly didn't
12 have the time to print that between yesterday and this
13 morning. I would offer the order to be filed, whether it
14 is signed or not, so there's a record of his presentment.

15 CHAIRPERSON PREZEAU: Thank you, Mr. Salazar.

16 So given that Mr. Madison has concurred with my
17 recollection of the chain of events that chronicled the
18 time line in this case, and given the fact that
19 Mr. Ehlke's requirement was to submit any -- the final
20 order to me, and that never happened, so to be consistent
21 with the correspondence that went out under my signature
22 on January 9th, I am going to go ahead and sign the final
23 order proposed by the Department.

24 And I would very much like the Board to know that
25 Assistant Attorney General Pam Reuland has reviewed this

1 proposed final order, and she deems it consistent with the
2 actions that this body took on July 31, 2014, in the
3 matter of Legacy Telecommunications.

4 Does anybody -- any comments, questions, concerns at
5 this moment in time?

6 Very good. So thank you, Mr. Salazar, and thank you,
7 Mr. Madison. I appreciate the fact that you both were
8 present this morning. And I appreciate the fact that
9 Mr. Salazar, you were here in the hopes of representing
10 Mr. Ehlke. But Mr. Ehlke, let the record reflect, was not
11 present this morning.

12 ASSISTANT ATTORNEY GENERAL MADISON: Thank you, Madam
13 Chair.

14 MR. SALAZAR: One request, Your Honor. Are you
15 denying the request just to file his proposed order that
16 was unsigned so that it's made a part of whatever record.

17 CHAIRPERSON PREZEAU: So procedurally, Pam ...

18 ASSISTANT ATTORNEY GENERAL REULAND: Procedurally,
19 you're not an attorney, so you can't really present it to
20 -- unless Mr. Ehlke has withdrawn on your behalf.

21 I don't think there's anything that prevents you from
22 filing the copy on today's date with the secretary to the
23 Board.

24 MR. SALAZAR: Okay.

25 CHAIRPERSON PREZEAU: Thank you.

1 Great. Very good.

2 So now we -- I appreciate the Board allowing me to go
3 out of order under appeals. I just wanted to for quick
4 matters get them off the table and get them resolved.

5 So at this moment in time what I would very much like
6 to do is hear agenda item 3.b., which is the Sullivan
7 Heating & Cooling appeal.

8

9 Item 3.b. Sullivan Heating & Cooling, Inc.

10

11 CHAIRPERSON PREZEAU: Okay. So good morning. My
12 name is Tracy Prezeau. I am the Chair of the Electrical
13 Board. The matter before us today is an appeal of the
14 matter of Sullivan Heating & Cooling, Inc., and John
15 Windh, docket number 2014-LI-0034.

16 This hearing is being held pursuant to due and proper
17 notice to all interested parties in Tacoma, Washington on
18 January 29th at approximately 9:38 a.m.

19 This is an appeal from a proposed decision and order
20 issued by the Office of Administrative Hearings on May 28,
21 2014.

22 It is my understanding that decision both affirmed
23 and reversed citations and notice following EMICC00383 --
24 so affirmed EMICC00383, 386 and 387; and reversed
25 EMICC00384 and 385 issued by the Department of Labor and

1 Industries on July 8, 2013.

2 It is further my understanding that the Department
3 has timely appealed the reversed decisions to the
4 Electrical Board.

5 At this time, the original appellant, I think we have
6 representatives of Sullivan Heating and including counsel.

7 So gentlemen, if you would please be kind enough to
8 introduce yourselves, state your name and spell it for our
9 court reporter.

10 MR. KRUEGER: Good morning. I'm Jim Krueger. I am
11 an attorney here in Tacoma. I represent Sullivan Heating
12 & Cooling. My last name is spelled K-R-U-E-G-E-R.

13 Seated to my left is Dan Sullivan who is the owner of
14 Sullivan Heating & Cooling. His last name is spelled
15 S-U-L-L-I-V-A-N.

16 And then seated in the front row over there, would
17 you raise your hand. John Windh, who is the electrical
18 administrator for Sullivan Heating & Cooling. His last
19 name is spelled W-I-N-D H.

20 CHAIRPERSON PREZEAU: Thank you, Mr. Krueger.

21 And the Department is present and represented by
22 Assistant Attorney General Ms. Greer.

23 ASSISTANT ATTORNEY GENERAL GREER: That is correct.

24 Good morning, Madam Chair, members of the Board.

25 CHAIRPERSON PREZEAU: And spell your last name, if

1 you would, please.

2 ASSISTANT ATTORNEY GENERAL GREER: My first name is
3 spelled L-U-C-R-E-T-I-A -- Lucretia. Last name is Greer
4 -- G-R-E-E-R.

5 CHAIRPERSON PREZEAU: Thank you very much.

6 So I'm just going to do some procedure stuff.

7 The Electrical Board is the legal body authorized by
8 the legislature to not only advise the Department
9 regarding the electrical program, but to hear appeals when
10 the Department issues citations or takes some other
11 adverse action regarding an electric license,
12 certification or electrical installation.

13 The Electrical Board is a completely separate entity
14 from the Department, and as such will independently review
15 the action taken by the Department.

16 When the Department issues penalties, the hearing is
17 assigned to the Office of Administrative Hearings to
18 conduct the hearing pursuant to the Administrative
19 Procedures Act.

20 The ALJ who conducts that hearing then issues a
21 proposed decision and order. If either party appeals,
22 that decision is subject to review by the Electrical
23 Board.

24 Please keep in mind that while our review is de novo,
25 we sit in the same position as the administrative law

1 judge and will review the entire record regardless of
2 whether a certain piece of evidence is referenced by the
3 ALJ.

4 We are bound by the evidence in the record and no new
5 evidence can be submitted at this hearing.

6 Each party will be given approximately 15 minutes
7 today to argue the merits of your case. Any Board member
8 may ask questions, and the time may be extended at the
9 discretion of the Board.

10 At the conclusion of the hearing, the Board will
11 determine if the findings and the conclusions reached by
12 the ALJ are supported by the facts and the laws and rules
13 pertaining to electrical installations.

14 Are there any questions before we begin?

15 ASSISTANT ATTORNEY GENERAL GREER: No, Your Honor,
16 nothing from the Department.

17 MR. KRUEGER: We have none.

18 CHAIRPERSON PREZEAU: Okay, very good.

19 So just a reminder again to the Board. We are bound
20 by the transcripts. So if you ask questions of either
21 party that would introduce information not included in the
22 transcripts, I'm going to not allow those questions to be
23 answered. They would be improper questions. We are bound
24 by the information included in the transcripts and your
25 professional expertise. Understood? Very good.

1 So Ms. Greer, I believe you are the appealing party.
2 You have the burden of proof to establish that the
3 proposed decision or portions of the proposed decision is
4 incorrect. Therefore, I would love to hear from you first
5 please.

6 ASSISTANT ATTORNEY GENERAL GREER: Thank you. Can
7 everyone hear acceptably?

8 There are only two issues before the Board today, and
9 that is whether or not the administrative law judge
10 correctly reversed citations -- and I'll just use the last
11 three digits for ease -- of 384 which deals with the scope
12 of practice of Sullivan Heating & Cooling, and 385 which
13 concerns the requirement of requesting an inspection
14 within three days of completion of work or within one day
15 of energizing the electrical work.

16 I'll go first to the citation for the inspection
17 under 385 because I believe that is the easier issue.

18 Under RCW 19.28.101 and WAC 296-46B-901, the WAC is
19 specifically in the Department's exhibits for ease, within
20 three days of completion of electrical work or a day after
21 energizing the electrical work an inspection is to be
22 requested and ultimately performed by the Department.

23 On April 23, 2013, testify establishes that City of
24 Bremerton journeyman electrician Bedrosian went to the
25 location of the Bremerton Forestry facility to finish

1 electrical work on a new HVAC system that was being
2 installed by Sullivan Heating & Cooling. When he arrived
3 along with a coworker, he discovered that that wiring that
4 was ultimately described as the tray wiring from an
5 outside HVAC unit into the building and to the two indoor
6 units had already been done. It was work that the City of
7 Bremerton expected to do. They have I believe four to six
8 electricians on staff. They had the materials with them
9 to use particular wiring. And when they arrived on April
10 23rd, the work was already done.

11 While they were there, a gentleman arrived in a van
12 marked Sullivan Heating & Cooling who identified himself
13 as working for Sullivan. The journeyman electrician from
14 the City of Bremerton spoke to the Sullivan employee. And
15 the Sullivan employee said that he had done the wiring,
16 that part of the wiring the City of Bremerton expected to
17 do. The journeyman electrician for Bremerton was not
18 displeased because it meant he didn't have to crawl
19 through an attic. They walked through the job site, and
20 the City of Bremerton employee just left when he believed
21 that the Sullivan employee was going to finish the wiring.

22 The electricians for the City of Bremerton did not
23 have access to the actual bid and contract, so they did
24 not know that Sullivan Heating & Cooling did not expect to
25 be doing any line voltage wiring.

1 When the City of Bremerton, all the work was
2 completed, the City of Bremerton contacted the Department
3 for an inspection. The City of Bremerton has an annual
4 permit because it does so much of its own electrical work.

5 On July 8, 2013, when the inspector went out, the
6 system was already energized. It was already operational.
7 There had been no request for an inspection of the
8 electric work by Sullivan Heating & Cooling. The belief
9 is the work was completed on or about April 23, 2013. It
10 was energized. And that was discovered on July 8, 2013.
11 And there was never an inspection request by Sullivan
12 either within three days of completion of work or within
13 one day of the system being energized.

14 So the Department respectfully believes the
15 administrative law judge erred when he found that there
16 was no proof that that inspection was not requested.

17 Going on to what is the slightly more complicated
18 issue, that is the issue of scope of work.

19 It's not disputed that Sullivan Heating & Cooling is
20 a specialty electrical contractor, an HVAC contractor.
21 It's a 06A.

22 And the transcript is difficult to follow, so I would
23 refer the Board to one of the exhibits from Sullivan.
24 It's in your exhibit pack. It's in your record packet.

25 The regulation that is at issue starts at

1 approximately page 276 of the record. And this is WAC
2 296-46B-920.

3 The first page on page 276, it sets forth the
4 requirements for a general electrical contractor, an 01,
5 and then it discusses specialty contractors and specialty
6 type of work.

7 Then on page 277, you go to limited energy systems,
8 that's the general 06 contractor for the specialty
9 licensing. And it starts that "This specialty is
10 restricted to low-voltage circuits." And that "This
11 specialty includes the installation of telecommunications,
12 HVAC/refrigeration low-voltage wiring," et cetera.

13 So go then to page 278 under subsection (f), go down
14 to (iii), "The HVAC/refrigeration specialties described"
15 -- and then it references subparagraph (f)(v) and (vi).
16 (f)(v) is on page 279, and that is specifically and 06A
17 contractor.

18 The small (vi) refers to the additional contractor
19 which is even more restricted than the 06A. And that is
20 referenced on page 280.

21 So you go through the WAC and you read it as a whole,
22 and what becomes apparent is that reading it as a whole,
23 an 06 contractor has more ability to do more work than an
24 06A. And an 06A is allowed to install HVAC materials
25 including Class 2 low-voltage control circuits, wiring

1 components in other than residential occupancies. This
2 was not a residence. But they are not allowed to install,
3 repair or replace any electrical wiring governed by
4 various sections of the NEC code, and that's listed on
5 page 280.

6 What Sullivan argued below is that if you look under
7 Roman numeral (v), the 06A contractors on page 279,
8 section (A) says "This specialty is not limited by
9 voltage, phase, or amperage."

10 If you take that one sentence out of context, you can
11 understand their position.

12 If you read the regulatory scheme as a whole, it's
13 apparent that Sullivan Heating & Cooling is an 06A
14 contractor and is only entitled to do low-voltage work.

15 The tray wire from the outdoor unit into the indoor
16 units was tested by two as being a line-voltage level.
17 Sullivan Heating & Cooling installed -- their worker
18 installed that cable in violation of their scope of
19 practice. Not only was it installed against their scope
20 of practice; it was installed poorly in that it was not
21 sheathed.

22 The inspector for the Department of Labor and
23 Industries when he saw that, that's how the investigation
24 started. He noticed that this tray cable wasn't sheathed
25 in violation of code. He contacted the City of Bremerton.

1 And that's when Bremerton's electricians said "We didn't
2 do that part of the work. That was Sullivan."

3 And then the City of Bremerton was required to get
4 another permit. And because they were covering somebody
5 else's work, they had to go out, shut the system down, and
6 put sheathing on that cabling.

7 That is the -- the crux of the issue is pretty much
8 this one cable that was line voltage that Sullivan Heating
9 & Cooling did not have the authority to do.

10 When you read -- and I know all of you read through
11 the transcripts very carefully. The electrical
12 administrator for Sullivan Heating & Cooling, the one
13 thing he testified to is they -- this company subcontracts
14 out line-voltage work. If they truly believe they can do
15 line-voltage work, they wouldn't be subcontracting it out.

16 The Department's position is that an 06A, HVAC
17 electrical contractor cannot do line-voltage work.
18 Sullivan's employee, whether he should have done it or not
19 did. They're responsible for monitoring the work of their
20 employees. And therefore, this is their responsibility.
21 And we believe that they violated this section of the
22 statute. And the decision of the Board should be
23 reversed.

24 There is a statutory cite as well. It's RCW
25 19.28.041 (1)(h), and I believe that is in the

1 Department's package. And the state legislature
2 specifically says, "A specialty electrical contractor
3 license shall grant to the holder a limited right to
4 engage in, conduct, or carry on the business of installing
5 or maintaining wires or equipment to carry electrical
6 current ..." and it goes on from there.

7 Sullivan Heating & Cooling argues that there's this
8 one tiny exception, this one sentence, specialty is not
9 limited by voltage, phase or amperage, and they take that
10 one sentence, take it out of context and basically create
11 an exception that completely swallows the entire scheme
12 of the tiering of electrical contractors. If they're not
13 restricted by voltage, amp phase or amperage, they're
14 basically an 01. And Sullivan Heating & Cooling did not
15 have anyone on their staff that was licensed above 06A.

16 So we're asking that this portion of the ALJ's
17 decision be reversed. Thank you.

18 CHAIRPERSON PREZEAU: Thank you, Ms. Greer.

19 Mr. Krueger, before I -- I just want to advise the
20 Board members because you are Mr. Sullivan's legal
21 counsel, I would ask the Board to direct the questions
22 directly to you as counsel. And if you would like to
23 refer them to your client, that is your discretion. But
24 we would like to have that professional decorum.

25 So Mr. Krueger, so please, you have 15 minutes to

1 discuss the merits of your case.

2 MR. KRUEGER: Okay. Well, you know, asking an
3 attorney to limit anything to 15 minutes is almost an
4 impossibility, but I'm going to do my very best. And you
5 just yell at me when I get to 15 minutes.

6 CHAIRPERSON PREZEAU: Okay.

7 MR. KRUEGER: As Ms. Greer told you, this arose out
8 of a City of Bremerton job where Sullivan Heating &
9 Cooling was the mechanical contractor. The City of
10 Bremerton was the electrical contractor.

11 Sullivan Heating & Cooling in this matter is accused
12 of running a wire between the inside and the outside units
13 of a ductless split HVAC unit. Sullivan Heating & Cooling
14 holds the proper license as an electrical contractor, the
15 06A license, permitting it to run the wire between these
16 two units. And I'll go into that in more detail in a few
17 minutes.

18 For running this one wire, Sullivan Heating & Cooling
19 received five citations from the Department. Five
20 citations. One wire, five citations.

21 We went to the hearing. The administrative law judge
22 upheld three of those citations and found that two of
23 those citations the Department had not proven a violation.

24 So the reason that we're here today is the Department
25 has now appealed those two, and we find ourselves in the

1 position that although we certainly didn't like the fact
2 that the administrative law judge upheld three of the
3 citations, we have to take the bad with the good. And the
4 proposal that we're making to you as the Board this
5 morning is that you're in the same situation so long as
6 the administrative law judge documented his findings which
7 he has -- and I'll hope to have time to go into that, the
8 Department also has to take the bad with the good.

9 So there are really two issues here. And I'm going
10 to frame the two issues a little differently than the
11 Department has. Number one is: Did Sullivan Heating &
12 Cooling work outside the scope of its practice?

13 And clearly when you look at the record, you find
14 that it did not.

15 I want to direct your attention to page 279 of the
16 transcript. And what's on page 279 of the transcript is
17 one of our exhibits. And one of our exhibits is the WAC
18 that was promulgated by the Department. The Department
19 wrote this WAC.

20 And so in this WAC if you look near the bottom of the
21 page, subsection Roman numeral (v), it says,
22 "HVAC/refrigeration (06A)" license. It talks about what
23 the holder of an 06A license can do.

24 And what the WAC written by the Department tells us
25 that this specialty is not limited by voltage, phase or

1 amperage.

2 You just heard from the attorney for the Department
3 saying we're taking this out of context. You look at that
4 and tell me, are we taking this out of context? That's
5 the very first sentence.

6 And the Department also said -- another thing that is
7 incorrect -- it said during the course of the hearing the
8 electrical administrator testified that they never -- they
9 never run the wiring between a split system. That is
10 plain not true. And if that had been testified to at the
11 hearing, it would be here in the transcript. And the
12 reason the Department did not point to that place in the
13 transcript where the electrical administrator, Mr. Windh
14 who's sitting here, supposedly testified to that because
15 it's not in the transcript.

