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DEPARTMENT OF LABOR AND INDUSTRIES

STATE OF WASHINGTON

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ELECTRICAL BOARD MEETING

TRANSCRIPT OF PROCEEDINGS

Thursday, April 26, 2018

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BE IT REMEMBERED, that an Electrical Board meeting was held at 9:00 a.m. on Thursday, April 26, 2018, at the Tacoma Rhodes Center, 950 Broadway, Orcas Room, Tacoma, Washington, before CHAIRPERSON TRACY PREZEAU, BOARD MEMBERS ALICE PHILLIPS, JASON JENKINS, DAVID WARD, JOHN BRICKEY, JANET LEWIS, RANDY SCOTT, DAVID CORNWALL, MIKE NORD, DYLAN CUNNINGHAM, DON BAKER, KEVIN SCHMIDT, DOMINIC BURKE and SECRETARY/CHIEF ELECTRICAL INSPECTOR STEPHEN THORNTON. Also present was ASSISTANT ATTORNEY GENERAL PAM THOMURE representing the Board.

WHEREUPON, the following proceedings were held, to wit:

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

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

Thursday, April 26, 2018  
Tacoma, Washington

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Thursday, April 26, 2018  
Tacoma, Washington

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CHAIRPERSON PREZEAU: Good morning. It is 9:05, and I would like to call the April 26, 2018, Electrical Board meeting to order.

1. Approve Transcripts from April 26, 2018, Electrical Board Meeting

CHAIRPERSON PREZEAU: The first item on the agenda is to approve the transcripts from the January 25, 2018, Electrical Board meeting.

Motion

BOARD MEMBER: Motion.

BOARD MEMBER JENKINS: Second.

CHAIRPERSON PREZEAU: It's moved and seconded to approve the transcripts. Seeing no discussion, all those in favor, signify by saying "aye."

THE BOARD: Aye.

CHAIRPERSON PREZEAU: Opposed? Motion carried.

Motion Carried

1                   Item 2. Departmental/Legislative Update

2

3                   CHAIRPERSON PREZEAU: Departmental/legislative  
4 update.

5                   SECRETARY THORNTON: Good morning. How are you?

6                   David's not able to be here today, so I'm going to do  
7 the Department update.

8                   So our workload is staying steady. Our response  
9 times this time of year are pretty good. The busy  
10 season's coming. Our challenge is going to be to keep the  
11 response times up as close as we can to where they are  
12 right now.

13                  Something that continues to be a issue for us are our  
14 vacancy rate. We run 15 vacancies every month. We've got  
15 some double-fills around the state. So we usually run a  
16 net 9 to 11 vacant positions.

17                  CHAIRPERSON PREZEAU: And Steve, remind us again what  
18 the double-fill, how that --

19                  SECRETARY THORNTON: If we have good candidates,  
20 we'll fill them ahead of time for retirements that we know  
21 are coming up with our training plan that takes a while to  
22 get people through it. We have to be a little more  
23 proactive to get people up to speed. Generally when  
24 somebody retires, the experience and the history part of  
25 it walks out the door. That's the hard part to replace.

1           CHAIRPERSON PREZEAU:  Yeah.  And I think if I  
2  remember correctly in reading the transcripts, David  
3  reported that there's 27 -- or there's a significant  
4  number of inspectors that are eligible for retirement.  
5  What is -- do we know what percentage that is of the total  
6  inspector workload?

7           SECRETARY THORNTON:  Well, there's 24 scheduled to  
8  retire -- or will be retirement age in the next three  
9  years.  So that's about -- what's that -- 20 percent?  
10  Yeah, 10 percent would -- yeah, about 20 percent of our  
11  staff.  Probably 60 percent right now have five years or  
12  less experience.  So in three years, we're going to have  
13  maybe 15 to 20 percent of our staff that have been here  
14  over five years, and that's the real struggle right now is  
15  how do we preserve all of the things that have gone on in  
16  the past for all of the young guys.

17          CHAIRPERSON PREZEAU:  So the silver tsunami is  
18  finally here.

19          SECRETARY THORNTON:  Yeah.

20                 And we had an inspector pass away about three weeks  
21  ago.  And, you know, he didn't come to work on Monday, so  
22  we sent somebody to see what was going on.  And he'd had a  
23  heart issue.  And so that has stirred even more people to  
24  think about, Why am I staying here beyond retirement age  
25  when that could jump up.  So we've had a couple others

1 announce their retirement within days of that happening.