16 Sullivan Heating & Cooling runs wire between split
17 systems all the time. It was not the electrical
18 contractor. And the judge found it was not the electrical
19 contractor on this job. And so the City of Bremerton was
20 going to run that wire.

21 As an accommodation, the technician for Sullivan
22 Heating & Cooling because they do this all the time ran
23 the wire for the City of Bremerton. That's because
24 Mr. Sullivan and his crew are just genuinely nice
25 people, try to work with the other contractors and be

1 accommodating.

2 So all I ask is you just simply read the regulation
3 written by the Department, and then you tell me. If the
4 Department says it's not limited by voltage, phase or
5 amperage, that's the WAC.

6 Then the second issue that's before you as a Board
7 today is the Department can't have it both ways. It
8 cannot claim that the City of Bremerton was the electrical
9 contractor, but then cite Sullivan Heating & Cooling for
10 failure to request an electrical inspection.

11 What the Department is telling us is that the
12 mechanical contractor is the one that has to ask for the
13 electrical inspection.

14 The Department's own Exhibit 11 shows that the L & I
15 electrical inspector determined that the City of Bremerton
16 was the one required to get the permit. And then he --
17 the inspector inspected it after it got the permit.

18 So go to page 306. And if you look at page 306 in
19 the transcript, this is the inspector's statement. This
20 is the statement that was written by the Department's
21 electrical inspector.

22 And the first paragraph at the top of page 306, the
23 second half of that paragraph, and I quote, "I required
24 COB" -- City of Bremerton -- "to purchase a separate
25 permit for the TC wiring from ... outside (the) HVAC unit

1 to the two inside wall mount units."

2 So the electrical inspector could have said, "Look,
3 Sullivan Heating & Cooling, you ran the wire, you became
4 the electrical contractor, and therefore, you have to go
5 get the permit." And had the inspector done that, then it
6 would have been Sullivan Heating & Cooling's
7 responsibility to ask for an inspection. That was the
8 inspector's decision.

9 What the inspector did is exactly the opposite. He
10 said, "City of Bremerton, you have to get the license."

11 City of Bremerton got the license. City of Bremerton
12 called for the inspection.

13 Yet the Department now cites Sullivan Heating &
14 Cooling for failure to request the electrical inspection.

15 The other aspect of this is the WAC requires as you
16 all know that the electrical inspection be scheduled for
17 three business days after the completion of the wiring or
18 one business day after energizing, whichever comes first.
19 So that's what Sullivan Heating & Cooling was cited for,
20 yet it's the burden of proof of the Department.

21 The Department -- if the Department is going to cite
22 anybody for not having timely requested the inspection,
23 the Department has the burden of proof of showing when the
24 system was completed and/or when the system was first
25 energized.

1 The judge found, and properly, that the Department
2 didn't fulfill that burden of proof. It didn't tell us
3 when this job was completed. It didn't tell us when this
4 job was energized.

5 The witness called by the Department, the City of
6 Bremerton electrician -- and if you just go to pages 152
7 and 153, don't take my word for it, let's see what the
8 witness said. And so what the witness said on page 152,
9 if you start at line 20 and then you go up to page 153
10 through line 2, what the inspector said is -- or I'm sorry
11 -- the City of Bremerton electrician said he left before
12 the job was completed.

13 So nowhere in this record can anyone show us when the
14 job was completed or when the circuit was energized.

15 And so, you know, I'm very impressed with the job
16 this judge did because this judge absolutely documented to
17 a gnat's eyelash each one of his findings and his
18 conclusions.

19 Now, I'm probably about to run out of time. What
20 I --

21 CHAIRPERSON PREZEAU: You've got five more minutes.

22 MR. KRUEGER: Oh, good. Okay.

23 What I would like to do to the extent that I have the
24 time, what the Department has to do now, if the Department
25 is going to properly convince you that you should overturn

1 the judge's decision on these two citations, it has to
2 show you that one of the findings of fact of the judge and
3 six of the conclusions of law of the judge are wrong. And
4 if you go to page 5 of your materials, in page 5 the
5 Department lists each of the findings of facts and each of
6 the conclusions of law that you have to find are wrong.

7 And what I submit to you that unless you can find
8 that these are wrong, it would be improper for you to
9 overturn this judge's decision.

10 So let's look at them one by one to the extent that I
11 have time.

12 First of all, they want you to overturn Finding of
13 Fact 4.3. Now, you can find that on page 10. Just turn
14 to page 10 and read Finding of Fact 4.3. And Finding of
15 Fact 4.3 says on October 8, 2013, the Department issued
16 noncompliance citation no. "so and so" to Sullivan, it
17 violated the RCW and the WAC, and subsequently assessed a
18 penalty of \$250.

19 And then the judge cites his authority for finding
20 that. Exhibits 5 and 6. So look at Exhibits 5 and 6.
21 They are on page 296 and they are on page 297. And if you
22 read those two exhibits -- just go to page 296 and 297 --
23 you will see that every single thing contained in this
24 finding of fact is contained in those two documents. And
25 those are documents that are prepared by the Department.

1 These aren't documents that we prepared. These aren't
2 documents that the judge went far afield to find. These
3 are documents that the Department itself produced. And
4 yet the Department comes before you this morning and says,
5 "Well, I want you to throw that out. I want you to find
6 that that never occurred." Okay?

7 Let's go on then to the first conclusion of law.
8 They want you to throw out Conclusion of Law 5.4. That's
9 on page 15. So just go to page 15. And it says, "The
10 Department has not met its burden to prove when the
11 electrical wiring ... was completed (or) when the ...
12 system ... was first energized." Okay?

13 So then go to page 152. And on page 152, again, you
14 have the testimony. The only witness who testified at the
15 hearing, and the witness says, well, we don't know when it
16 was completed because when we left, it hadn't been
17 completed.

18 And then if you go to page 158, and again, I guess
19 starting on page 157, line 23 --

20 CHAIRPERSON PREZEAU: Mr. Krueger, you have one
21 minute left. Just giving you that --

22 MR. KRUEGER: Well, I knew I wasn't going to make it
23 all the way through.

24 But on page 157, line 23, it starts -- and again, the
25 only witness who testified about this said, well, when I

1 left, it wasn't completed.

2 The next one then is Conclusion of Law 5.11. That's
3 on page 21.

4 So if you go to page 21, 5.11, and what the judge
5 found was that the work -- this running of this one wire
6 between the two split units was neither specifically
7 permitted nor specifically prohibited by Sullivan Heating
8 & Cooling. Even separate from the fact that we have a WAC
9 that says they're not limited by voltage, the judge found
10 there's nowhere else in any of the law that specifically
11 permits it or specifically precludes it.

12 And so if you would look at pages 276 and 277 --

13 CHAIRPERSON PREZEAU: Thank you, Mr. Krueger.

14 MR. KRUEGER: Thank you.

15 CHAIRPERSON PREZEAU: So --

16 ASSISTANT ATTORNEY GENERAL GREER: Madam Chair, may I
17 have just a minute to respond?

18 CHAIRPERSON PREZEAU: So I am going to give an
19 opportunity for rebuttal. But what I would like to do at
20 this moment is see if there's questions from Board members
21 before we have those exchanges.

22 Okay. Seeing none, then I'm going to afford both the
23 Department and the original appellant the opportunity to
24 give rebuttal. And then we'll let the Board members have
25 some conversation.

1 So Ms. Greer.

2 ASSISTANT ATTORNEY GENERAL GREER: Thank you.

3 I only have two points.

4 On page 217 of the Board record, this is Mr. Windh's
5 testimony, and these are questions by the ALJ. And the
6 ALJ was asking questions about wiring from the junction
7 box to the disconnect and to the exterior, and then the
8 wording got cut off.

9 Mr. Windh responded, "We would hire a subcontractor
10 to do that. We never do that."

11 That is the reference to the line-voltage work that
12 Sullivan says it doesn't do.

13 The other point is in the regulation itself. And
14 this is WAC 296-46B-920, under (f) under the HVAC/
15 refrigeration systems, under (iv)(B) right before you get
16 to the 06A portion, the reference is that an 06A can do
17 wiring between units that are located within sight of each
18 other. The indoor units here were not within the sight
19 of each other; they were in different rooms. And there's
20 photographs of the two units in the exhibit.

21 So their argument that they were entitled to wire
22 these units, there's issues with that as well. But the
23 main concern was the tray cabling, the line voltage from
24 the outside unit up the wall to the building into the
25 interior.

1 Thank you.

2 CHAIRPERSON PREZEAU: Thank you, Ms. Greer.

3 Mr. Krueger.

4 MR. KRUEGER: Let me deal with Ms. Greer's first
5 point. Page 217.

6 Keep in mind, this was tray wiring between split
7 units of a ductless HVAC system. The question here on
8 page 217 has to do with wiring between the junction box to
9 the disconnect. Entirely different wiring. And Mr. Windh
10 answered honestly, they would not do that. It has nothing
11 to do with the wiring that's here in question.

12 What I'd like you to keep in mind when you deliberate
13 this, is it really fair that Sullivan Heating & Cooling
14 get five citations for running a wire that they're
15 licensed to run when they're doing this as an
16 accommodation to the electrical contractor? And I would
17 submit that if you think about this in all fairness,
18 you're going to find the administrative law judge did an
19 excellent job of documenting every one of his conclusions,
20 and his conclusions should be upheld.

21 Thank you for listening to us.

22 CHAIRPERSON PREZEAU: Thank you, Mr. Krueger.

23 So Board members, thoughts? Wow, you're overwhelming
24 me.

25 BOARD MEMBER BELISLE: Madam Chair?

1 CHAIRPERSON PREZEAU: Rod.

2 BOARD MEMBER BELISLE: Well, I guess I'll start -- I
3 guess just first off as a correction, we're talking about
4 two wires here, not one wire.

5 The outside unit, there's a picture on page 319 of
6 the document that shows the outside unit, and there's
7 actually two black wires that are not sleeved that run up
8 the raceway there, not one. And I believe each wire goes
9 to a separate unit.

10 Kind of to that point, if you go to page 279 in the
11 WAC rule, it says an 06A may not install line voltage,
12 service, feeder or branch circuit conductors, period. And
13 then it says, "however," and as you read through there, it
14 says they can do that if the conductors are within sight
15 from the two units. And in this picture, it shows they're
16 not in sight as Ms. Greer cited. So that's correct.

17 So I believe that the work of running the conductors
18 from the outside unit to the inside unit is out of scope
19 of an 06A contractor.

20 I read through this very carefully. You have to
21 interpret on that page the difference between a semicolon
22 and a colon, and it's not easy to read, and it probably
23 wasn't written with the best clarity in the world, but it
24 still exists.

25 I'd like to state that the 06A contractor is not

1 limited by voltage, phase or amperage is a general
2 statement, and that applies to each situation. And so if
3 they're removing or replacing a line-voltage component
4 within HVAC equipment which is under the scope of their
5 license, then in that case they're not limited by voltage,
6 phase or amperage. But the fact that they installed
7 conductors in an installation, it's not about the voltage,
8 phase or amperage; it's about the actual installation they
9 performed.

10 I think the fact that City of Bremerton was asked to
11 get a permit for the work, yet they cited Sullivan were
12 two separate actions. I think the inspector made the
13 determination that Sullivan had ran the wire and couldn't
14 do so, and so that was one determination by the inspector
15 that would require one action; they would cite Sullivan.

16 The next part of the inspection would be if they
17 can't do it, then who can. And so it was determined that
18 the City of Bremerton has the license, the people on
19 staff, and the ability to do it, and so it was determined
20 that the City of Bremerton should pull out the permit.
21 But that doesn't exempt Sullivan from the previous action
22 that the determination was made by that inspector.

23 That's all I have.

24 CHAIRPERSON PREZEAU: Thanks, Rod.

25 Other thoughts?

1 I know it was a bit of a thrill to read, right?

2 There was a lot of moving parts. There's a lot of pieces
3 here, and a lot to digest.

4 I will -- I must confess, though, Rod, I like the way
5 that you just phrased that.

6 I agree that in the WAC 296-46B-920, subsection (2)
7 which deals with specialties, and then specifically
8 subsection (2)(f) as it moves through there and obviously
9 ad nauseam in the transcripts is there's sort of the
10 understanding of permissible scopes of work.

11 I definitely -- I agree with Rod's characterization
12 that had these indoor -- had the two indoor units been
13 within sight of the outdoor unit, it's a different story
14 than the two cables that were installed.

15 Although, I do have some sympathy for Sullivan and
16 its agents, we seem to get consistently this Board is
17 asked to review appeals that involve workers performing
18 work that may or may not be consistent with their
19 workplace directive. I don't think that that is our
20 jurisdiction to determine, and I don't think we have the
21 ability to do that.

22 So anybody else want to have comments? Janet.

23 BOARD MEMBER LEWIS: Well, I agree with Rod that it's
24 clearly outside their scope of work.

25 I do have a question whether -- if it's outside their

1 scope of work, I guess I have a concern whether any entity
2 can purchase a permit to install something that is outside
3 their scope of work. So I'm conflicted on that particular
4 citation even though I understand why it was written.

5 That's my comment.

6 CHAIRPERSON PREZEAU: So I am curious for some -- the
7 Chair would love to entertain some discussion about the
8 ALJ's decision regarding the Department's -- give me a
9 moment -- that the Department did not meet its burden of
10 proof in determining when the equipment was -- give me one
11 moment --

12 MR. KRUEGER: Page 15, 5.4 at the top.

13 CHAIRPERSON PREZEAU: Thank you. Thank you,
14 Mr. Krueger.

15 -- that the Department had not met its burden to
16 prove when the electrical wiring associated with the
17 heating and cooling system at the forestry office was
18 completed and when the heating and cooling system at the
19 forestry office was first energized or -- (inaudible).

20 Does anybody have any thoughts on that? Rod.

21 BOARD MEMBER BELISLE: Well, I have a sticky note on
22 page 223 of the transcript. And --

23 CHAIRPERSON PREZEAU: Hang on just a second.

24 BOARD MEMBER BELISLE: It's the top of page 223.

25 It's the beginning of the second paragraph. It says, "It

1 was energized in April of 2013. Mr. Micheau's inspection
2 was in July of 2013, clearly more than ... one day that is
3 required for the inspection of (the) energized system."

4 So I --

5 CHAIRPERSON PREZEAU: Okay, so who's making --

6 BOARD MEMBER BELISLE: That was part of the
7 transcript. Now, I haven't gone back to dig up exactly
8 where that came from, but I have that highlighted which
9 leads me to believe that there was some documentation of
10 that.

11 CHAIRPERSON PREZEAU: I believe this is statements
12 made by Ms. Greer in her closing remarks.

13 ASSISTANT ATTORNEY GENERAL GREER: That's correct.

14 MR. KRUEGER: Yes.

15 CHAIRPERSON PREZEAU: Which the way I understand this
16 would mean that the ALJ deemed this not meeting the burden
17 of proof. I mean, I don't -- you know.

18 MR. KRUEGER: Ms. Greer was not a witness. She was
19 the attorney, and what the attorney argues is not
20 evidence.

21 CHAIRPERSON PREZEAU: No, I understand that.

22 ASSISTANT ATTORNEY GENERAL REULAND: A question would
23 be: Is that statement supported elsewhere in the record?

24 BOARD MEMBER BELISLE: Exactly.

25 CHAIRPERSON PREZEAU: So --

1 BOARD MEMBER BELISLE: Madam Chair?

2 CHAIRPERSON PREZEAU: Rod.

3 BOARD MEMBER BELISLE: So the only way that statement
4 or that citation could not be upheld would be if the fact
5 that that system had been energized less than one day
6 before the inspection was made.

7 The way I read the law, it says you have to have it
8 inspected one day after it's energized. And the day the
9 inspector showed up it was energized, which means it would
10 have had to been energized no further than one day, 24
11 hours, prior to the inspection being done. Is that
12 correct?

13 CHAIRPERSON PREZEAU: That would be my understanding
14 as well.

15 BOARD MEMBER BAKER: So Rod, I'm looking at those
16 wires hanging out of that -- the wires in question. And
17 to my vision, those are not energized.

18 BOARD MEMBER BELISLE: I think that -- I believe that
19 picture at that time they were not energized because the
20 inspector --

21 BOARD MEMBER BAKER: That photograph was taken I'm
22 assuming the first day the inspector --

23 BOARD MEMBER BELISLE: Right, I would agree.

24 BOARD MEMBER BAKER: So I'm just wondering how -- if
25 this transpired that the inspector would have made another

1 trip out there after the City of Bremerton pulled the
2 permit.

3 BOARD MEMBER BELISLE: Yes.

4 BOARD MEMBER BAKER: And at that time it was
5 energized.

6 BOARD MEMBER BELISLE: That's correct.

7 BOARD MEMBER BAKER: So I don't know -- in my mind I
8 don't know if the Department has provided burden of proof
9 that it was energized.

10 BOARD MEMBER BELISLE: Right.

11 BOARD MEMBER BAKER: Then going to Janet's comment
12 about how can you call for inspection on the permit --
13 (inaudible). There's a gap there.

14 CHAIRPERSON PREZEAU: So Don, I think that's viable
15 commentary. And I think that -- I want folks to remember
16 that when it comes to purchasing permits -- and part of
17 this came up in the transcript -- part of the function of
18 purchasing permits is to ensure that an inspection
19 actually happens. And so they're sort of intrinsically
20 linked, and it's this sort of odd linkage between the
21 language in the WAC as it was argued in front of the ALJ
22 at the very beginning of the hearing. And the requirement
23 for purchasing the permit -- because it's really about
24 making sure that the work gets inspected.