2 So that kind of --

3 CHAIRPERSON PREZEAU: That's totally understandable.

4 SECRETARY THORNTON: Yeah. It spurs people on to do  
5 that.

6 So with that vacancy -- like I said, we have a  
7 statewide recruiting system. The recruitment is open  
8 year-round. So about every four weeks we interview  
9 everybody that's on the register. And if they're  
10 qualified and we think they're going to be good inspectors  
11 and we can find a way to put them on someplace where we  
12 have a vacancy or such, we are pretty proactive in the  
13 hiring part of it.

14 A good share of our vacancies are in the lead and  
15 supervisor positions right now. Inspector-wise I think  
16 we're within about four of being fully staffed at the  
17 inspector level. That's pretty good. But it's the lead  
18 and supervisor part now. ECOPE is recruiting actively  
19 right now.

20 CHAIRPERSON PREZEAU: Which is kind of commiserate  
21 with the industry, right? It's --

22 SECRETARY THORNTON: Yeah, yeah.

23 CHAIRPERSON PREZEAU: Obviously there's a need for  
24 electrical workers, electricians, but there's a real  
25 drought of supervisory-level positions. Candidates I

1 should say.

2 SECRETARY THORNTON: One of the other things that's  
3 going on right now is we're doing our stakeholder meetings  
4 -- annual stakeholder meetings. I've done about half of  
5 them now.

6 CHAIRPERSON PREZEAU: And what's happening tonight,  
7 Steve?

8 SECRETARY THORNTON: The stakeholder meeting here.

9 CHAIRPERSON PREZEAU: What time?

10 SECRETARY THORNTON: 6 to 8.

11 CHAIRPERSON PREZEAU: Everybody come.

12 SECRETARY THORNTON: Some of the big topics of  
13 conversation at that have been so far the lack of  
14 qualified people to hire. That seems to be an issue with  
15 every contractor no matter what license he has, whether  
16 it's an 06 or an 01. They're all talking about, you know,  
17 nobody to hire. We even had one guy tell us to stop  
18 hiring inspectors because all we're doing is stealing them  
19 from the industry.

20 The other big topic in the stakeholder meetings is  
21 the apprenticeship bill, which has scared some of the  
22 smaller contractors. But most of that is due to it's  
23 brand new; they don't know anything about it yet. So as  
24 soon as they hear the word, they throw on the brakes.

25 CHAIRPERSON PREZEAU: Do you want to elaborate on



1 that? Just give a bill summary for the --

2 SECRETARY THORNTON: It says that by 2023 in order to  
3 be an 01 electrician, you're going to have to have  
4 completed an apprenticeship program. And that right now  
5 there's probably not enough availability to handle that  
6 many people. So the apprenticeship part of the industry's  
7 going to have to grow whether they -- the ones that are  
8 there just get bigger or more of them develop.

9 One of the bigger concerns in that whole process is  
10 what happens to the people that are halfway through.  
11 You've started the OJT and you've got 4,000 hours  
12 accumulated, so what are they going to do with those  
13 hours. From what I've gathered from our apprenticeship  
14 people, as long as the hours are on the books with Labor  
15 and Industries, then those hours will transfer over. So  
16 you would start at that level in the apprenticeship  
17 program. I think a lot of that has to still be developed  
18 and vetted.

19 CHAIRPERSON PREZEAU: In rulemaking probably?

20 SECRETARY THORNTON: Well, that part of it is going  
21 to be up to the individual apprenticeships to accept those  
22 hours I would think. I mean, we're going to have the  
23 hours on the books.

24 CHAIRPERSON PREZEAU: Which is going to -- this bill  
25 has a five-year phase-in period.

1 SECRETARY THORNTON: Yeah. 2023, yeah.

2 CHAIRPERSON PREZEAU: So, you know, it's going to be  
3 governed by the individual apprenticeship standards and  
4 then obviously associated state rules and laws.

5 But I would -- I am hopeful that nobody -- that the  
6 intent is not to strand people, right? So that if you  
7 were starting your, you know -- especially given the fact  
8 that, you know, contractors are having difficulty staffing  
9 projects, you certainly don't want -- we want to make sure  
10 that if folks are starting their electrical construction  
11 career today, right? with -- that bill has passed, and not  
12 in an apprenticeship program that are -- in the event that  
13 they haven't accumulated 8,000 on-the-job training hours  
14 and completed their basic classroom training requirements  
15 by July 1, 2023, or whatever, the -- that they -- that  
16 there's opportunity there regardless of the situation.