25 In this case -- you know, we all read the record --

1 that Mr. Windh, you know, had submitted the bid. It was
2 the intent of the City of Bremerton to try to keep costs
3 at a minimum, so they were going to self-perform the
4 electrical.

5 Again, Mr. Crowley I believe -- did I get that name
6 right -- was the employee of -- Mr. Crowder of Sullivan
7 Heating. And I'm going to use the judge's words here, and
8 I'm reading from page 16 of the packet. "Under the
9 doctrine of respondeat superior, Sullivan Heating &
10 Cooling is responsible for the actions of its employee,
11 Mr. Crowder, when he installed the heating and cooling
12 system in the Forestry Office."

13 So I understand some of the apprehension there with
14 -- if you don't buy the permit, you don't get it
15 inspected. And it's truly more about the inspection.

16 BOARD MEMBER BAKER: And that inspection has to come
17 within 24 hours of being energized or once the job's
18 completed. And the transcript reads that Sullivan's
19 intent was to install those wires and to get a permit for
20 them. It was almost like a courtesy installation that
21 they performed. I don't think Sullivan ever intended --
22 it didn't read like their intent was to -- (inaudible).
23 It read like their intent was, you know, we're
24 (inaudible).

25 CHAIRPERSON PREZEAU: Well -- and I think

1 Mr. Sullivan and Mr. Windh separated themselves from
2 Mr. Crowder and indicating that, hey, we -- you know,
3 these two cables that were -- that everybody's referring
4 to in the record as tray cable were outside the scope of
5 bid. From my perspective, it doesn't matter, right?

6 Because the employee -- the installation of these two
7 cables are not within the scope of -- firstly are not
8 within the scope of an 06A administered specialty
9 contractor.

10 Additionally, Mr. Crowder -- and this doesn't get
11 brought up -- but Mr. Crowder is a trainee, an electrical
12 trainee, and is actually not allowed -- would need to be
13 supervised. Even if he had the ability to perform this
14 work would have to be supervised in order to perform this
15 work.

16 But it still doesn't exempt -- and I agree with the
17 judge in this case. The ALJ says they're still
18 responsible for the actions taken by employees. And if
19 you look in the record, Sullivan Heating and Mr. --
20 Heating & Cooling and Mr. Windh as the administrator has
21 been cited previously for lack of enforcement as the
22 administrator. And if I recall in the record -- and I
23 don't remember the page -- but Mr. Windh's testimony had
24 to do with his technicians not applying the Class B
25 permits, right, like once the work is concluded; they

1 don't actually stick the Class B sticker label on the
2 installation. And his technicians would come back to the
3 shop with that sticker in their final paperwork instead of
4 being applied.

5 And the reason why I bring that up is in those
6 situations, again, you know, against the -- or in contrast
7 to what their work directives, their employees deviated,
8 right? Employee was cited, and held responsible for the
9 actions of their employees.

10 Rod.

11 BOARD MEMBER BELISLE: I'm not sure there's any -- I
12 read this at least twice, and I don't know that there's
13 anything other than that one statement that says when it
14 -- or proves when it was actually energized. I guess I
15 would just like to say that it concerns me that Sullivan
16 has gone on record at least twice and saying the work they
17 did was in scope, and they're perfectly allowed to do it
18 as an 06A, they just on that job did not contract to do it
19 and weren't being paid to do it. And I wouldn't want them
20 to walk away from this meeting today with that belief.
21 Because I don't have that belief. And I think if it comes
22 up again, they will be cited again. So hopefully that
23 comes out of this.

24 BOARD MEMBER NORD: Madam Chair?

25 CHAIRPERSON PREZEAU: Yes.

1 BOARD MEMBER NORD: A question I have is: In the
2 transcript the Department states that they were
3 requested --

4 CHAIRPERSON PREZEAU: Where are you at?

5 BOARD MEMBER NORD: Page 36.

6 They were requested to do an inspection on July 8th
7 of 2013. When I read this through, I don't think I ever
8 found in the transcript of what date the contractor turned
9 the installation over to the City of Bremerton as
10 complete.

11 So we know what date that the inspection was
12 requested, but we don't know as of what date the
13 contracted work was completed and turned over.

14 CHAIRPERSON PREZEAU: So what I hear you say is it
15 goes to this -- the ALJ's decision that the Department did
16 not meet their burden of proof about when the work was
17 completed. Is that what --

18 BOARD MEMBER NORD: My whole point here -- and I
19 agree with Rod and I agree with Janet -- that we have one
20 day from the date the installation is completed and
21 energized to request an inspection. The City of Bremerton
22 requested this inspection on July 8th, but nowhere in the
23 transcript did I find a date on what date Sullivan turned
24 the installation over to the City of Bremerton as
25 complete. Or did I misread it?

1 BOARD MEMBER BELISLE: I would agree. I don't find
2 anywhere in here that somebody says or no one asked when
3 it was actually energized.

4 BOARD MEMBER NORD: Yes, that's what --

5 BOARD MEMBER BELISLE: I think it was assumed, but it
6 was never asked.

7 ASSISTANT ATTORNEY GENERAL GREER: That's correct.
8 That question wasn't asked.

9 BOARD MEMBER NORD: There would have to be a date
10 that Sullivan told the city "Our installation's complete,"
11 the city to request the installation inspection.

12 CHAIRPERSON PREZEAU: So the corresponding citation
13 number for timeliness ...

14 BOARD MEMBER BELISLE: 85 -- or 385. It's on page
15 24.

16 CHAIRPERSON PREZEAU: Yeah. So citation EMICC00385
17 corresponds with failing to request an inspection within
18 three days after completing the installation or one
19 business day after energizing, whichever occurs first,
20 which as you all know was reversed by the ALJ.

21 And EMICC00384 is the citation that goes to what Rod
22 was just speaking to the crux that the installation of the
23 -- we'll call it tray cabling to be consistent -- between
24 the outside unit and the two inside units is outside their
25 06A's scope of work.

1 So any more discussion?

2 BOARD MEMBER CORNWALL: I just have a comment. And
3 that's that the City of Bremerton didn't take out the
4 electrical permit. The City of Bremerton electricians --

5 BOARD MEMBER: We can't your comments.

6 CHAIRPERSON PREZEAU: Would you speak up louder,
7 please.

8 BOARD MEMBER CORNWALL: Sorry. My understanding is
9 that the City of Bremerton had taken out the electrical
10 permit, and that the City of Bremerton electricians were
11 going to run all of the cabling. But when they got to the
12 site, they discovered that the tray cable had already been
13 installed. But then they make the comments in the
14 transcripts starting on 147 and also in other places that
15 leads me to believe that they knew that it was an improper
16 installation because it wasn't in conduit, and it wasn't
17 protected cables.

18 So I guess my point is if they knew it was an
19 improper installation and they had the materials on site
20 at the time and it was going to be within their scope, why
21 didn't they just fix it?

22 CHAIRPERSON PREZEAU: I think that is a question that
23 we will not know the answer to, at least not in this
24 formal tribunal. As much as --

25 Dominic.

1 BOARD MEMBER BURKE: A comment/question. Something I
2 didn't see in there, going back to your 296-46 and being
3 within an 06A to install -- if the overcurrent -- primary
4 or overcurrent device or supplementary overcurrent device
5 are within sight of each other, I didn't see anything in
6 here showing that they weren't within sight of each other.
7 A supplementary unit, a lot of times the overcurrent
8 device will be in the primary.

9 I'm just asking if anyone found either way in here.

10 CHAIRPERSON PREZEAU: You're asking about the
11 location of the overcurrent device?

12 BOARD MEMBER BURKE: Yeah. Basically because it's
13 important to what you said earlier on whether or not the
14 primary and secondary overcurrent devices are within
15 sight. Because the secondary overcurrent device could
16 very well be in that outside unit protecting to the inside
17 unit. And I didn't see in the pictures or in the
18 documentation where the -- (inaudible).

19 I guess part of that also is electrically, I don't
20 believe that the feeds to the supplementary units could be
21 energized without the City of Bremerton energizing their
22 feed or, you know, from the main disconnect to the primary
23 unit, if that makes sense.

24 CHAIRPERSON PREZEAU: Yeah. I mean, like if the
25 power for this outdoor unit is coming from the work that

1 -- you know, the disconnects and the -- you know, the load
2 side of the disconnect, right?

3 BOARD MEMBER BURKE: My point is -- (inaudible)

4 CHAIRPERSON PREZEAU: So tell me more about what
5 you're thinking, Dominic.

6 BOARD MEMBER BURKE: I just think we have to be
7 careful when we have a WAC rule written with the primary
8 and supplementary overcurrent devices, I think everybody
9 here agrees that if it was within sight this could be a
10 different conversation. I would like to know where the
11 secondary overcurrent device was.

12 CHAIRPERSON PREZEAU: Do you -- is it your contention
13 that these indoor units are within sight of the outdoor
14 units?

15 BOARD MEMBER BURKE: No, not at all. My contention
16 is is that if the supplementary overcurrent device is
17 within sight.

18 BOARD MEMBER BAKER: What page are you reading on,
19 Dom?

20 CHAIRPERSON PREZEAU: He's reading out of the WAC,
21 which you can find -- if you did bring your handy dandy
22 WACS ...

23 BOARD MEMBER BELISLE: 279.

24 BOARD MEMBER BURKE: I guess it says "and the
25 equipment being supplied located within sight."

1 But what do you do in a situation where those two can
2 be separated -- (inaudible).

3 See, and it tells you that from a supplementary
4 overcurrent device, you can install the conductors to the
5 supplementary HVAC equipment if from the supplementary
6 overcurrent device is in sight of the equipment. So that
7 supplementary overcurrent device is a huge piece of this.
8 And I didn't see it anywhere in there that tells me that.

9 BOARD MEMBER BELISLE: Tracy.

10 CHAIRPERSON PREZEAU: Go ahead.

11 BOARD MEMBER BELISLE: I maybe understand Dominic's
12 thought process there. I guess I -- I don't see proof
13 that they're meeting that requirement, for one.

14 I do see on page 254 which was an exhibit provided by
15 Sullivan a drawing on the left-hand side there, and it
16 shows the indoor unit with a disconnect switch, and it
17 does not show an overcurrent device. So if the indoor
18 unit simply has a disconnect switch and a terminal block,
19 there is no supplemental overcurrent device there within
20 sight of that connection.

21 But I'm not sure that would change the installation
22 to be honest with you. I'm not convinced that would
23 matter.

24 CHAIRPERSON PREZEAU: Janet.

25 BOARD MEMBER LEWIS: When you read that section of

1 the WAC, both of those conditions have to be met.

2 CHAIRPERSON PREZEAU: That's my -- that's why I
3 stopped -- I see both -- I mean, I appreciate where you're
4 going, Dominic, but I think both conditions have to be
5 met. And the fact that it's not in sight regardless of
6 the location of the supplemental overcurrent protection.

7 ASSISTANT ATTORNEY GENERAL GREER: Madam Chairman,
8 may I respond to one thing by just kind of information?

9 CHAIRPERSON PREZEAU: Sure.

10 ASSISTANT ATTORNEY GENERAL GREER: The question's
11 come up as to when the City of Bremerton would have
12 received notice from Sullivan that they finished their
13 work. The direct question wasn't asked, but it's in the
14 record. It's page 311. It's the actual invoice from
15 Sullivan to the City of Bremerton requesting payment.
16 It's dated April 26, 2013. This is three days after the
17 City of Bremerton's journeyman electrician encountered the
18 Sullivan employee on-site at the forestry building.

19 The actual -- the bid is page 250. The invoice is
20 311. So we have the bid and the invoice both in the
21 record.

22 BOARD MEMBER NORD: Madam Chair, on page 267 we have
23 a letter from the City of Bremerton stating that their
24 work was completed on April 12th. So if their work was
25 completed on April 12th, an inspection wasn't called for

1 until July 8th, this system was energized far beyond their
2 -- (inaudible).

3 MR. KRUEGER: Their work was not to energize it.
4 Their work wasn't to do the electrical. The Department
5 has not met its burden of showing when it was completed.
6 And to be completed, it has to be both Sullivan's portion
7 of it and the City of Bremerton's portion of it.

8 The administrative law judge is correct when he says
9 nowhere in this record does it tell you when that system
10 was energized or when it was completed.

11 BOARD MEMBER NORD: But would you not -- so you're
12 stating that your client billed prior to the completion of
13 that system?

14 CHAIRPERSON PREZEAU: Don't answer that question.
15 Let it go. We're confined to the information in the
16 record.

17 BOARD MEMBER NORD: The record shows they billed
18 4/26.

19 CHAIRPERSON PREZEAU: I understand that. And I --

20 MR. KRUEGER: But their part of it was not to
21 energize the system or to complete the wiring. Their job
22 was to do the mechanical portion.

23 BOARD MEMBER BELISLE: I would say their bid was to
24 do the mechanical system, not their -- I mean, it's a fine
25 line between what the bid document said and what the

1 physical installation was. And the inspector is going to
2 inspect the job based on the physical installation
3 regardless of who's paying the bill and how much they're
4 paying. So the bid is irrelevant other than intent by the
5 estimator. That really has no bearing in this case in my
6 opinion.

7 BOARD MEMBER BURKE: I agree.

8 BOARD MEMBER BAKER: I don't think the invoice has
9 any relevance either because it doesn't say whether it was
10 energized or was completed.

11 CHAIRPERSON PREZEAU: And to this letter from Chris
12 Mottner who is the facilities/inventory supervisor at the
13 City of Bremerton, this says on April 12, 2013, the City
14 of Bremerton electricians completed the work order, which
15 given the fact that that work order was supposed to be for
16 the entire electrical installation, but what we know to be
17 true was not what ended up happening. And I don't know
18 that you -- I don't know that you can conclude that
19 because this guy says that the work order was completed
20 that the installation that was -- that includes the
21 primary side of the disconnect and the load side of the
22 disconnect, right? to the outdoor unit, and then the
23 energizing of the indoor components of the split system.

24 Bobby.

25 BOARD MEMBER GRAY: If the installation is considered

1 installing these line voltage conductors, and that's what
2 the citation describes, we have testimony by the City of
3 Bremerton electricians that on April 23rd --

4 CHAIRPERSON PREZEAU: Where are you at in the record?

5 BOARD MEMBER GRAY: I'm on -- well, I'm referring --
6 well, I'm referring to 4.21 of the work performed on page
7 12 of 431. The actual testimony in the transcripts is on
8 page 155 where they testify that when they went to the
9 site in order to install these conductors with material
10 that they had to complete the job; those conductors had
11 already been installed. And that's when they discovered.
12 So we've established through that testimony that at least
13 they were installed on or about April 23rd. The citation
14 is dated July 8th. So clearly that installation had been
15 completed more than three days with no request for
16 inspection for those particular conductors if that's what
17 we describe as the installation.

18 BOARD MEMBER BAKER: Well, you have to read all of
19 4.21. And it says at the end "... but the wires had not
20 yet been hooked up" So the installation wasn't
21 complete.

22 CHAIRPERSON PREZEAU: Where are you at, Don?

23 BOARD MEMBER BAKER: Page 12 under "Work Performed."
24 4.21 is what he was referencing. If you get to the bottom
25 and he describes the wires -- the City of Bremerton

1 employees describe the wires being installed. And they
2 say, "... but the wires had not yet been hooked up to the
3 outdoor unit."

4 So the installation wasn't complete on that day.

5 BOARD MEMBER GRAY: So is it our precedent that the
6 conductors can be put in place, but as long as they're not
7 connected at either end, that's not a complete
8 installation?

9 CHAIRPERSON PREZEAU: Where I am at right now is I
10 don't know that there is evidence in the record to
11 indicate that there is -- the exact date that either this
12 outdoor unit was energized and/or, you know, completed
13 within at least three days. And in looking at that as
14 completely separate from all of the other pieces that have
15 been discussed thus far, clearly it is as Rod has
16 indicated it is electrical work that is outside the scope
17 of an 06A administered specialty contractor. And -- but I
18 think there's -- I don't see -- I think as a journeyman
19 electrician who has installed, you know, done electrical
20 installations and called for inspection, I think there's a
21 portion of me that wants to say it's reasonable to believe
22 that probably sometime after April 23rd this installation
23 was completed and those two tray cables were energized.
24 And do I believe that that is possible that it could have
25 been done in violation of the one-day energized rule or

1 the three-day completion rule? I think the answer's yes.
2 But there's no definitive line in the record to give me
3 that -- at this moment in time unless somebody can show me
4 something else, I agree with the judge that the Department
5 did not meet their burden of proof to determine timeliness
6 of the completed installation.

7 BOARD MEMBER BAKER: I agree with you.

8 BOARD MEMBER BURKE: And I agree.

9 BOARD MEMBER BAKER: And I believe that that
10 completed installation was probably not by the City of
11 Bremerton under their permit by their electricians.

12 BOARD MEMBER BELISLE: Very, very possible.

13 CHAIRPERSON PREZEAU: Yeah, see, I disagree with
14 that. Because I believe in the test -- and I don't know
15 that that matters, but I believe in the testimony that
16 Mr. Bedrosian and Mr. Charvat, two journey level
17 electricians that work for the City of Bremerton, it
18 indicates to me that those cables were not terminated, and
19 they left. Right? They said, "Hey, thanks for not
20 crawling up in the attic; we're out." And Mr. Crowder
21 remained on -- you know, they walked the job with
22 Mr. Crowder, and then they left.