17 SECRETARY THORNTON: The other part of that is that  
18 we're going to have to probably dig through a lot more  
19 hours that people are trying to push through ahead of  
20 that deadline that may or may not be up to speed. So  
21 audit-wise we'll probably have to put on some more people  
22 to handle that workload.

23 One of the good parts of it is I think it will be a  
24 good chip to play when you guys start recruiting in high  
25 schools and such to be able to show somebody a regular

1 progression and where they will be when they're done,  
2 which is something that's kind of hard to do now with the  
3 OJT part.

4 CHAIRPERSON PREZEAU: Well, as a graduate of an  
5 apprenticeship program, I certainly think that they --  
6 it's the best vehicle by which to ensure that you become  
7 the best electrician that your individual is capable of  
8 becoming.

9 SECRETARY THORNTON: I don't think anybody debates  
10 the part that more education is good. The part that is  
11 uncertain to most people is what does it cost. And  
12 there's all kinds of rumors around with some exorbitant  
13 numbers about what it costs. It'll be time for the  
14 apprenticeship programs themselves to get out some  
15 information and get people aware of what's out there.

16 CHAIRPERSON PREZEAU: Any -- I'm just -- I'm really  
17 hoping that you're going to talk about the virtual  
18 inspection pilot.

19 SECRETARY THORNTON: I am.

20 CHAIRPERSON PREZEAU: Yay.

21 SECRETARY THORNTON: Yay.

22 So our virtual inspections, we start -- well, we've  
23 been starting down that road for quite some time now.  
24 We're in the last stages of some of our IT issues with the  
25 scheduling program downstairs in our building. So that's

1 supposed to be done before too long.

2 We've got a group of three inspectors that have  
3 volunteered to do the pilot project for the next nine  
4 months. And we've got three backups for them so that we  
5 should have three people available all the time. We've  
6 got a group of about 30 contractors that have offered to  
7 go through the growing pains with us of finding out what  
8 works and what doesn't work, and it's going to take a  
9 little more time in the beginning I think.

10 So hopefully we'll get started with that in the next,  
11 you know, few weeks and actually get started doing some  
12 inspections.

13 Right now we're doing some that come in the normal  
14 way and just having inspectors go out and look at them,  
15 and we're looking at them on the computer on our end.

16 So far it's been a very positive response from the  
17 stakeholders. I talk about it at the stakeholder  
18 meetings.

19 Some of the things that have come up that I don't  
20 know that we thought about beforehand is some people just  
21 don't want you to videotape inside their house. So some  
22 of the things where we thought might be helpful on an  
23 access principle, they say, No, you're not videotaping the  
24 inside of my house in order to get an inspection done.  
25 I'll stay home and wait for it anyway. But -- there's not

1 a lot of people out there like that.

2 We'll find some of those things in the pilot project.  
3 But I think there's going to be more than enough ways to  
4 use that principle that it will be beneficial to  
5 everybody, particularly the industry.

6 CHAIRPERSON PREZEAU: Do you -- Steve, did you -- do  
7 you have a copy of the legislative update that you gave  
8 to us in January with all those nine bills?

9 SECRETARY THORNTON: I do not.

10 CHAIRPERSON PREZEAU: So I'm curious if -- I'm  
11 assuming that if the -- because in January, if you'll  
12 recall, we went through nine bills including the  
13 apprenticeship bill. And I'm curious if you are prepared  
14 today, and if you want to do it under the -- if you want  
15 to punt it to the Secretary's Report to give you some  
16 time, but is what pieces of legislation that were reported  
17 on in January passed that have impacts on the program, and  
18 then --

19 SECRETARY THORNTON: The other one that has an impact  
20 on us -- I'm not sure how it's going to work -- is the  
21 cities having the ability to do compliance.

22 I've heard that the City of Seattle for one is going  
23 to be one that takes that opportunity to do that. So I've  
24 heard that they'll, you know, may be getting ahold of us  
25 to get some pointers on how we go about it, learn some

1 things that we have on the books already.

2 And I will punt on the rest of them and verify that  
3 there aren't any others on that list that affect us.

4 But those are the two that I report out on at the  
5 stakeholder meetings as the two that the industry needs to  
6 be aware of.

7 CHAIRPERSON PREZEAU: Okay.

8 SECRETARY THORNTON: So rule-wise we had the change  
9 to the 02 and the 04. The 02 went to six floors from  
10 three floors with 3, 4 and 5 construction.

11 And the sign industry was allowed to do LED retrofits  
12 in parking lot lighting and stuff. They had the ability  
13 to work on them, but the verbiage wasn't such that it  
14 allowed them to do LED retrofits. They could do it in  
15 their sign, but then they couldn't do it in a parking lot  
16 light. That didn't make much sense, so we had that  
17 changed.

18 The other things, right now we are -- we have a  
19 pretty good training plan for inspectors. Now we're  
20 working on developing a training plan for leads and  
21 supervisors. It used to be when our staff was a little  
22 better rounded age-wise, you could learn things over time  
23 and promote to a leader or supervisor, but with all of the  
24 young people we have, we're finding that the people that  
25 are willing to promote and do those jobs aren't very well

1 prepared. So we're developing a training plan for both.

2 We're going around the state collecting best  
3 practices everywhere that we go, talking to each  
4 inspector, getting their input on what they think they  
5 need to know in order to, you know, be ready to promote.  
6 And then we'll take all that information and put it into a  
7 training plan so hopefully we'll have training plans for  
8 everybody all the way up through. I think it'll make for  
9 a better group all the way around.

10 And that's probably it for the Department Update.  
11 I'll do the rest of the legislative stuff in the  
12 Secretary's Report.

13

14 Item 2.A. WAC 296-46B-555 Rulemaking

15

16 SECRETARY THORNTON: The other thing that we sent  
17 around is a copy of the marina update. So we need to get  
18 a recommendation from the Board.

19 We had a change to the marina section, and when that  
20 expired the industry asked for another extension. So this  
21 is what we proposed to them.

22 And we added a little bit to what was there existing  
23 for the supplying the primary windings of a transformer.  
24 And then we put a statement in there that, you know, they  
25 would have until September 1st of 2019, and then we're

1 going to go with the NEC, whatever it says. They will  
2 have had their chance to change or update the NEC. And if  
3 they can't get changes made at that level, then we're  
4 going to go with the 2020 regardless of what it says.

5 CHAIRPERSON PREZEAU: How many people are really  
6 participating in this process? Is it a pretty good -- is  
7 it --

8 SECRETARY THORNTON: A lot of it was marinas around  
9 the Puget Sound area. I don't know that there were many  
10 from east of the mountains. But there were a lot of  
11 marinas on the Columbia River. But most of the people we  
12 talked to were around the Seattle area. A lot of marinas  
13 on -- in salt water.

14 CHAIRPERSON PREZEAU: I'm assuming that they're all  
15 pretty much lined up with this?

16 SECRETARY THORNTON: When you say "all" --

17 CHAIRPERSON PREZEAU: Well, the marinas -- I'm a  
18 little bit -- I'm slightly concerned only in that, you  
19 know, we engaged in -- especially the rulemaking of the  
20 entire 296-46B. Usually there's a pretty good spectrum of  
21 participants. And even with the rulemaking for the 04 and  
22 the 02 that we just -- with the effective date February  
23 23rd I think, there was a pretty good spectrum. There  
24 were people representing contractors, and there were  
25 people representing electricians, and there were people --



1 you know, it wasn't one sided. And what I'm hearing is  
2 that in this rulemaking, the only -- for the vast majority  
3 of the participants that are offering advice or counsel to  
4 the Department are impacted parties and no other industry  
5 representatives? Is that true?

6 SECRETARY THORNTON: I don't believe there were. It  
7 was just marina people, right?

8 MR. MUTCH: Most of the comments have come from the  
9 marina industry. And we've published updates in the  
10 newsletter, and we haven't really received any input from  
11 other stakeholders.

12 CHAIRPERSON PREZEAU: Okay. So -- so -- maybe I just  
13 need more coffee. But where -- so where are we at in the  
14 rulemaking process with this?

15 Jason.

16 BOARD MEMBER JENKINS: Madam Chair, I'm reading this  
17 and I'm seeing we're just pushing safety further and  
18 further out. I'm in disagreeance of keep pushing this  
19 number out. I think this is a safety issue to keep adding  
20 more time to something that's been already added time to.