23 BOARD MEMBER BAKER: I agree with you. I don't think
24 it matters. I don't think we have enough evidence to
25 reverse the ruling.

1 CHAIRPERSON PREZEAU: Rod.

2 BOARD MEMBER BELISLE: Yeah, I was going to agree
3 with you that I think Mr. Crowder even says at some point,
4 "Don't worry about it. I'll make the termination."
5 Because they went into great detail to explain to the
6 judge what it means to terminate something.

7 I wonder if it's appropriate to make a motion at this
8 point.

9

10 Motion

11

12 So I'd like to make a motion on page 24 that we
13 reverse the judge's decision on proposed order item 6.2.

14 CHAIRPERSON PREZEAU: Okay. So Rod's motion is to
15 reverse the ALJ's decision on citation number EMICC00384.
16 And as you recall, this has to do with this issue of
17 timeliness of calling for the inspection.

18 BOARD MEMBER BELISLE: Nuh-uh. Scope of work.

19 CHAIRPERSON PREZEAU: Scope of work. Excuse me.
20 Thank you.

21 Is there a second?

22 BOARD MEMBER NORD: Second.

23 CHAIRPERSON PREZEAU: So it's been moved and seconded
24 to reverse the ALJ's decision on citation number
25 EMICC00384. And again, I'm referring to the installation

1 of the two tray cables being outside an 06A administered
2 contractor scope of work.

3 Discussion on the motion? Seeing none --

4 BOARD MEMBER CUNNINGHAM: Madam Chair?

5 CHAIRPERSON PREZEAU: Yes.

6 BOARD MEMBER CUNNINGHAM: I think we on page 279 --
7 we read through this extensively. Rod talked about it.
8 Parts of the language -- and I'm certainly no wordsmith.
9 But it seems like the 06 description tells you very
10 explicitly what that license specialty can and cannot do.
11 And then there's a series of paragraphs, the last one
12 ending with really the operative paragraph here which is
13 having to do with the wiring between the overcurrent
14 device and the supplemental equipment, there's no -- that
15 whole particular paragraph all fall under (iv) what the
16 equipment may not do. But then (v) is the
17 HVAC/refrigeration 06A. Nowhere in the 06 description
18 does it say that all of those will apply to 06A. That is
19 inferred.

20 CHAIRPERSON PREZEAU: Are you -- is that for me?

21 BOARD MEMBER CUNNINGHAM: It's just --

22 CHAIRPERSON PREZEAU: So here's what I --

23 BOARD MEMBER BELISLE: I can clarify it.

24 BOARD MEMBER CUNNINGHAM: The context of 06A is
25 really -- the way it's written is poor. It's really

1 confusing.

2 CHAIRPERSON PREZEAU: And I will share with you the
3 reason from my perspective, the reason that it is poorly
4 crafted, it is a haberdashery of legislative action that
5 has taken place since this license was created in 1999.

6 The scopes of work when it comes to the 06A license,
7 as you heard the testimony from Mr. Windh, was
8 grandfathered in because he worked in the industry when
9 the 06A license was actually created which happened in
10 1999.

11 The 06B license was then created in 2003 to address
12 purely residential installations.

13 And then there was -- it was either 2004 or 2005
14 there was an expansion in the scope of work of the 06A.
15 And then some of the Board members may recall -- it wasn't
16 very many years ago -- that there was another request for
17 expansion of the scope of work. It came in front of the
18 Board. It started as a legislative process, ended up
19 here, and that request for a further expansion of the
20 scope of work was denied by the Board.

21 But it's -- it is the Chair's opinion that several of
22 the scopes of work that exist in 296-46B-920 need to be
23 clarified. And this is a dramatic example of that.

24 BOARD MEMBER BURKE: It is written as a subsection to
25 (f). So it would -- essentially those would apply.

1 CHAIRPERSON PREZEAU: Rod.

2 BOARD MEMBER BELISLE: Well, I was just going to
3 point out on page 278 in (f), it says "HVAC/refrigeration
4 systems." And if you read down to -- there's (i), (ii),
5 (iii) and then (iv), it says "The HVAC ... specialties
6 described in (f)(v)" -- which is pointing to the 06A on
7 the right-hand side.

8 CHAIRPERSON PREZEAU: Yes.

9 BOARD MEMBER BELISLE: Shall not -- or may not. And
10 then go to the top of the next page. So it's in front of
11 the actual license it's talking about.

12 But, again, haberdashery's a pretty appropriate word
13 maybe.

14 CHAIRPERSON PREZEAU: Haberdashery, yes.

15 So a motion and seconded. Any further discussion on
16 the motion? Okay, seeing none, all those in favor,
17 signify by saying "aye."

18 THE BOARD (majority): Aye.

19 CHAIRPERSON PREZEAU: Opposed?

20 BOARD MEMBER CORNWALL: (Raising hand.)

21 CHAIRPERSON PREZEAU: There's one in opposition.

22 Motion carried.

23

24

Motion Carried

25

1 CHAIRPERSON PREZEAU: There is a piece that I would
2 like to call to everyone's attention, and it is so that
3 when we craft final orders this can be addressed or
4 remedied. But in the ALJ's proposed order 6.1, his action
5 of affirming citation number EMICC00383 is inconsistent
6 with the language in the proposed order. Because although
7 he affirms the citation, in 6.1 indicates that because of
8 that affirmed citation, the appellant Sullivan Heating &
9 Cooling, Inc. is not liable for the corresponding civil
10 monetary penalty. So --

11 MR. KRUEGER: That was not appealed.

12 CHAIRPERSON PREZEAU: No, I understand that. I
13 understand that.

14 But I would make an assumption that if the ALJ
15 affirmed a citation with that inconsistency in the
16 affirmation and the applicable citation, those two things
17 are incongruent.

18 MR. KRUEGER: But that was not appealed. So ...

19 ASSISTANT ATTORNEY GENERAL GREER: The order summary
20 on page 9 does say that it is -- that Sullivan was liable.
21 So the order summary and the proposed order are
22 inconsistent.

23 MR. KRUEGER: But the order controls and was not
24 appealed. And I would suggest to you you don't have
25 jurisdiction to change that if it wasn't appealed.

1 ASSISTANT ATTORNEY GENERAL REULAND: Actually to the
2 contrary. The Department -- the Office of Administrative
3 Hearings issues a proposed decision and order. And the
4 whole order is subject to de-novo review by the Board.

5 So I believe you are correct that the order could be
6 construed as controlling, and it would be up to this Board
7 whether or not they want to amend the decision and order
8 to correct that inconsistency or not.

9 CHAIRPERSON PREZEAU: Rod.

10

11 Motion

12

13 BOARD MEMBER BELISLE: I would make a motion that we
14 amend proposed order 6.1 and strike the word "not" prior
15 to "liable."

16 BOARD MEMBER NORD: Second.

17 CHAIRPERSON PREZEAU: So it's been moved and seconded
18 to amend ALJ's proposed order 6.1. And that amendment is
19 to strike the word "not" so that the proposed order 6.1
20 would then read: The Department's Non-Compliance Citation
21 Number EMICC00383 is affirmed and Appellant Sullivan
22 Heating & Cooling is liable for the corresponding civil
23 monetary penalty in the amount of \$2,000.

24 Discussion on the motion?

25 MR. KRUEGER: And we respectfully object.

1 CHAIRPERSON PREZEAU: Thank you, Mr. Krueger.

2 Seeing none, all those in favor, signify by saying
3 "aye."

4 THE BOARD: Aye.

5 CHAIRPERSON PREZEAU: All those opposed? Motion
6 carried.

7

8 Motion Carried

9

10 CHAIRPERSON PREZEAU: Any other discussion on
11 Sullivan Heating & Cooling?

12 BOARD MEMBER BELISLE: Tracy?

13 CHAIRPERSON PREZEAU: Oh, we have one more? Rod.

14 BOARD MEMBER BELISLE: Well, I believe the Department
15 was asking that we reverse the judge's position on item
16 6.3.

17

18 Motion

19

20 And I guess I think we need to make a motion to
21 affirm the judge's determination and retain that item 385
22 is reversed and Sullivan is not liable.

23 CHAIRPERSON PREZEAU: Yeah. I guess my thought is we
24 didn't have to do -- we wouldn't have to make that motion.

25 But it's probably cleaner. Pam's all about a clean

1 record.

2 SECRETARY THORNTON: Madam Chair?

3 CHAIRPERSON PREZEAU: Yes.

4 SECRETARY THORNTON: Can I say something about when a
5 job's completed and when it's not?

6 ASSISTANT ATTORNEY GENERAL REULAND: Wait a minute.
7 There's a motion. Has it been seconded? And then if you
8 call for discussion on the motion, whether that falls
9 within it or not. You have to determine whether it's
10 appropriate procedurally.

11 CHAIRPERSON PREZEAU: Yeah. So my inclination,
12 Steve, is that while I appreciate your expertise in terms
13 of completion, and I've heard some remarks from Board
14 members that they would like to understand that more
15 clearly. See, yeah, I can't add to the record. We can
16 have that discussion after the fact.

17 SECRETARY THORNTON: Okay, that's fine.

18 CHAIRPERSON PREZEAU: I appreciate your willingness
19 to assist.

20 So it has been moved to -- moved and seconded to
21 affirm the proposed order -- the ALJ's proposed order 6.3.
22 Any discussion on the motion? And this is referring to
23 citation number EMICC00385.

24 BOARD MEMBER GRAY: A point of order, Madam Chair.
25 With all due respect, the issue is the citation against

1 Sullivan for simply placing conductors in a location. I
2 think the Department clearly understood that they did not
3 do the actual termination or energize the equipment.
4 Otherwise, they would have cited the City of Bremerton.
5 So I understand what you said, but I do think it is in the
6 scope of the discussion to have the Department explain to
7 us exactly what they mean by completion of the
8 installation, whether that included just placing those
9 conductors in place or whether an installation completion
10 included terminating and energizing the circuit. To me
11 that's pretty important.

12 CHAIRPERSON PREZEAU: I agree with your position.
13 The problem is we don't get to -- we have to render our
14 decision based on what is in here.

15 BOARD MEMBER GRAY: It is in here. That's the
16 citation. That's the crux of the citation.

17 CHAIRPERSON PREZEAU: So I understand that. So in
18 the future had that been explored in the hearing in front
19 of the ALJ, then we would have the ability to understand
20 that. Because it's contained within the transcript. What
21 we do not have the ability to do is look to the Department
22 to understand their position about why -- the crux of the
23 citation. We can have that conver -- with respect to this
24 appeal. We don't have the ability to enter in new
25 information, even though it would be more comforting or be

1 more helpful. It is frustrating; I understand that.
2 We've sat -- reviewed appeals where you wish there was
3 additional information in the record, and we don't have
4 the ability to enter that in.

5 BOARD MEMBER LEWIS: Call for the question.

6 CHAIRPERSON PREZEAU: All right. The question has
7 been called for. So all those in favor of the motion to
8 affirm proposed order 6.3 signify by saying "aye."

9 THE BOARD (majority): Aye.

10 CHAIRPERSON PREZEAU: Opposed?

11 BOARD MEMBER GRAY: Aye.

12 CHAIRPERSON PREZEAU: So one in opposition. The
13 motion carries.

14

15 Motion Carried

16

17 CHAIRPERSON PREZEAU: So the Board has made its
18 decision. And both Ms. Greer and Mr. Krueger, the way my
19 script reads is it doesn't actually put into consideration
20 that we've kind of split the decision here.

21 So to all parties, Ms. Greer for the Department, and
22 Mr. Krueger, is there a proposed final order that can be
23 offered today?

24 ASSISTANT ATTORNEY GENERAL GREER: There is not.

25 MR. KRUEGER: But I'm sure that Ms. Greer and I will

1 have no problem in preparing one.

2 CHAIRPERSON PREZEAU: Very good.

3 MR. KRUEGER: You can see how I look after the last
4 hearing (referencing neck brace).

5 CHAIRPERSON PREZEAU: Yes.

6 ASSISTANT ATTORNEY GENERAL GREER: For the record, I
7 did not do that.

8 CHAIRPERSON PREZEAU: So I very much appreciate the
9 fact that there is -- counsel's willingness to work with
10 one another on this.

11 Please be advised that if you do not reach an
12 agreement, this matter will be automatically set for
13 presentment at the next regularly scheduled Board meeting,
14 which will be in April. And I think the parties saw how
15 that process happens here. So my hope quite honestly is
16 that, you know -- and if an agreed order has not been
17 received by that date of the meeting, the parties will be
18 expected to file their proposed orders and appear and
19 advise why their proposed order best reflects the Board's
20 decision. Hopefully this will not be necessary.

21 If you are able to reach agreement as to the form of
22 the order before the next meeting, please forward it to
23 the secretary of the Board's office, and they will ensure
24 it gets signed and copies provided to the parties.

25 Thank you.

1 ASSISTANT ATTORNEY GENERAL GREER: Thank you.

2 CHAIRPERSON PREZEAU: I say we take a break. So 15
3 minutes.

4 (Recess taken.)

5 CHAIRPERSON PREZEAU: All right. It is 11:23, and I
6 would like to reconvene the January 29, 2015, Electrical
7 Board meeting.

8 And we -- Bobby has stepped out. He needed to make a
9 phone call. And Janet Lewis is suffering some negative
10 impacts from some dental work she had done yesterday. So
11 Janet has excused herself. So she will no longer be
12 attending any portion of this meeting. Mr. Gray has just
13 stepped out to make a necessary phone call. But let the
14 record reflect we still have a quorum. So Bobby will
15 rejoin us.

16 I think all the Board members had a conversation with
17 Elissa that this -- I just want to make sure -- this green
18 raffle ticket (showing), when you go out to your car at
19 the conclusion of the day, there will be an envelope on
20 your windshield. Put this green raffle ticket in the
21 envelope, and then as you exit the parking structure,
22 there is a place to deposit the envelope. And if you do
23 so, it will take care of the parking costs.

24 All right. So I know there was a desire to have a
25 conversation from the -- a broader conversation from the

1 Chief regarding installation completion. I would like to
2 adhere to the agenda and would like to hear the second and
3 final appeal and then have that conversation.

4 So we are -- we've completed agenda item 3.b.
5 Sullivan is finished.

6

7 Item 3.c. Miller's One Hour Heating and David Adams

8

9 CHAIRPERSON PREZEAU: So now we're under 3.c. which
10 is Miller's One Hour Heating and David Adams.

11 Very good. So I think all parties in front of us
12 this morning were here when we did this rules of
13 engagement speech, but for the record I'll repeat it.

14 So good morning. My name is Tracy Prezeau. I am the
15 Chair of the Electrical Board. The matter before us today
16 is an appeal in the matter of Miller's One Hour Heating &
17 Air Conditioning and David Adams, which is docket numbers
18 2013-LI-0140 and docket number 2013-LI-0146.

19 This hearing is being held pursuant to due and proper
20 notice to all interested parties in Tacoma, Washington on
21 January 29th at approximately 11:30 a.m.

22 This is an appeal from a proposed decision and order
23 issued by the Office of Administrative Hearings on June
24 25, 2014. It is my understanding that decision upheld
25 citation and notice numbers EBRRQ00662, 00663 issued by

1 the Department of Labor and Industries on April 12, 2013.

2 It is further my understanding that the appellant,
3 Mr. Adams, has timely appealed that decision to the
4 Electrical Board.

5 At this time, I'm assuming Mr. Adams, right? --

6 MR. ADAMS: Yes.

7 CHAIRPERSON PREZEAU: -- is present and representing
8 yourself; is that true?

9 MR. ADAMS: Yes.

10 CHAIRPERSON PREZEAU: And Mr. Adams, I'm assuming
11 that it's very simple? A-D-A-M-S?

12 MR. ADAMS: Can't get any simpler than my name.

13 CHAIRPERSON PREZEAU: Beautiful.

14 And the Department is present and represented by
15 Assistant Attorney General Ms. Kellogg.

16 ASSISTANT ATTORNEY GENERAL KELLOGG: Yes.

17 CHAIRPERSON PREZEAU: And for the record, Ms. Kellogg
18 -- K-E-L-L --

19 ASSISTANT ATTORNEY GENERAL KELLOGG: -- O-G-G.

20 CHAIRPERSON PREZEAU: Thank you. Great.

21 So the Electrical Board is the legal body authorized
22 by the legislature to not only advise the Department
23 regarding the electrical program but to hear appeals when
24 the Department issues citations or takes some other
25 adverse action regarding an electrical license

1 certification or installation.

2 The Electrical Board is a completely separate entity
3 from the Department and as such will independently review
4 the action taken by the Department.

5 When the Department issues penalties, the hearing is
6 assigned to the Office of Administrative Hearings to
7 conduct a hearing pursuant to the Administrative
8 Procedures Act. The ALJ who conducts that hearing then
9 issues a proposed decision and order.

10 If either party appeals, that decision is subject to
11 review by the Electrical Board. Please keep in mind that
12 while our review is de novo, we are bound by the evidence
13 in the record and no new evidence can be submitted at this
14 hearing.

15 Each party will be given approximately 15 minutes
16 today to argue the merits of your case. Any Board member
17 may ask questions, and the time may be extended at the
18 discretion of the Board.

19 At the conclusion of the hearing, the Board will
20 determine if the findings and conclusions reached by the
21 ALJ are supported by the facts, laws and rules pertaining
22 to electrical installation.

23 So any questions before we begin?

24 MR. ADAMS: No.

25 CHAIRPERSON PREZEAU: So Mr. Adams, as the appealing

1 party, you have the burden of proof to establish that the
2 proposed decision is incorrect. Therefore, I would ask
3 that we hear from you first.

4 MR. ADAMS: Okay. Thank you.

5 First of all, I'd like to apologize to the State,
6 Nancy, all of you for the amount of effort that has to go
7 into something like this. I mean, there's hours and hours
8 of time.

9 But I'm very adamant about my appeal in this case.

10 So first of all, if you could turn to exhibit -- or
11 page number 92 of this nice little book here. And the
12 first citation that I received was failure to get a
13 permit, to ensure all electrical labels, permits and
14 licenses required to perform electrical work are used.

15 I'm just going to give you a little bit of a time
16 line the way this job went and why I never got an
17 electrical permit.

18 First of all, we were contracted to do a heating
19 system. And I obtained a mechanical permit. And the
20 mechanical permit, a copy of that is on page 92. I
21 therefore hired a subcontractor, Crown Electric, to do our
22 electrical work. So Crown Electric was there and
23 installed the low-voltage cable. And he pulled Class B
24 installed thermostat wire cabling. And a picture of that
25 is on page 23. He also got another electrical permit for

1 high voltage wiring that he did also. And that's on page
2 94.

3 So I never intended to do any electrical work on this
4 job at all. So therefore, I had no intention of ever
5 getting an electrical permit.

6 What happened was -- go back to page 80 of this, and
7 you will see that I employed a gentleman by the name of
8 Scott Gilliam. And Scotty got a little bit impatient and
9 wouldn't wait for the electrician to come back to do what
10 the electrician was hired to do, and Scotty on his own
11 went ahead and hooked up the thermostat wire. And the
12 inspector arrived, saw Scotty working on the electrical
13 wire.

14 I'm not trying to hide from anybody. We have big
15 yellow trucks. I mean, we're -- I do everything I can to
16 stay within the scopes of the law.

17 And what I had done knowing that this sometimes is an
18 issue with my technicians previous to this, I had printed
19 out and I made every one of my technicians sign this --
20 basically it explains the 06A and the 06B, and that they
21 need to be licensed electricians in their scope of work,
22 and they're not to do any electrical work because they're
23 not licensed.

24 I do have some technicians that are 06B, some
25 technicians that are 06A, and they can do that scope of

1 work. Scotty happened to be not one of them at that time;
2 he couldn't pass the test. He was having to struggle
3 passing the test.

4 Anyway, he was never given any direction by myself,
5 by any management, by anybody to do that. An electrician
6 was hired to do that. He just -- the electrician had left
7 for whatever purpose, wasn't there. Scotty finished the
8 mechanical portion of what he needed, and the next thing
9 to do was to hook up the thermostat. And he proceeded to
10 go ahead and do that. Got caught doing it.

11 And basically the policy is is that he shouldn't have
12 been doing that. He was not given direction by me or
13 anybody else to do that.

14 Then he received a reprimand. If you look at page
15 81, you can see the reprimand that he got in doing that.

16 So my argument is and what I ask for is that these
17 citations be changed to a warning in what was given to
18 Scotty. Scotty received a warning from the State.

19 And I just don't know what more to do. Really as a
20 contractor, I tell my guys. They understand the law. I
21 tell them not to do whatever they're going to do. And if
22 they go on their own to do it to save time or whatever,
23 they're on their own; they're rogue. I really don't know
24 what more to do. I have them sign that they're going to
25 comply, that they understand the law. And then they're

1 highly reprimanded if I ever catch them.

2 I haven't had this happen since this time, thank God.

3 But -- you know. I really don't know what more to do.

4 So I felt it was important to come before the Board
5 and ask that this be, you know, overturned or moved to a
6 warning.

7 We do over 500 installs a year. And I am doing the
8 best I can to stay under the scope of the law; I really
9 am. I'm trying my best. I take a permit on every job,
10 every mechanical permit, every electrical permit that's
11 necessary, everything like that. I just -- I really do
12 that.

13 So that's basically my argument.

14 I want to say one other thing, though. In hearing
15 about the legislation that's coming up, I want to say I'm
16 not opposed to licensing, permitting, inspections,
17 continuing education. I think all those things are very
18 important. But I'm begging you -- I am begging you to
19 make relevant legislation to our industry, relevant and
20 understandable legislation.

21 As you saw in the previous thing, there's some not
22 very clear licensing and laws and that.

23 And my guys struggle. I mean, they really do
24 struggle to pass the electrical portion of the exams that
25 are really for an electrician, an 01 electrician. I see

1 the NEC book there. The ones that passed, it just means
2 they know how to pass a test and they can read a book. It
3 really means nothing about their trade. There's nothing
4 pertaining to our trade, literally nothing in the testing,
5 the continuing education and those things compared to just
6 a low-voltage license. You have to test like an 01
7 license -- 01 electrician.

8 And I'm begging you to change that legislation.
9 Don't throw out the baby with the bath water. It sounds
10 like the legislation really is crappy; they just want to
11 get rid of everything and no permitting, no -- this and
12 that. That's foolishness.

13 Because I like that level playing field. I'm willing
14 to do whatever it is. But I want to do relevant
15 training, relevant licensing relevant to my industry to
16 run a thermostat wire.

17 So I'm begging you to help in the legislation and
18 that. And I'm willing to help if I can help. I
19 understand that.

20 So that's my -- I didn't take 15 minutes, but ...

21 CHAIRPERSON PREZEAU: No. Which means maybe
22 Mr. Krueger should learn from your example.

23 MR. ADAMS: I'm not paid two hundred and some odd
24 dollars an hour to sit here and ramble on.

25 CHAIRPERSON PREZEAU: No disrespect. I'm here

1 because if I don't -- if I'm not here, I get fined.

2 MR. ADAMS: That's right. Me too. I've been fined.
3 I'd like it to be reversed.

4 CHAIRPERSON PREZEAU: So -- go Hawks.

5 Ms. Kellogg.

6 ASSISTANT ATTORNEY GENERAL KELLOGG: What Mr. Adams
7 is asking is for this Board to relieve him of his
8 administrative duties in the form of an employee
9 misconduct defense. And he urged this upon the Office of
10 Administrative Hearings. And the administrative law judge
11 declined to offer an employee misconduct defense. And
12 the Department urges this Board also to decline to offer
13 such a defense, and for four reasons.

14 The first reason is that there is no law supporting
15 the granting of an employee misconduct defense. There's
16 nothing in the statute in 19.28 that allows an employee
17 misconduct defense for electrical work. There's nothing
18 in the regulations under 296-46B that allows an employee
19 misconduct defense. And neither is there anything in case
20 law regarding electrical work that there should be an
21 employee misconduct defense.

22 Also, in addition to that, number 2, is that this
23 defense conflicts with existing law. There's existing law
24 that an administrator has a duty under RCW 19.28.061,
25 subsection (5) to ensure that all laws are complied with.

1 And an employee misconduct defense would in essence evade
2 the responsibilities of the administrator. It in essence
3 would pass the responsibility onto the workers, which
4 would be a direct conflict with the administrator's duties
5 under 19.28.

6 Number 3, the facts do not support it. The employee
7 did not testify. We do not know what his understanding
8 was of the amount of work that he could do or how the
9 rules were communicated to him. We know nothing from the
10 employee's point of view. The work that was done was done
11 in 2013. That's the work that was cited. And the
12 training certificate for the worker expired in 2010. And
13 during his testimony Mr. Adams was asked about when he
14 learned that the employee no longer had a valid training
15 certificate, and he was unable to say when that was. The
16 Department believes that that was at the time of the
17 inspection when he discovered that the worker no longer
18 had a trainee certificate.

19 The employee was disciplined as Mr. Adams testified,
20 but he was disciplined after the appeal. The citation was
21 issued for violation on April 15th. The appeal was then
22 on the 26th. But the worker was not disciplined until May
23 3rd. And the Department would urge this to be if, in
24 fact, discipline was considered, it was not the kind of
25 discipline to get the attention of the worker. It should

1 have been closer in time to the violation, not closer in
2 time to the appeal.

3 There are also scant facts in the record regarding
4 any kind of safety program. And there doesn't appear to
5 be efficient effective enforcement of whatever safety
6 program that there is.

7 And the fourth reason is that an employee misconduct
8 defense compromises safety. The only statute that I know
9 of that allows an employee misconduct defense is the one
10 in WISHA, and that's the Washington Industrial Safety and
11 Health Act. The purpose of that statute is to provide a
12 safe workplace for workers. And the relationship there is
13 between the employer and the employee. And the whole
14 focus is that the employer does its very best as Mr. Adams
15 asserts that he is doing, then -- and an employee still
16 violates one of the policies of the firm, then they can
17 claim this employee misconduct defense. So in that case
18 the relationship is the employer/employee. And those are
19 the parties to that particular employee misconduct
20 defense.

21 However, when you're talking about electrical work,
22 you have the innocent public who's also involved. And the
23 innocent public is probably not too concerned about an
24 employee misconduct defense. They want the work done
25 correctly and done safely.

1 The employee misconduct defense also goes against the
2 intent of 19.28. And the intent is for safety to life and
3 property. By relieving an administrator of their duties
4 and putting that responsibility on the employees, that
5 would not encourage safety.

6 So for those four reasons, the Department asks the
7 Board to affirm the proposed decision issued by the Office
8 of Administrative Hearings.

9 CHAIRPERSON PREZEAU: Thank you, Ms. Kellogg.

10 So to be consistent with what we did previously, I'm
11 going to give the opportunity for Board members to chime
12 in here if they want to.

13 If not, Mr. Adams, do you have any further you would
14 like to add?

15 MR. ADAMS: Yeah. I'd just like to say that the duty
16 as an administrator, I fulfilled that duty. I communicate
17 with my service techs all the time. And I have them sign
18 this that they understand. Scotty knew the scope of work
19 that he was not to do that. He understood that. And I
20 have that in the record on page 80. I have all my
21 technicians sign that when they come on board and they
22 understand. So Scotty knew. I don't know what more to do
23 as an administrator. I can't go to every job and watch
24 them. It's impossible.

25 First of all, the safety program, I was never asked

1 about a safety program or anything. I don't think that's
2 in the record at all. I don't recall anything about a
3 safety program. I have one. But anyway, that was never
4 brought up.

5 And then the 0663 thing about any -- and I wouldn't
6 get a permit, and Scotty whether he be a trainee or out a
7 date or whatever it would be, it didn't matter because he
8 wasn't to do that work. He was sent there to do
9 mechanical work in which he was trained and licensed and
10 trained to do. He wasn't sent to do any electrical work.
11 So -- I wouldn't have got a permit. Crown Electric got
12 the proper permits that were there for the electrical work
13 and took responsibility for the electrical work that was
14 done there.

15 So as an administrator, maybe you help me. I don't
16 know what more to do. If an employee is misconduct -- I
17 realize, yes, I disciplined Scotty after the appeal and
18 all that. I did. I mean, that's when it became apparent
19 to me that I needed to really slap his hand on this. I
20 mean, in writing. He was told verbally, but in writing, I
21 wanted to put it in writing for him.

22 So he didn't testify, but you have his signatures
23 here of what he had done.

24 So really that's -- I don't plan to get a permit if
25 I'm not planning to do the work. And as an administrator,

1 I'm doing what I know to do.

2 CHAIRPERSON PREZEAU: Thank you, Mr. Adams.

3 Ms. Kellogg, do you have --

4 ASSISTANT ATTORNEY GENERAL KELLOGG: Yes. Some
5 employees have 06 licenses as part of Miller's, and they
6 are authorized to do 06 work. This particular individual
7 did not have an 06 license.

8 It's the Department's position that as an
9 administrator Mr. Adams needs to know who's working what
10 jobs and effectively communicate the type of work that
11 needs to be done. And to do that, you need to be aware of
12 what licensure or certification that your employees have.
13 And that was not the case in this case.

14 CHAIRPERSON PREZEAU: Thank you, Ms. Kellogg.

15 MR. ADAMS: May I respond to that?

16 CHAIRPERSON PREZEAU: Yes.

17 MR. ADAMS: Okay. I did know. He wasn't sent to do
18 electrical work. He was sent to do mechanical work. And
19 their permits were on the job. He wasn't sent to do that.
20 He did that on his own. He wasn't sent -- I didn't hire
21 him to do that. I didn't -- he was hired to do
22 mechanical, to install -- do mechanical, to install the
23 furnace.

24 So I did know -- I knew he -- I never told him to do
25 the work. He shouldn't have done the work. That's not

1 under dispute. But the inspector decided to give him a
2 warning and cite me.

3 CHAIRPERSON PREZEAU: Thank you, Mr. Adams.

4 Board members? Rod.

5 BOARD MEMBER BELISLE: I guess the only thing I
6 thought was interesting in addition to the fact that he
7 was disciplined after the fact on May 3rd was on page 80
8 of the document, Exhibit 11, that he signed stating he
9 wouldn't do work outside of his license if he were to have
10 one has no date at all on it.

11 CHAIRPERSON PREZEAU: True.

12 So my thoughts -- I certainly don't want to stifle
13 anybody else's thoughts. But my thoughts -- although,
14 Mr. Adams, I find your presence here and the fact that you
15 appealed the citations and your willingness to participate
16 in the process, I find that to be commendable. Not
17 everybody sees it through this far. And I recognize your
18 passion, and I recognize your desire to do the right
19 thing.

20 Unfortunately, when it comes to our position as Board
21 members in appeals, we don't have a lot of leniency as to
22 what we are supposed to use to make decisions, which -- so
23 while I appreciate -- I genuinely appreciate, you know,
24 your statements in the testimony today of your desire to
25 do the right thing and make sure your guys know what

1 they're supposed to do, what they're not supposed to do,
2 at the end of the day from my position, you know, what
3 happened here, what the record reflects is that Scotty for
4 whatever reason went ahead and -- you know, and probably
5 to take care of the customer -- engaged in performing
6 electrical work that not only was outside his ability to
7 do so but also it was work that you would not have pulled
8 a permit for or called inspection for because you had --
9 you clearly articulated that was not your intent. But
10 that's what happened.

11 And the case immediately before you was fairly
12 similar in terms of workers making field decisions -- or
13 at least that's what we understand them to be -- that may
14 or may not be consistent with their work directives. And
15 the reason why I say that is -- we understand your
16 position and that what the scope of work was, you know,
17 for this particular project. And certainly the fact that
18 -- is it Crown Electric?

19 MR. ADAMS: Correct.

20 CHAIRPERSON PREZEAU: -- pulled the permit for the
21 electrical portion of the HVAC installation.

22 But as Ms. Kellogg points out, we don't have -- there
23 is no -- I'm sure that you can imagine, Mr. Adams, that
24 there are other folks that operate in the industry that if
25 we were to allow --

1 Ms. Kellogg, help me with the defense.

2 ASSISTANT ATTORNEY GENERAL KELLOGG: Employee
3 misconduct.

4 CHAIRPERSON PREZEAU: -- employee misconduct defense,
5 it would in effect could completely render the
6 requirements of 19.28 to be a certified electrician, a
7 licensed contractor, could render that really null and
8 void.

9 And so that's what we struggle with, what I struggle
10 with.

11 As far as I see in the record, there is not much
12 movement in terms of the work being -- the inspector
13 capturing in the transcript the work being performed by
14 your employee Scott --

15 MR. ADAMS: Gilliam.

16 CHAIRPERSON PREZEAU: -- Gilliam.

17 Anybody else want to -- have any other thoughts?
18 Dennis.

19 BOARD MEMBER TOWNSEND: Just briefly.

20 Mr. Adams, I appreciate your passion in bringing this
21 issue to us. And it is a lot of work and -- (inaudible).

22 Just a couple of comments and Tracy touched on them.
23 But it sounds to me like it's more of a legislative remedy
24 than us. We can't -- we try to interpret them --
25 (inaudible).

1 I represent the telecom industry. So where I have
2 employees under a worker-employee relationship, I'm
3 contractor obligated for a lot of the things that they do.
4 So if I have a telephone technician that decides he wants
5 to move a power drop, you know, just because he wants to
6 get the job done, it still reflects back to me.

7 So I can relate to what happened. But I can also
8 relate to the consequence. There's not much that I think
9 our Board can do. But there may be a legislative remedy.
10 That might be an avenue for you.

11 CHAIRPERSON PREZEAU: Any other comments from the
12 Board?

13 BOARD MEMBER BURKE: I just think the two citations
14 were quite separate. And I think that Mr. Adams shown
15 that he hired an electrical subcontractor, and I think it
16 says that that subcontractor ran the thermostat wiring, it
17 almost takes in my opinion the point of him being cited
18 for employing someone for electrical work, I don't think
19 that's appropriate. But I do agree with him having to
20 maintain your administrator duties as a lot of us in this
21 room do. We have to take personal responsibility for the
22 people that we employ, right, wrong or indifferent.

23 And you'll hear that throughout the Board that we
24 really do appreciate your position because we're -- a lot
25 of us are in the same spot.

1 But that's pretty much all I have to say.

2 CHAIRPERSON PREZEAU: Rod.

3

4 Motion

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6 BOARD MEMBER BELISLE: I guess I would make a motion
7 that we would uphold the ALJ's decision on citation 662
8 and 663.