21 That's my opinion on this particular change.

22 CHAIRPERSON PREZEAU: So give me some more words,  
23 Jason. Because --

24 BOARD MEMBER JENKINS: Well, I'm seeing the 30  
25 milliamp requirement is strictly for trying to keep things

1 safe. And the current allowance for 100 milliamps is just  
2 not a -- it's being reduced back to 30. And what I'm  
3 seeing, unless I'm reading it wrong, is this is saying,  
4 Well, we're going to allow that 100 milliamp to continue  
5 on for another year before we require back to 30. And so  
6 I think it's a safety issue personally.

7 And I've been hearing a lot of people talk about  
8 issues on, where I'm at anyway, marinas and boat yards  
9 having problems with electrical energizing systems. And  
10 so I just think that adding more time, just like we've  
11 done in the past with GFCI's, I don't think it's that big  
12 of an ask to say, No, we need to lower these thresholds  
13 down.

14 CHAIRPERSON PREZEAU: So -- and the reason why I  
15 said, Give me some more words -- because like this -- when  
16 this rule went into effect, the one that they're trying to  
17 -- that's under consideration or reconsideration, was in  
18 2017; is that correct?

19 SECRETARY THORNTON: Correct.

20 CHAIRPERSON PREZEAU: And it had established, which  
21 is why it struck language, and then it's July 1, 2018, for  
22 the implementation of these, using Jason's words, more  
23 stringent electrical safety standards for marinas. And  
24 this rulemaking would basically give them a 14-month  
25 extension.

1           SECRETARY THORNTON: Yes. And this rulemaking here,  
2 we added some stipulations to what was there until July  
3 1st of 2018. The transformer language wasn't in there.  
4 So we put the 30 milliamps on the primary side of the  
5 transformer and upped it a little bit from a little closer  
6 to what the NEC was in this version.

7           CHAIRPERSON PREZEAU: And so where -- so you might  
8 have said this already, but I was distracted. But where  
9 are we at? Where does this rulemaking stand right now?  
10 What stage are we at?

11           SECRETARY THORNTON: This verbiage right here is  
12 what we're doing right now.

13           CHAIRPERSON PREZEAU: No, I know. But I mean, what  
14 -- acutely what -- where are we at in the process?

15           SECRETARY THORNTON: I'm looking for recommendations  
16 from the Board.

17           CHAIRPERSON PREZEAU: Okay. So CR101 status, right?  
18 We're like -- we're seeking stakeholder input. We're not  
19 -- we're like at the beginning of the public information  
20 gathering process.

21           SECRETARY THORNTON: Yes.

22           MR. MUTCH: We're up to 102. We're taking public  
23 comments.

24           SECRETARY THORNTON: Has the 101 been filed?

25           MR. MUTCH: The 102 has.

1 SECRETARY THORNTON: 102 has.

2 MR. MUTCH: And the public hearing is May 9th.

3 CHAIRPERSON PREZEAU: So what is happening on May  
4 9th?

5 SECRETARY THORNTON: Public hearing.

6 CHAIRPERSON PREZEAU: Okay. Where is that public  
7 hearing at on May 9th?

8 SECRETARY THORNTON: It's in Tumwater.

9 MR. MUTCH: Yeah, I'll give you the article here.

10 CHAIRPERSON PREZEAU: So while we're determining the  
11 logistics of that, but -- so Steve, you think that this  
12 language -- or some of the language that is in this  
13 proposed rule serves as a bridge to get to the -- to get  
14 closer to the language that is currently in the National  
15 Electrical Code?

16 SECRETARY THORNTON: Yes.

17 CHAIRPERSON PREZEAU: Okay. So are you asking us to  
18 take some type of -- or provide some type of  
19 recommendation this morning?

20 SECRETARY THORNTON: Yes.

21 ASSISTANT ATTORNEY GENERAL THOMURE: When is the rule  
22 being in effect?

23 CHAIRPERSON PREZEAU: It appears July 1, 2017 (sic),  
24 which is before our next Electrical Board meeting.

25 And I know that you provided this electronically to

1 the Board members prior to today's meeting.

2 I would very much like to hear from other Board  
3 members. But my initial reaction right now is to take an  
4 opportunity to reflect on this language a little bit more.  
5 That's where I'm at. I'm not -- I don't feel incredibly  
6 comfortable offering a recommendation to the Department  
7 having not taken a whole lot of time considering this  
8 proposal. Is that -- I would really like to hear from  
9 some other Board members about this.

10 SECRETARY THORNTON: And the public hearing is May  
11 9th at the Department of Labor and Industries in the main  
12 building. And the Currents newsletter that's going out in  
13 May says we're accepting written comments until then.

14 CHAIRPERSON PREZEAU: It's quiet in this room.

15 BOARD MEMBER LEWIS: A question.

16 CHAIRPERSON PREZEAU: Oh, Janet. Sorry.

17 BOARD MEMBER LEWIS: Steve, did you convene a  
18 stakeholder meeting of the industry prior to writing this  
19 or has there been one in the past?

20 SECRETARY THORNTON: Just meetings with the marina  
21 industry.

22 Rod can give us an update and some background  
23 information on it if you'd like.

24 BOARD MEMBER LEWIS: And maybe I missed this before,  
25 but are they in support of this or not in support of it?

1           SECRETARY THORNTON: No, they -- they know that this  
2 is something that they can support.

3           BOARD MEMBER LEWIS: Thank you.

4           SECRETARY THORNTON: Do you want to hear more  
5 comments? Do you want to hear some background from Rod?

6           CHAIRPERSON PREZEAU: I do. Thank you.

7           MR. MUTCH: So --

8           CHAIRPERSON PREZEAU: Thank you, Rod.

9           MR. MUTCH: -- when we adopted the 2017 NEC right  
10 before -- I believe it was even after the 102 was filed.  
11 It was after the public comment period. We heard from the  
12 Northwest Marine Trade Association that they didn't have a  
13 chance to participate, for whatever reason, they weren't  
14 connected with the industry. They objected to the fact  
15 that the NEC placed this 30 milliamp limit on ground-fault  
16 protection in marinas.

17           CHAIRPERSON PREZEAU: Because what was the threshold  
18 previously?

19           MR. MUTCH: 100 milliamps. So in the 2014, any  
20 ground-fault leakage in a marina once it hit 100  
21 milliamps, it would shut the main off and kill all the  
22 power to the marina. In '17, the Code Panel dropped that  
23 to 30 milliamps, and it required it on all over-current  
24 protective devices. So all breakers in a marina had to be  
25 protected on 30 milliamps.

1           The marina industry claims that -- so essentially  
2 boats in marinas are -- the wiring is in such disrepair on  
3 the boats that there is no way that the marina shore power  
4 receptacles can hold 30 milliamp protection, especially  
5 when you have multiple slips connected to a common feeder.

6           CHAIRPERSON PREZEAU: The same pedestal?

7           MR. MUTCH: Yes.

8           So if you have ten boats connected to the same  
9 feeder, and each boat is leaking 3 milliamps into the  
10 water, that cumulative effect hits the 30 and shuts them  
11 all off. Or if you have one boat that's leaking 150  
12 milliamps into the water, it will shut the pedestals off  
13 for all of the other boats.

14           So -- and they claimed that they didn't have any  
15 representation when these rules were discussed in the code  
16 panels at the NEC meetings.

17           The Department -- so we -- at the end of the  
18 rulemaking --

19           CHAIRPERSON PREZEAU: So I just want -- wow. A lot  
20 of questions in my head.

21           But my first response is: You are likely much more  
22 familiar with the NEC code-making process than I am. And  
23 I am sorely missing Board Member Bobby Gray because he's  
24 pretty tied into this as well.

25           In your opinion, is it possible that in development

1 of this new NEC rule that governs this 30 milliamp  
2 protection threshold in the National Electrical Code was  
3 implemented -- is it possible that that happened without  
4 any input from the marina industry?

5 MR. MUTCH: Yes.

6 CHAIRPERSON PREZEAU: Okay.

7 MR. MUTCH: So the code-making panel that deals with  
8 that is very well -- they have articles that deal with  
9 recreational vehicles, mobile homes, marinas, floating  
10 buildings. And so the representation on that code-making  
11 panel has lots of representation from the R.V. industry,  
12 from the mobile home manufactured home industry. But  
13 there was no representation on that panel from the marina  
14 industry. There is now. They have --

15 CHAIRPERSON PREZEAU: I'm sure there is.

16 MR. MUTCH: For the 2020 code there is a  
17 representative for the marina industry.

18 CHAIRPERSON PREZEAU: As there should be. I mean, I  
19 don't mean to be mocking that.

20 MR. MUTCH: Marina owners generally aren't connected  
21 with the code-development process for electrical.

22 CHAIRPERSON PREZEAU: It sounds like boat owners  
23 aren't either.

24 MR. MUTCH: Boat owners are not either. Boat owners  
25 are not required -- you know, boats are not required to



1 meet the NEC.