9 CHAIRPERSON PREZEAU: Is there a second?

10 BOARD MEMBER NORD: Second.

11 CHAIRPERSON PREZEAU: So it's been moved and seconded
12 to uphold the ALJ's decision with respect to citation
13 numbers EBRRQ0062 and 0063. Discussion on the motion?

14 ASSISTANT ATTORNEY GENERAL REULAND: 662 and 663.

15 CHAIRPERSON PREZEAU: Excuse me. 662 and 663.

16 Don.

17 BOARD MEMBER BAKER: I think it might be prudent to
18 separate those in separate motions so you can have clear
19 votes on each one.

20 CHAIRPERSON PREZEAU: So I appreciate that. But it's
21 been moved and seconded. So you have a couple of options
22 here. We can vote this up or down, right? And depending
23 on the outcome could potentially do what you are asking to
24 do. Or we can ask the maker of the motion to amend the
25 motion or -- yeah.

Amendment to Motion

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BOARD MEMBER BELISLE: I'll accept that as a friendly amendment to the motion.

CHAIRPERSON PREZEAU: So to be clear then, it is my understanding that your amended motion then is if we're going to take these one at a time is to -- I'm going to keep this in the affirmative, right? is to affirm non-compliance citation number EBRRQ00662. Is that correct?

Do you still second that motion?

BOARD MEMBER NORD: Yes.

CHAIRPERSON PREZEAU: All right. Discussion on that motion?

BOARD MEMBER BAKER: I just want to support I think what Dominic was saying. I don't think there's any evidence in this particular case on this particular job where the employer -- finding of facts 3.3 -- the employee Scott Gilliam did electrical work.

So I get that the evidence shows he went out on his own and made that termination -- (inaudible) -- to satisfy a homeowner. But I don't know that there's any evidence here in this particular case that he employed that individual to do that work that day on the job.

CHAIRPERSON PREZEAU: Okay. Other thoughts? Rod.

1 BOARD MEMBER BELISLE: Well -- and I understand that
2 thought.

3 I guess my concern was in the transcript there was a
4 couple items. One was Scotty at one point did have an
5 electrical trainee license. So at some point --

6 CHAIRPERSON PREZEAU: Active.

7 BOARD MEMBER BELISLE: At some point. And so there
8 was a period of time in his career where he was, in fact,
9 employed to do electrical work. It was expired, truly.
10 But I think it's in the record that Mr. Adams didn't know
11 when it was expired or if it was expired. So there's no
12 proof in the record to say that he wasn't hired to do
13 electrical work other than Mr. Adams' testimony. Yet
14 there's proof that he did electrical work, and he has in
15 the past as part of his job.

16 BOARD MEMBER BAKER: So I don't know if there isn't
17 that proof. I've hired individuals with CDL's before, and
18 they carried a CDL license, but I didn't hire them to
19 drive truck. And they keep track of when that license
20 expires. But it is irrelevant to me.

21 And as far as I know, what's in this document,
22 there's nothing here telling me that he hired him to do
23 electrical work. He hired him to do mechanical work. He
24 went on his own because he's got some knowledge of
25 thermostats.

1 ASSISTANT ATTORNEY GENERAL KELLOGG: May I direct the
2 Board to page 40 of the transcript.

3 CHAIRPERSON PREZEAU: So I think what Ms. Kellogg is
4 indicating is that the record does reflect that -- this is
5 comments made by the inspector, right? Mr. Broderon, and
6 that he has interacted with Miller's One Hour Heating on
7 various job sites. Some of the employees inspected some
8 of their work over the years, which indicates that they do
9 -- you know.

10 And I think Mr. Adams' Exhibit 11 on page 80 which is
11 ironically the policy that Miller's Electric has regarding
12 technicians and proper certification. So if -- and the
13 record actually reflects that Scotty when he had a active
14 trainee certificate could do that work when supervised.

15 So while I -- I appreciate both Dominic and Don's
16 position, I respectfully disagree and think that --

17 BOARD MEMBER BAKER: I understand that they hired --
18 that they have employees to do electrical work. It's just
19 this citation is specifically for this particular
20 employee. And I don't know if there's any facts in here
21 that tell me that that's what he was hired on that job
22 site to do that day.

23 BOARD MEMBER BURKE: The only fact that I see is the
24 pictures show that there was an electrical contractor that
25 was hired to do the thermostat wire.

1 BOARD MEMBER BAKER: Which would support that he
2 didn't have him there to do that work.

3 BOARD MEMBER BURKE: That's what I'm saying. I don't
4 see any facts that support to the contrary. But I see the
5 fact that there was a contractor hired to do the -- handle
6 that electrical wire.

7 BOARD MEMBER BAKER: Which supports the --

8 BOARD MEMBER BURKE: Agreed.

9 CHAIRPERSON PREZEAU: So again -- go ahead, Rod. And
10 then I'll --

11 BOARD MEMBER BELISLE: Well, I guess just to Tracy's
12 point, if I hired a guy to do electrical work, I wouldn't
13 give him a piece of paper that says anybody that has a CDL
14 must keep it current and only use it if it's current, you
15 know. In this case, if he hired Scotty to only do
16 mechanical work, why did he have him sign something that's
17 related to an electrical license if that's not ever his
18 intent to use him in that scope.

19 I think that's Tracy's point. You know, I --

20 BOARD MEMBER BAKER: My point with the CDL was that,
21 you know, you may hire somebody at a given time to do a
22 different task and that might change over time.

23 BOARD MEMBER BELISLE: Right.

24 BOARD MEMBER BAKER: And there's just no evidence
25 here to support that.

1 CHAIRPERSON PREZEAU: So any more discussion on the
2 motion?

3 So right now, the motion before the Board is to
4 affirm non-compliance citation number EBRRQ00662. All
5 those in favor signify by saying "aye."

6 THE BOARD (majority): Aye.

7 CHAIRPERSON PREZEAU: All those opposed?

8 THE BOARD: Nay.

9 CHAIRPERSON PREZEAU: So we're going to do this by a
10 show of hands just for a clean record. So again, all
11 those in favor of affirming the citation, indicate by
12 raising your hand.

13 (Board members Gray, Townsend, Ward, Nord, Scott,
14 Belisle raising hands.)

15 One, two, three, four, five, six.

16 All those opposed, signify by raising your hand.

17 (Board members Cornwall, Cunningham, Baker, Burke
18 raising hands.)

19 One, two, three, four. Motion carries.

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21 Motion Carried

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23 CHAIRPERSON PREZEAU: So -- Rod.

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Motion

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BOARD MEMBER BELISLE: I would make a motion to affirm the non-compliance citation number EBRRQ00663.

CHAIRPERSON PREZEAU: Is there a second?

BOARD MEMBER NORD: Second.

CHAIRPERSON PREZEAU: So it's been moved and seconded to affirm non-compliance citation number EBRRQ00663.

Discussion on the motion?

Seeing none, all those supporting the motion, signify by saying "aye."

THE BOARD: Aye.

CHAIRPERSON PREZEAU: Opposed? Motion carries.

Motion Carried

CHAIRPERSON PREZEAU: So Ms. Kellogg, as the prevailing party, have you prepared a proposed final order?

ASSISTANT ATTORNEY GENERAL KELLOGG: I have.

CHAIRPERSON PREZEAU: So Ms. Kellogg, if you would be kind enough to confer with Mr. Adams in terms -- you can certainly -- I welcome you to adjourn to the lobby to see if the terms of the order can be agreed upon.

If you do not -- if you are unable to reach agreement

1 today, this matter will be automatically set for
2 presentment at the next regularly scheduled Board meeting.
3 If an agreed order has not been received by that date, the
4 parties will be expected to file their proposed orders and
5 appear and advise why their proposed order best reflects
6 the Board's decision. Hopefully this will not be
7 necessary.

8 If you're able to reach agreement as to the form of
9 the order before the next meeting, please forward it to
10 the Secretary of the Board, and we will ensure that it
11 gets signed and copies provided to the parties.

12 So if you want to take a few moments to confer with
13 Mr. Adams and see if that proposed order can be agreed
14 upon. And if so, we can accept that -- the Chair will
15 accept that.

16 ASSISTANT ATTORNEY GENERAL KELLOGG: Thank you.

17 CHAIRPERSON PREZEAU: Thank you very much.

18 Thank you, Mr. Adams.

19 (Briefly off the record for
20 court reporter to fix
technical problems.)

21 Very good. Steve, if you would be kind enough to --
22 since now we've completed the appeals portion -- agenda
23 item 3 is concluded -- if you would please engage the
24 Board in a general conversation about installations when
25 they're deemed complete, sort of relate it to Sullivan

1 Heating & Cooling. I just didn't want to have a
2 conversation during the appeal items on the agenda.

3 SECRETARY THORNTON: All right. When you're finished
4 with the portion of your permit that requires -- you're
5 required to get an inspection. You don't wait for
6 somebody else to finish their portion. If you're going to
7 run a thermostat wire, you don't wait for the furnace to
8 get energized before you call for an inspection. When
9 your portion's done, then you call for your inspection
10 within one day of energizing or three days after having
11 completed that. Just when your portion's done, you call
12 for the inspection.

13 If you're going to run let's say the circuit to a AC
14 unit on the roof and the service isn't energized yet, when
15 you get your portion done, you call for inspection on what
16 you've got permitted. And then when somebody else gets
17 their portion done, they can call for theirs. But you
18 want to make sure that yours gets inspected before it gets
19 covered up or energized when you don't know -- when you're
20 done with the part that you can do, you call. If you just
21 had the contractor run the conduit in the wall, when
22 you're done doing that part, whether there's wires in it
23 or not, you call your portion for inspection. And whoever
24 has the contractor put the wires in it, when their
25 portion's done, they call for their part.

1 CHAIRPERSON PREZEAU: Randy.

2 BOARD MEMBER SCOTT: So where specifically is that
3 expressed?

4 MR. MUTCH: 901.

5 SECRETARY THORNTON: 901?

6 MR. MUTCH: WAC 296-46B-901.

7 SECRETARY THORNTON: Okay.

8 BOARD MEMBER: You have that memorized.

9 BOARD MEMBER: You want to run that by us one more
10 time?

11 BOARD MEMBER BELISLE: 296-46B-901.

12 CHAIRPERSON PREZEAU: 901. (Pause) So 296-46B-901
13 has multiple sections. So I'm looking to see if I can --

14 MR. MUTCH: Would you like some --

15 CHAIRPERSON PREZEAU: Yep.

16 MR. MUTCH: Would you like me to go up?

17 SECRETARY THORNTON: Yeah, go ahead.

18 MR. MUTCH: My name's Rod Mutch. I'm an electrical
19 technical specialist with the Department of Labor and
20 Industries. M-U-T-C-H.

21 So the discussion about electrical permits kind of
22 goes to WAC 296-46B-901.

23 Paragraph (3) states that each person, firm,
24 partnership, corporation or other entity must furnish a
25 valid electrical work permit for the installation,

1 alteration or other electrical work performed or to be
2 performed by that entity.

3 So the electrical work to be performed by that entity
4 may be ten feet of conduit. And then if you go down to
5 requirements -- or requests, that is found ...

6 CHAIRPERSON PREZEAU: Section (9).

7 MR. MUTCH: Section (9)? Thank you.

8 So paragraph (9)(a) says the requests for inspection
9 must be made no later than three business days after
10 completion of the electrical/telecommunications
11 installation or one business day after any part of the
12 installation has been energized, whichever occurs first.

13 So when it says no more than three business days
14 after the completion of the electrical/telecommunications
15 installation, it's referring to the installation in
16 paragraph (3) that requires the electrical work permit for
17 the entity that performed that installation.

18 CHAIRPERSON PREZEAU: So it doesn't actually
19 explicitly say, but it's implied that I'm going to pull
20 permit for wall cover or ceiling inspection or whatever
21 that encompasses when that work is done regardless of size
22 and scope is when you call for inspection.

23 MR. MUTCH: Right. The work of that permit.

24 So if I'm a HVAC contractor and I'm hired to set the
25 furnace, connect the duct work to it and install the low

1 voltage thermostat cable, and that's it, I take out my
2 permit for the electrical portion of that which would be
3 the low-voltage thermostat cable.

4 Then paragraph (9) says that when the installation in
5 that permit is completed, that's when I have three days to
6 request the inspection. So that's kind of how we get
7 there.

8 BOARD MEMBER BAKER: That's kind of tough because,
9 you know, sometimes I'm working for let's say the City of
10 Bremerton and I go do an installation --

11 CHAIRPERSON PREZEAU: Let's not -- let's not--

12 BOARD MEMBER BAKER: So -- or I'm doing an
13 installation for a customer, and I think I'm done, but I'm
14 not going to call for an inspection until they come in,
15 their QC guy looks at it and, you know, confirms that I
16 have upheld, you know, my end of the deal. I've met all
17 the specification requirements.

18 So it might be a week, two weeks, you know.

19 In your view, it might look like my installation's
20 done. But in my view, I'm not done until the owner says,
21 "Yeah, we're going to buy that."

22 At that point I might call for an inspection.

23 MR. MUTCH: So that's -- yes.

24 And you'll notice there's nothing in here that says
25 that the inspection has to take place within three days.

1 The request for inspection has to be made within three
2 days.

3 BOARD MEMBER BAKER: Oh, that's good.

4 MR. MUTCH: Well -- and I think I heard some
5 discussion about that. You know, it wasn't inspected
6 until July or whenever that was.

7 But, you know, an ongoing job, you typically energize
8 portions of that job in the progress of the job. And so
9 you are going to -- and I think the intent of this is to
10 make sure that all installations are inspected and that
11 they meet the requirements of the code.

12 And if an installation is completed or energized and
13 no request has been made, then it needs to be requested
14 for inspection.

15 BOARD MEMBER BURKE: I think for clarification is
16 that it's not when an installation is complete; it's when
17 the work encompassed by the permit is complete.

18 MR. MUTCH: Correct.

19 BOARD MEMBER BURKE: That's -- that's the miswording
20 in there. Installation can be very different for you and
21 I -- (inaudible) -- as opposed to the work on the permit
22 -- (inaudible).

23 MR. MUTCH: Because that's what WAC 296-46B-901 deals
24 with. It deals with the entity that's performing the work
25 and the work that they are performing requires a permit,

1 then that work is required to be inspected or requested
2 for inspection after it's energized.

3 BOARD MEMBER BURKE: Then they shouldn't use the word
4 "complete."

5 BOARD MEMBER BAKER: Well, what happened, you know,
6 in this appeal case today is that the Department has the
7 burden of proof to say --

8 CHAIRPERSON PREZEAU: We're not going to discuss --

9 BOARD MEMBER BAKER: (Inaudible.)

10 CHAIRPERSON PREZEAU: No, no, we can have
11 conversation. But we're getting really, really close to
12 Monday morning quarterback of decisions that were already
13 rendered. And I want to completely separate. Like we're
14 having a conversation, getting advice or getting greater
15 understanding from a technical specialist about the rules
16 and laws of, you know, electrical installations. I want
17 to leave it at that. It's not applicable to any previous
18 discussion.

19 BOARD MEMBER BAKER: So if the Department's going to
20 write a citation -- if the Department's going to write a
21 citation to a contractor saying you didn't call for an
22 inspection timely, how do you prove that? How do you know
23 that based on that?

24 MR. MUTCH: We'd have to establish -- if you're going
25 on energizing, that's --

1 BOARD MEMBER BAKER: Sure. That's pretty clear.

2 MR. MUTCH: You know, we can say -- establish that it
3 was energized here, and 24 hours later it wasn't requested
4 for an inspection. That's easy.

5 The completion part of it -- so it must be made no
6 later than three business days after completion of the
7 electrical telecommunications installation. So that
8 installation if I am hired to set the furnace and install
9 that thermostat conductor, that low voltage conductor,
10 that is the installation. Okay? So completion of that
11 installation is when the clock starts ticking. So no
12 later than three business days after the completion of the
13 electrical telecommunications installation.

14 The installation doesn't necessarily include, you
15 know, running the -- the electrical contractor running the
16 line-voltage circuit to the furnace. The installation
17 we're dealing with is the work of the permit, and that
18 installation is installing that thermostat cable. So when
19 that installation's completed, that's when the clock
20 starts.

21 So our burden of proof would be to say, you know, the
22 work that you performed -- in this case, they didn't have
23 a permit. But the work that you performed, when was it
24 completed?

25 Hypothetically if a contractor were to install a

1 cable between an outdoor unit and an indoor unit, they
2 would have to request an inspection within three days of
3 when they complete that installation.

4 BOARD MEMBER BAKER: And I would define that
5 completion as the wires are terminated on both ends.

6 ASSISTANT ATTORNEY GENERAL REULAND: Can I just
7 caution the Board. I need to say that this is -- there
8 was an appeal before the Board in which you had a
9 discussion and an opportunity to review this. I
10 understand that the Board is seeking clarification from
11 the Department, but you're also asking for speculation and
12 what would you do in this situation and -- (inaudible) --
13 coming back in terms of to pass the merits of a
14 particular situation.

15 I think that Mr. Mutch is here perhaps providing
16 public comment on some questions from the Board. But
17 there's really no issue here in terms of what's been
18 before the Board.

19 And my concern is is that in terms of the Department
20 providing some sort of interpretation or information
21 that's not available to the other side of the party who
22 was here. And so in terms of questions and clarification
23 but engaging in argument, I've got some concerns about the
24 appropriateness of that in this forum.