2 They have -- the American Boat and Yacht Council has  
3 guidelines for wiring on boats.

4 So they weren't really connected with that. The  
5 Department looked at it and said, All right, we will  
6 extend that 100 milliamp protection, which is what was in  
7 the '14 code until July of 2018. And in addition to  
8 that, we'll require 30 milliamp protection on the  
9 pedestal. So that'll alleviate some of the cumulative  
10 leakage problems that they claimed.

11 When --

12 CHAIRPERSON PREZEAU: Oh. Okay. So -- I'm sorry.  
13 Maybe it's the coffee that's kicking in.

14 So it's 100 milliamp threshold which -- for --

15 MR. MUTCH: Feeders.

16 CHAIRPERSON PREZEAU: For feeders, okay. And that is  
17 consistent with the 2017 NEC?

18 MR. MUTCH: That's consistent with the 2014 NEC.

19 CHAIRPERSON PREZEAU: Oh. Thank you.

20 MR. MUTCH: So the 2017 NEC required 30 milliamp  
21 protection for everything.

22 CHAIRPERSON PREZEAU: Okay.

23 MR. MUTCH: The Department extended the 100 milliamp  
24 protection for feeders until July of 2018.

25 Anyone -- any stakeholder can petition the Department

1 to do rulemaking. That's what happened. The marina  
2 industry petitioned the Department to do rulemaking to  
3 extend that 100 milliamp protection on feeders beyond the  
4 July of 2018 deadline.

5 The Department accepted their petition. And we are  
6 current -- that's what this rulemaking is about. We're  
7 currently considering adopting until September of 2019  
8 extending that 100 milliamp protection. And then at that  
9 time we'll go with what the NEC has published in the 2020  
10 code.

11 That's kind of where we're at.

12 Right now we're past the 102 stage -- CR102. We're  
13 taking public comments. And then there's a public hearing  
14 May 9th in Tumwater at 9 a.m.

15 That's the background.

16 CHAIRPERSON PREZEAU: Thank you.

17 BOARD MEMBER NORD: I've got a question, Steve.

18 CHAIRPERSON PREZEAU: Go ahead.

19 BOARD MEMBER NORD: Once we change it to 30  
20 milliamps, and apparently based upon what I'm hearing,  
21 the wiring in the boat itself in most cases is so poor.  
22 It may have been okay when it left the factory, but  
23 there's been no maintenance. So we've created all these  
24 fault situations.

25 Are we going to set up an unworkable situation for

1 these marinas because we can't control the wiring in the  
2 boats?

3 MR. MUTCH: Marina owners are going to have to --  
4 they will end up disconnecting boats that have that fault  
5 wiring. They won't be able to hold the ground-fault  
6 protection even at 100 milliamps.

7 BOARD MEMBER NORD: So the safety issue will be on  
8 the marina owners themselves to police?

9 MR. MUTCH: It'll be on the ground-fault protection  
10 level of the electrical system. And if you have a boat  
11 that's leaking too much current, they're going to shut  
12 the whole marina down. So --

13 BOARD MEMBER NORD: So we have to have the marina  
14 owners to take care of handling with the boat owners; we  
15 won't be involved.

16 MR. MUTCH: Correct.

17 BOARD MEMBER JENKINS: Madam Chair?

18 CHAIRPERSON PREZEAU: Oh, sorry.

19 BOARD MEMBER JENKINS: Madam Chair, I'm just looking  
20 at this -- this will not affect current marinas right now  
21 that are actually operating. This is only when they do  
22 upgrades or, you know, doing something to their system.

23 MR. MUTCH: Right.

24 BOARD MEMBER JENKINS: So I'm -- the way I read this  
25 is, looking at it, we're kind of setting them up for a

1 fall because we're just allowing this Band-aid to happen.  
2 If they put in a new one, why not require them to be safe  
3 versus allowing this to just continue for another year?

4 So in new marinas now or any new upgrades, we're just  
5 saying, "Yeah, go ahead and do it for another year,"  
6 versus saying, "No, you need to upgrade your system; you  
7 need to put a better system in."

8 MR. MUTCH: Yeah, these rules won't apply  
9 retroactively. So only modifications for new wiring will  
10 have to modified.

11 BOARD MEMBER JENKINS: I'm just at this as a cost of  
12 business. You know, you put a new system in, make it  
13 safe.