25 BOARD MEMBER BAKER: I apologize if it sounds like an

1 argument. From my perspective, it's clarification.

2 I'm a contractor. I'm an electrician. I'm an
3 administrator. And not only would I like to understand,
4 but I think that every other contractor would probably
5 like to understand how -- you know, I never thought --
6 I've never even realized I guess that a citation could be
7 written -- or I've never considered the fact that there's
8 some exposure here. And now that I realize that there is,
9 I'm wondering okay, so where is that line? Where do we
10 draw that line?

11 CHAIRPERSON PREZEAU: So what I would suggest -- and
12 again, I applaud the -- if we're all interested in
13 understanding the application of the electrical laws and
14 rules, and I genuinely appreciate, you know, mine and your
15 desire to understand application.

16 I never go against the advice of the attorney. So I
17 think that if -- I think that there is a potential future
18 opportunity for this Board to be formally educated by the
19 Department in a presentation that can be put on the agenda
20 that talks about 296-46B-901 in a much more formal way.
21 And other folks can engage in that.

22 Obviously I think all of us share a desire to make
23 sure that the industry is well regulated. And as
24 stakeholders in that we have a vested interest in how that
25 is applied and making sure folks have access to that

1 information.

2 But I appreciate, Rod, your willingness to pop up
3 here and have this conversation. But I think we need to
4 move on to agenda item 4. And we can potentially schedule
5 it for a formal --

6 ASSISTANT ATTORNEY GENERAL REULAND: And I guess that
7 would be what I would suggest too because the issue here
8 is whether or not it's interpreted for particular Board
9 members versus in terms of the work that you do. That's a
10 different question. And it may be this is the
11 Department's interpretation. There may be other sides to
12 that view in terms of you put it on the agenda and open it
13 up for public comment. But it's also not appropriate to
14 engage in a one-to-one discussion in terms of what's right
15 for a particular industry and the Board.

16 CHAIRPERSON PREZEAU: Rod.

17 BOARD MEMBER BELISLE: Well, I don't want to engage
18 in any conversation about how it's interpreted, but I
19 think it might be a suggestion for a topic for the
20 Electrical Currents for the Chief to perhaps state the
21 citation and give an example or two on how that rule would
22 be applied on a daily basis so that everyone in the
23 industry that's a stakeholder would know about it.

24 CHAIRPERSON PREZEAU: Great suggestion. Very good.

25 So thank you again, Rod and Steve.

1 Okay. So it's 12:25. We have a couple more pieces
2 left. Are you -- you know, I don't need a lunch break
3 because I brought my lunch. But where is the rest of the
4 Board?

5 BOARD MEMBER: Forge on.

6 CHAIRPERSON PREZEAU: Keep chugging? Keep chugging?

7 BOARD MEMBER BELISLE: Chug on through.

8 CHAIRPERSON PREZEAU: Chug on. All right.

9

10 Item 4. Bylaw Proposed Amendments

11

12 CHAIRPERSON PREZEAU: So the bylaws, proposed
13 amendments, as you may recall, we've had discussions about
14 updating -- or amending the Washington State Electrical
15 Board bylaws. And if you may recall, we actually had
16 conversation about amending the Washington State
17 Electrical Board bylaws. The conversation goes back to
18 July, our July 31st meeting of 2014.

19 And the way the bylaws can be amended as outlined in
20 current versions of the bylaws, right? So it must be
21 amended by a simple -- may be amended by a simple majority
22 of the Board provided the amendment has been read at the
23 previous meeting or mailed to the Board members 20 days
24 prior to the meeting.

25 In July, we didn't meet that 20-day threshold. They

1 were e-mailed less than 20 days. They were sent on the
2 14th of July.

3 And then there's been some additional -- one of the
4 pieces that we were looking at making an amendment if you
5 may recall was withdrawn. It had to do with Article 5,
6 duty of officers and really the role of the secretary to
7 the Board. And that was withdrawn.

8 And then at -- but at -- we discussed that. But at
9 the October meeting, we were issued a set of bylaws with
10 proposed amendments outlined by our assistant attorney
11 general. And these were -- so we didn't discuss them at
12 length. Basically they were -- had some highlighted
13 portions of some additional pieces, not to put words in
14 our attorney's mouth, but it simply felt from -- after Pam
15 had done an exhaustive review of bylaws that govern other
16 boards and entities, her suggestion was to add some
17 additional clarification as to duties of officers, which
18 is Article 5. And Article 6 is additional information
19 about meetings.

20 And it was really not only to have some greater
21 detail, but also as we routinely have other parties come
22 before us, and some of those parties have questions about
23 the way the Board operates because as you may be aware,
24 the language in 19.28.311 that talks about the duties and
25 functions of the Electrical Board is not an exhaustive

1 description. So some of that is to help those parties
2 that come in front of the Board.

3 So then Elissa then as a reminder that we had the
4 opportunity to take action on this proposed amendments to
5 the bylaws as suggested by the attorney sent that out
6 electronically, and John Brickey astutely pointed out that
7 even though the language -- the proposed amendment was
8 whole in the bylaws that were discussed in October, there
9 was a portion of Article 6, Subsection (D) that was
10 inadvertently omitted if you actually chose to print the
11 copy that Elissa sent.

12 But again, the Board members had a complete copy in
13 October for their review. So we've met the requirement of
14 the 20 days to give it to you.

15 And today when all the Board members arrived, you
16 will have seen a copy of the Washington State Electrical
17 Board bylaws that have all of the proposed amendments
18 identical to what they were -- what the Board members
19 received in October. And then the only other change is
20 that we requested Elissa to do some administrative work in
21 standardizing the numerical structure of the bylaws.

22 ASSISTANT ATTORNEY GENERAL REULAND: Maybe could I
23 chime in?

24 CHAIRPERSON PREZEAU: Sure.

25 ASSISTANT ATTORNEY GENERAL REULAND: If you guys will

1 recall, we have -- or I get confronted with a lot of
2 questions in terms of the procedural, what type of
3 procedures before the Board. And the Electrical Board
4 doesn't have any separate set of procedural rules. So we
5 are governed by the APA which is number 34.05 as well as
6 the model procedural rule under WAC 10-08.

7 Some boards have procedural rules. And procedural
8 rules would govern the timing requests for continuances,
9 how they're made, that sort of thing.

10 Obviously this Board could certainly engage in that
11 process if you so choose and wanted to go through, kind of
12 lay that all out. That's a pretty lengthy process, and it
13 requires a lot of work. However, there is in the bylaws,
14 you can sort of delineate certain powers and duties.

15 And what I've suggested is that -- there's a couple
16 things we come up with all the time.

17 Under the APA and under the model rules, the Chair of
18 the Board is the presiding officer -- I think I've
19 indicated this -- and has certain rules and as the Chair
20 can act regarding certain procedural matters.

21 My recommendation is you put that in your bylaws.
22 It's a simple way of clarifying that. That way when
23 certain parties looking outside in, that's where they can
24 go. They know what they've asked the Chair to do.

25 We also have some sort of time lines that are in the

1 WAC under 995 that sometimes really don't work out well.

2 If you recall, that work -- that rule provides everything
3 has to be 45 days before the hearing.

4 Well, some of that has to do with when Elissa has to
5 get it to the printer's office. But a lot of that was
6 before we had electronic transmission of the Board packets
7 and the information. And sometimes it's appropriate to
8 waive those time lines.

9 And so my suggestion is you consider whether you want
10 to give the Chair the authority to do that with the
11 understanding it's a procedural issue and that sort of
12 thing.

13 So I thought this was a good way of just sort of
14 looking at that. I think it's always good practice to
15 review something that's been in place for a long time and
16 see if you want to make changes to it. These are places I
17 identified that would be -- could be helpful to the
18 process.

19 So it's up to you folks.

20 CHAIRPERSON PREZEAU: And additionally, I will note
21 that there's one -- our bylaws contained a statute
22 reference that no longer existed. So as you can see under
23 Article 6, subsection B, that was struck; that doesn't
24 exist anymore.

25 And really the idea here is just to reiterate or

1 elaborate on Pam's comments is right now there's, you
2 know, these requirements of, you know, if you want to
3 appeal a decision to the Board, you have to have -- not in
4 every circumstance, but in some cases you have to have
5 your material in 45 days in front of a Board meeting as
6 Pam already indicated. So if you missed that, now you're
7 going to wait three more months.

8 I'm sure all of you when you look at historically the
9 appeals that have been brought in front of the Board, I am
10 continually sort of amazed at how the duration of time --
11 you know, several of these appeals, the time that's lapsed
12 from the start to when they get here. And so it's not --
13 it's in the spirit of trying to streamline and find
14 efficiencies and access to, you know, our de-novo judicial
15 review, if you will, rather than some strange
16 circumventing of procedural accolades. That's the intent.

17 So, you know, I'm hopeful that Board members are --
18 will accept those proposed amendments, especially in light
19 of the fact that they come from the attorney who's
20 supposed to keep us out of trouble.

21 So with that, the Chair would certainly love to
22 entertain a motion to accept or reject --

23 BOARD MEMBER GRAY: Before you put that on the floor,
24 could I ask a question?

25 CHAIRPERSON PREZEAU: Absolutely.

1 BOARD MEMBER GRAY: Observation. And I wasn't here
2 in July. But when I went through and read the minutes, as
3 I read through that, the discussion went something like
4 whether we wanted to change that authority from the Chief
5 or the Secretary to the Chair, and counsel advised us that
6 we needed to be careful because what we were doing was
7 taking that responsibility from a paid position to a
8 volunteer position that would obligate the Chair in
9 between meetings. And so then the discussion went off to
10 okay, then why don't we have a Vice Chair to share some of
11 that load. So then we sort of moved off topic and went
12 and nominated and appointed a Vice Chair to share in that
13 responsibility in case the Chair wasn't available, was on
14 vacation I think was the words that were used. But when I
15 read the changes here, it just addresses the
16 responsibility of the Chair and nowhere in the
17 responsibilities of the Vice Chair do I see that
18 obligation shared in between meetings. It looks like the
19 Vice Chair only has responsibilities for the meetings and
20 not for this additional role or responsibility that could
21 occur in between meetings.

22 So all I wanted to do was point that out. And if I'm
23 wrong, I apologize. But I didn't see in here where what
24 looked like in the minutes was attempting to do was
25 accomplished in the changes in the bylaws.

1 CHAIRPERSON PREZEAU: So I think, Bobby, your
2 comments are well taken because it does indicate in
3 Article 5, subsection B, in the event the Chairperson
4 cannot preside at a meeting, Vice Chair of the Board shall
5 serve.

6 And then additionally Vice Chair of the Board shall
7 be present at all meetings, have a working knowledge of
8 all responsibilities of the Chair, and then in the event
9 -- again, in the event of the Chairperson's sudden
10 departure, I presume that to be from a Board meeting, be
11 able to assume all responsibilities and functions of the
12 Chair until the Board is able to convene and appoint a new
13 Chairperson. So that's if the Chair position is vacated.

14 So nowhere in here does it anticipate that the --
15 having passing of the torch, if you will, in the interim
16 between the Chair and the Vice Chair for purposes of being
17 a presiding officer.

18 I think that's a very good catch.

19 Pam.

20 ASSISTANT ATTORNEY GENERAL REULAND: I would agree
21 because the language in your bylaws says if the
22 Chairperson cannot preside at a meeting. So what you're
23 suggesting is the Chairperson cannot act in their
24 capacity --

25 BOARD MEMBER BELISLE: Full capacity.

1 ASSISTANT ATTORNEY GENERAL REULAND: Correct --
2 capacity as the Chair, the Vice Chair could be designated
3 to -- (inaudible). And that's certainly an amendment that
4 you could make.

5 BOARD MEMBER BURKE: Certainly a discussion would --
6 (inaudible).

7 BOARD MEMBER TOWNSEND: This is just a contingency
8 question. But what if Tracy or Alice, the Vice Chair,
9 cannot attend the meeting, is there a provision in the
10 bylaws where -- (inaudible)

11 CHAIRPERSON PREZEAU: I was actually thinking about
12 that.

13 ASSISTANT ATTORNEY GENERAL REULAND: It's not
14 reviewed by Roberts Rules of Order on --

15 BOARD MEMBER TOWNSEND: Yeah, whatever is covered.
16 (Inaudible). The school board I was on just, you know,
17 appoint a pro tem or whatever.

18 CHAIRPERSON PREZEAU: Yeah, a chair pro tem.

19 ASSISTANT ATTORNEY GENERAL REULAND: I guess my
20 understanding from these bylaws is that somebody you
21 nominate ...

22 CHAIRPERSON PREZEAU: Yeah. What's interesting -- so
23 if you look at Article 4, it says the Chairperson and Vice
24 Chairperson position may come up for a vote at a regularly
25 scheduled Board meeting by any member in good standing for

1 a vote to remove the Chair or Vice Chairperson shall be by
2 written or voice ballot and a simple majority of Board
3 members shall be required. If voted out of office, he or
4 she shall immediately relinquish their position and a
5 replacement shall be elected. The replacement shall
6 immediately take the elected position and continue with
7 the meeting if appropriate.

8 Which is interesting because it says basically you
9 can vote on it anytime. Then if you read the article
10 right above that, B, it says the elected Chairperson and
11 Vice Chairperson shall assume the office immediately upon
12 election and shall serve until their membership on the
13 Board has expired.

14 My membership on the Board doesn't expire until -- I
15 don't remember -- 2017. So does that mean that this -- so
16 I think --

17 ASSISTANT ATTORNEY GENERAL REULAND: So my suggestion
18 on that point is this is all -- these are really good
19 points. And you could add in -- and this is exactly why
20 you need to review the bylaws and think about these things
21 ahead of time. Because you can certainly propose an
22 additional "D" under Article 4 something to the effect of
23 if the Chair is not and Vice Chair are not available, the
24 Board can elect a chair pro tem in the interim. You can
25 certainly put in provisions where you could appoint

1 somebody for purposes at the meeting to act as the Chair,
2 or you could give the Board -- the Chair the authority to
3 designate. There's a variety of different things you
4 could do if you want to incorporate those things, which is
5 good. This is what I wanted you to do is to think about
6 those things.

7 BOARD MEMBER TOWNSEND: The whole thing could be
8 addressed with a comma saying -- (inaudible.)

9 MR. BELISLE: Well -- or as acted on by the Board.

10 CHAIRPERSON PREZEAU: So repeat that, Dennis. Where
11 are you at?

12 BOARD MEMBER TOWNSEND: Oh, just under -- you had
13 referred to Article 4 -- (inaudible) -- until membership
14 on the Board is expired. And you can state "or until you
15 are replaced as designated in subparagraph C" --
16 (inaudible).

17 CHAIRPERSON PREZEAU: So here's what I -- I'd be
18 curious to see what your guys' thoughts are here. So we
19 already have one on the committee that's going to work on
20 pending legislation. Is there -- and potentially
21 correspondence to the Governor, Speaker and majority
22 leader.

23 Is there a desire for a committee to actually work on
24 crafting more comprehensive bylaws or do you guys want to
25 do this today?

1 BOARD MEMBER TOWNSEND: I think the wordsmithing of
2 this should be maybe done outside of this meeting as a
3 committee. (Inaudible.)

4 CHAIRPERSON PREZEAU: Yeah, no. And I appreciate
5 that. So -- I mean, I think there needs to be a balance
6 of --

7 BOARD MEMBER TOWNSEND: Brevity and clarity.

8 CHAIRPERSON PREZEAU: Exactly. So do we have
9 volunteers to continue work on crafting --

10 BOARD MEMBER TOWNSEND: I'll be -- put me down for --

11 CHAIRPERSON PREZEAU: So Dennis says he will help.
12 Anybody else?

13 BOARD MEMBER WARD: I'll help.

14 CHAIRPERSON PREZEAU: Dave.

15 ASSISTANT ATTORNEY GENERAL REULAND: And I can help
16 with the actual ...

17 CHAIRPERSON PREZEAU: And so Pam is going to also
18 assist with the --

19 ASSISTANT ATTORNEY GENERAL REULAND: Language.
20 Wordsmithing.

21 CHAIRPERSON PREZEAU: All right. And I'm going to --
22 great. So we are not going to take action today.

23 BOARD MEMBER BURKE: I think we should assign Alice.

24 BOARD MEMBER GRAY: Yeah, I think we should.

25 BOARD MEMBER BELISLE: Second.

1 BOARD MEMBER GRAY: Make her chair of the
2 subcommittee.

3 BOARD MEMBER BURKE: Yeah, she's the chair of the
4 subcommittee.

5 CHAIRPERSON PREZEAU: All right. Alice Phillips is
6 the chair of the subcommittee. She'll be really happy to
7 know that.

8 BOARD MEMBER BURKE: It's language all around her
9 position. So it's in her best interest.

10 CHAIRPERSON PREZEAU: Okay, looking forward to --

11 BOARD MEMBER BURKE: By the way, that was Bobby's
12 recommendation. I forgot Milton was here.

13 CHAIRPERSON PREZEAU: Beautiful. Okay, Secretary's
14 report.

15

16 Item 5. Secretary's Report

17

18 SECRETARY THORNTON: It's been --

19 CHAIRPERSON PREZEAU: Yeah, it's pretty much been
20 given already, right?

21 SECRETARY THORNTON: Yes, yeah.

22 CHAIRPERSON PREZEAU: Steve, do you have anything
23 else you want to add?

24 SECRETARY THORNTON: No, no.

25 CHAIRPERSON PREZEAU: Okay. Certification/CEU

1 quarterly report. Mr. Larry Vance. What do you got for
2 us today, Larry?

3

4 Item 6. Certification/CEU Quarterly Report

5

6 MR. VANCE: Madam Chair, members of the Board, my
7 name's Larry Vance. That's V-A-N-C-E for the record.

8 I have prepared a little -- kind of a little look
9 back in history and tried to compare the difference steps
10 that the legislature has taken. Take a look at that.
11 We've increased in amount of continuing education required
12 for electrical trainees. It's gone up fairly
13 significantly from nothing to 48 hours. And it's had no
14 effect on our pass rates.

15 And I was able to, you know, with our new test
16 provider which is PSI, we've had enough experience with
17 them and enough reporting now that we can establish some
18 history. And this is reflected in what I gave to Elissa
19 to send out to Board members. But it's essentially a
20 flat line from the time that -- and I'm referring to the
21 chart that everyone received. And below the chart was
22 some synopsis of the different legislative actions that
23 were taken. And essentially it's not helping. There's
24 more continuing education required, basic classroom
25 instruction required. But it's not trending upward as you

1 would think it would trend upward.

2 I would think that with an open-book examination,
3 that if people are more exposed to the books that are
4 used, the documents, that there would be an increased pass
5 rate. But for some reason there's not.

6 I know that our 48 hours pales in comparison to the
7 144 hours a year. That's 48 hours every two years. So
8 it's essentially 24 hours a year. And those pale in
9 comparison to the 144 hours a year required by our border
10 states Idaho and Oregon who are apprenticeship states. So
11 they have 144 hours per year of basic -- what we would
12 refer to as basic classroom training. We have a 24-hour
13 requirement essentially.

14 We can have -- there was some legislation that passed
15 that -- it was a hole in the fact that if you don't--
16 let's say it's a two-year specialty, a 4,000 hour
17 specialty, there was a hole there where a person could
18 become an electrical trainee, accrue their 4,000 hours,
19 never take any classroom education because it was required
20 only to renew.

21 CHAIRPERSON PREZEAU: Their trainee certificate and
22 not --

23 MR. VANCE: Right. So we're not going to renew, so
24 we go ahead and just take the examination.

25 That hole has been plugged by legislation.

1 Legislation required in order to become certified and be
2 eligible for the examination you had to have the requisite
3 number of continuing education -- or excuse me -- basic
4 classroom training hours. So that hole's plugged. And
5 that didn't move the needle. So even though that people
6 have the requisite required training -- and for a
7 journeyman electrician or journey level electrician, that
8 would be 96 hours over your entire -- I mean, it's 96
9 hours. That's what you need.

10 CHAIRPERSON PREZEAU: 96 hours over a four-year
11 period?

12 MR. VANCE: 96 hours over a four-year period, yes.
13 96 hours over your 8,000 hours of experience. So 96 hours
14 would be basic classroom training.

15 So while -- I guess some news is is that exam seems
16 very consistent with the exam results, but they're not the
17 exam results that we're looking for. I think we're
18 looking for exam results that are improving based on, you
19 know, the legislature's actions.

20 Rod has undertaken the very large project of going
21 through all the exam questions.

22 I don't know, Rod, would you like to give everyone an
23 update?

24 CHAIRPERSON PREZEAU: Come on down.

25 BOARD MEMBER SCOTT: So while he's going, could I ask

1 a question?

2 CHAIRPERSON PREZEAU: Yeah, please.

3 BOARD MEMBER SCOTT: You stated that Oregon and Idaho
4 require 144 hours, and that's for journeyman every year?

5 MR. VANCE: That's for those learning the electrical
6 construction trade. Because they're -- they don't have an
7 electrical trainee --

8 BOARD MEMBER SCOTT: Okay.

9 MR. VANCE: -- OJT path. Their path is
10 apprenticeship. So with apprenticeship comes that greater
11 level of instructor-student contact time.

12 BOARD MEMBER SCOTT: But it's not continuing ed for
13 journeymen at 144 hours?

14 MR. VANCE: No, no. I think Oregon is pretty
15 consistent with ours. It takes 24 hours of continuing
16 education to renew your certificate every three years. So
17 it's only eight hours a year for journey level
18 electricians and specialty electricians to renew their
19 certification. So it's -- the line would be that
20 continuing -- in terms, continuing education means
21 continuing education for specialty electricians and
22 journey level electricians, people that already have their
23 certificates. And then we have the term that --
24 unfortunately several different terms -- but there's
25 in-class training, basic classroom training. It's got a

1 couple of different references. But essentially that's
2 instructor-student contact time.

3 And in this state after 8,000 hours of on-the-job
4 experience and 96 hours of instructor-student contact
5 time, in-class training, you are eligible for a journey
6 level examination.

7 BOARD MEMBER SCOTT: Thanks.

8 CHAIRPERSON PREZEAU: So Rod Belisle, and then Rod
9 Mutch.

10 BOARD MEMBER BELISLE: Well, I guess -- you know, I'd
11 just like to speak to that a little bit.

12 Larry points out that the adjacent states require 144
13 hours per year for an apprentice to work through a four-
14 or five-year program, and that's a base minimum. I can
15 tell you that probably 50 percent of all the
16 apprenticeship programs require closer to 200 or more
17 hours per year which is almost ten times what an
18 electrical trainee is required to receive.

19 The other difference -- as Larry was speaking there,
20 I was thinking an apprenticeship program by Federal law
21 has to have an educator teach a class, somebody who is
22 trained in adult education, has experience in training and
23 documentation of license. Whereas, I think someone to
24 provide basic classroom training, the 24 hours a year,
25 simply has to hold a license so the scope of the license

1 they're teaching to. Because you're an electrician does
2 not make you an instructor. And to be honest with you, I
3 don't think this trend will ever change because of some of
4 those very distinct differences.

5 The question I would have is the 50 percent pass rate
6 for first time for an inside wireman or general
7 journeyman? For example, is there a way to dissect that
8 out between an apprentice graduate and a trainee graduate
9 and look at that? Because I think that might have an
10 impact on what is effective and what is not he effective.
11 I don't know if that's a reasonable request, but I would
12 be curious.

13 CHAIRPERSON PREZEAU: Actually I don't know about
14 currently what that number looks like. But gentlemen,
15 help me recall. There was -- Ron Fuller was the chief at
16 the time, and there was a forma request for that
17 information, and there was a report produced. I don't
18 recall the year that that report was produced in terms of
19 first-time pass rates and for those that experience purely
20 on-the-job training. Because I believe that was done
21 before the basic classroom training piece was implemented
22 or at least implemented to the extent that it is now, and
23 then all of the recognized apprenticeship programs and
24 their first-time pass rates. I still have that. But I
25 don't know that it would be contemporary. I don't

1 remember the year that that was produced.

2 MR. MUTCH: It was like 2005.

3 MR. VANCE: It was somewhere around 2005, yes.

4 MR. MUTCH: I as I've mentioned before have a
5 one-year block of data. It's everyone who has taken the
6 exam. And I'm going down through that, and I am
7 dissecting whether they were an OJT -- that would be
8 on-the-job training -- or if they were out of state or if
9 they're in-state OJT. I've got about seven or eight
10 different categories that I'm categorizing them as.
11 I'm --

12 It was my full intention to have that ready for this
13 Board meeting. I will make a commitment today that I will
14 have it for the next Board meeting or sooner.

15 So it will be a one-year look at somewhere around 700
16 people or whatever of the 01 -- and I'm just doing it for
17 the 01's, the general journey level electrician.

18 And we'll just take a look -- what I'm finding in
19 that project is is that there's an awful lot of people
20 that want to come to Washington. There's a lot of
21 out-of-state folks. There's a lot of folks that come
22 right across the border, which, you know, we all have
23 borders. But it's very interesting to look at and how
24 people --

25 But really what I want to boil down to is what is the

1 relationship in pass rates between a Washington OJT
2 trainee path and a Washington apprenticeship path look
3 like. What is -- and it's very hard to do.

4 I wish that somehow we could -- and it would take
5 great modifications to our electronic systems. But
6 somehow link that in with the apprenticeship database and
7 somehow be able to look and know if a person's an
8 apprentice or not an apprentice. But we unfortunately
9 have to kind of really --

10 CHAIRPERSON PREZEAU: Manually.

11 MR. MUTCH: -- manually -- manual approach, yes.

12 CHAIRPERSON PREZEAU: Interesting. Very interesting.

13 And I'm glad you're doing it for the 01's because if
14 you look -- I mean, obviously -- and I appreciate the
15 historical perspective that's been furnished here.
16 Because there are some applicants for especially specialty
17 certificates where the sample number is quite small.
18 Right? And there are some -- like, for example, you know,
19 just pull this one. This is calendar year of 2012, and
20 there's -- you know, the first time pass rate for an 06A
21 is 100 percent. Well, when we start looking at how many
22 people took that exam, you know, single numbers can skew
23 obviously -- you know.

24 So in any event -- well, Larry, we certainly look
25 forward to understanding or seeing this report. That

1 would be fantastic.

2 Rod, do you want to -- last quarter when you were
3 here, I think you were 32 percent completed.

4 MR. MUTCH: You've got a good memory.

5 CHAIRPERSON PREZEAU: Well, I remember that because
6 you sounded so much like Doug Erickson who had the job
7 before. Wow.

8 MR. MUTCH: So I've completed the project of going
9 through each exam question and have looked at each
10 question, compared it to the changes in the 2014 NEC.
11 There are three sections. There's a NEC and theory
12 portion, which is about 1,700 questions. There is a laws
13 and rules portion, which is about 130 questions. And then
14 there's a load calculations portion, which is 120
15 questions, somewhere in there.

16 So I've updated all of the questions. There were
17 about 300 changes in those -- in all of those questions,
18 and most of them had to do with, you know, it's editorial,
19 it's something that didn't affect the answer. So I had
20 the question, the four choices and the correct answer.
21 And in almost all cases, something changed in the wording
22 of the text of the question, but it did not affect the
23 correct answer or any of the other choices in the
24 questions.

25 So that's completed. I sent that to PSI. We've come

1 up with a tentative schedule for July 1, 2015, to
2 implement the new exam questions, and that'll be based on
3 when an applicant is approved to take the exam. So if an
4 applicant is approved at the end June 2015, they will be
5 tested on the 2008, the existing exam, until they complete
6 that exam, and that's a one-year period. If they have to
7 reapply and become -- if they don't complete all portions
8 of the exam within a one-year period, they have to
9 reapply. At that point, they would have to take the 2014
10 exam. With the exception of the administrator exams don't
11 have to be approved to take the exam. So that's based on
12 the first date that they take the exam.

13 So there's a lot of notifications. PSI has to change
14 a lot of their systems to accommodate the new -- and
15 incorporate the new questions into the exams. But it
16 looks like July 1, 2015, we'll be testing on the new
17 codes.

18 CHAIRPERSON PREZEAU: Perfect. Questions? Bobby.

19 BOARD MEMBER GRAY: Yeah. I'd like to go back to
20 something Larry said regarding a lot of people wanting to
21 come and work in this state. I think it works the other
22 way as well. I think it's unfortunate that we have
23 contractors in Vancouver that are limited in their ability
24 to work in Portland because they don't have workers that
25 have a reciprocal license with Oregon.

1 And I just recently had a discussion with a member of
2 the Oregon State Electrical Board regarding reciprocity,
3 and it was his opinion -- and I don't know the topic in a
4 lot of detail, so forgive me, but it was his understanding
5 that the reason Oregon is reluctant to be reciprocal with
6 Washington is because of the trainee program and
7 recognizing that. So it would seem that if we could
8 establish some sort of a subcategory that would signify on
9 a license that the license represented a bona fide
10 apprenticeship program that resulted in the license, that
11 perhaps that might open the door for discussing perhaps a
12 reciprocal agreement with Oregon for those contractors
13 that work on the border and would like to work across.

14 Do you have any thoughts on that?

15 MR. VANCE: (Shaking negatively.)

16 CHAIRPERSON PREZEAU: So a great question. And
17 gentlemen, keep me on track here. But it is my
18 understanding -- so Bobby, you bring up a really -- a
19 conversation that's been going on for a very long time.
20 And I won't pretend to know exactly when it began because
21 I don't know when Oregon and Washington no longer were
22 reciprocal states in terms of worker certification.

23 I know the history of Washington, a different
24 conversation. Washington used to be part of a 15 member
25 -- a reciprocal group that had 15 states that subscribed

1 to it, and that went through a process with the previous
2 chief understood that some of those reciprocity agreements
3 were -- we had a comprehensive discussion about those and
4 deemed none of them to be appropriate.

5 So then as I understand it, then the conversation
6 back and forth specifically between Washington and Oregon,
7 it does -- you know, I am not a board member of Oregon,
8 but hinges on the trainee, you know, and on the -- and the
9 fact that Oregon is a -- there are no trainees. It's an
10 apprenticeship only state, if you will. And there have
11 been some -- it's my understanding that there have been
12 some discussions in the past with -- some of the folks in
13 the room may have been part of those conversations --
14 policy conversations. Some folks were not. But that
15 Oregon was at one point in time willing to extend a
16 reciprocity -- a direct reciprocity in terms of worker
17 certifications for general journeymen if they were -- if
18 it could be proven that that individual was a graduate of
19 a bona fide apprenticeship program. And not wanting to
20 strand those folks that were not graduates of a state with
21 an approved apprenticeship program, there was a different
22 pathway that was provided, and that pathway was they had
23 to demonstrate that they had 16,000 hours of on-the-job
24 training in Washington state. And there were some folks
25 that believed that that was too onerous of a burden to

1 place on folks that were not graduates of the approved
2 apprenticeship program.

3 And this conversation has, you know, sort of moved
4 two steps forward, one step back or however you want to do
5 the dance, and where it stands right now I believe is
6 there's -- I don't know of any conversation that it's
7 happening, but I -- you know, but that's sort of a bit of
8 a history behind it from my perspective. And if I've
9 missed something -- certainly Rod is in this unique
10 position from my perspective because he is a training
11 provider and provides training for folks that reside both
12 in Washington and in Oregon, so straddles this situation.

13 BOARD MEMBER BELISLE: So I just thought it's worth
14 noting that Oregon had a large amount of work in the last
15 few years, and since there was no ability to achieve
16 reciprocity between Washington and Oregon, Oregon last
17 year, I believe April of 2014, introduced a temporary rule
18 to allow any Washington license holder of a general 01
19 license that had completed an electrical apprenticeship
20 could get a reciprocal license in Oregon, and it was would
21 be simply prove that you qualify, pay the license fee, and
22 it was a provisional license for a three-year window, and
23 then once it expires, if you haven't tested, it would
24 expire for good. And if you test within that three years
25 and achieve licensure, then you could continue it. It was

1 a five year -- or a five-month window, and 364 people took
2 advantage of it.

3 So I know Oregon has that interest in doing it. And
4 to the point that they said fine, we're not going to argue
5 over being equal, we're just going to do what we think is
6 best for us today, and if Washington sees that as an olive
7 branch or an insult, whatever; they're not going to stop
8 it.

9 So I can say I keep up with the Oregon side, and I
10 think there is definitely interest between apprentice-to-
11 apprentice completion.

12 CHAIRPERSON PREZEAU: Yeah, no, it is very
13 interesting. So thank you, Rod, for bringing that up
14 too.

15 So perhaps the conversation -- hopefully the
16 conversation will continue. Because for folks that are as
17 you identified are on any of those border communities, you
18 know, this will impact.

19 All right. You guys -- are you finished? Anything
20 else?

21 MR. VANCE: Nothing further.

22 CHAIRPERSON PREZEAU: All right. Beautiful. So
23 thank you very much, Larry and Rod. Greatly appreciate
24 it.

25 And as I said, I'm really happy that those -- that

1 the exam questions are going to be ready to roll in July.

2 That's fantastic news.

3

4 Item 7. Public Comment Regarding Items Not on the Agenda

5

6 CHAIRPERSON PREZEAU: So the last topic on the agenda
7 is public comment regarding items not on the agenda. And
8 the only folks that have signed in are Mr. Jim Krueger
9 with Sullivan Heating & Cooling who was here with the
10 appeal, along with David Adams from Miller's One Hour
11 Heating.

12 And then I believe this next signature is actually --
13 I think this is also John Windh. This is somebody with
14 Sullivan Heating & Cooling.

15 BOARD MEMBER BELISLE: Yeah.

16 CHAIRPERSON PREZEAU: And then the last person that
17 has signed in is Nicole Grant who is not here. Certified
18 Electrical Workers of Washington.

19 Is there anybody in attendance that would like to
20 address the Board through public comment? Going once.
21 Going twice. Three times.

22 Steve, do you have anything else you would like to
23 add before the Chair entertains a motion to adjourn?

24

25

Motion to Adjourn

1 SECRETARY THORNTON: No, I don't.

2 BOARD MEMBER BELISLE: So moved.

3 CHAIRPERSON PREZEAU: So it's been moved. Do we have
4 a second?

5 BOARD MEMBER CUNNINGHAM: Second.

6 CHAIRPERSON PREZEAU: Moved and seconded to adjourn
7 the January 29, 2015, Board meeting. All those in favor
8 signify by saying "aye."

9 THE BOARD: Aye.

10 CHAIRPERSON PREZEAU: Opposed? We are adjourned.

11

12 Motion Carried

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14 (Whereupon, at 1:10 p.m.,
15 proceedings adjourned.)

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