14 CHAIRPERSON PREZEAU: So I just -- and Alice has a  
15 question. But I want to clarify.

16 So let's say -- you know, I am not a marina owner,  
17 but let's say I am a marina owner. These don't apply to  
18 me unless I decide to -- I need to invest in my electrical  
19 infrastructure and do some scope of work, then these --

20 MR. MUTCH: These apply with any wiring  
21 modifications. So damage; if they have to repair damage.

22 I heard of a boat running into a transformer and  
23 blowing up that section of the dock. So repairs would  
24 trigger the new requirements as well.

25 CHAIRPERSON PREZEAU: So a couple of concerns for me

1 that popped into my mind.

2 So I'm a marina owner and I look at this and say, "I  
3 don't have to meet this threshold unless I touch my  
4 electrical system, so I'm not going to touch my electrical  
5 system."

6 MR. MUTCH: Correct, if possible.

7 CHAIRPERSON PREZEAU: The other thing that comes to  
8 my mind that is -- you know, I mean, obviously the first  
9 thing that I -- one of the first things that I asked the  
10 chief was, "Who's participating in this rulemaking?" And  
11 I think people figured out I wasn't incredibly happy that  
12 the only people that were really participating in the  
13 rulemaking are from one side of the industry. But in  
14 order to be consistent, then I should be critical of the  
15 NEC process. If there was nobody from the -- there was  
16 nobody participating in this NEC process from the industry  
17 that didn't hear that, you know, I'm not a big fan of any  
18 decision that gets made where only half of the -- you  
19 know, where there's not a full spectrum of participants.

20 Does that make sense?

21 And so I -- you know, this is not exactly how I  
22 wanted to start the morning off. Let's just be clear.

23 Well, I mean, we want to do good work, right? And I  
24 echo I'm not -- I -- you know, I don't like unsafe  
25 situations, and when you're telling me that, you know,

1 that they have -- marinas aren't participating in this  
2 process giving you consistent information that it's the  
3 boats, and we're leaking current into the water, and they  
4 can't -- likely can't even meet the 100 milliamp  
5 threshold.

6 Alice, did you want to ...

7 BOARD MEMBER PHILLIPS: Well, I just -- I'm confused.  
8 If this only applies to modified systems, and we're giving  
9 them it looks like 14 months, correct? to -- as a grace  
10 period, and I'm expanding my marina, I want to get that  
11 done before this because then I don't have to deal with  
12 this rule, it just seems like we're giving -- I agree. I  
13 think we're giving them a way out to continue with this  
14 unsafe practice.

15 BOARD MEMBER WARD: Madam Chair?

16 CHAIRPERSON PREZEAU: Yes.

17 BOARD MEMBER WARD: So Rod, just for my education,  
18 what's going to happen between now or July 1st and  
19 September that would be different? Is -- I mean, what's  
20 -- so we kick the can down the road a bit. What really --  
21 what happens? What's going to change?

22 MR. MUTCH: The 2020 NEC will be published in August  
23 of '19. So they -- so the risk --

24 BOARD MEMBER WARD: So it lines up.

25 MR. MUTCH: Yeah.

1           So currently the NEC requires 30 milliamps for all  
2 over-current devices feeding the marina. We don't know  
3 what is going to happen in the 2020 with the addition of  
4 the marina representative on the code-making panel. I  
5 suppose it's possible that the NEC panel could adopt a  
6 requirement in 2020 that is similar to what our  
7 requirement is now: 100 milliamps for the feeder and 30  
8 milliamps for the branch circuits. So that's a risk.

9           If Washington -- if Washington does not adopt this  
10 rule and we go with the 30 milliamp requirement for  
11 feeders and branch circuits and the NEC panel in the 2020  
12 code adopts 100 milliamp protection for the feeders and  
13 branch circuits, then Washington will be in a position of  
14 requiring something -- well -- so it's a little  
15 complicated. And there's no way to know until almost the  
16 time of publication what the code panels are going to do.

17           There will be an indication shortly on -- because  
18 there are proposals dealing with this in the NEC. They  
19 have their first draft meeting in January. So sometimes  
20 the code panels look to what other states are doing with  
21 these issues. And so it's hard to tell what they'll come  
22 up with.

23           BOARD MEMBER WARD: Thank you. That helps.

24           CHAIRPERSON PREZEAU: Yeah, a good question.

25           Well, I --

1 BOARD MEMBER BAKER: Madam Chair?

2 CHAIRPERSON PREZEAU: Don.

3 BOARD MEMBER BAKER: It kind of feels to me, Rod,  
4 like we're okay. Because -- I'm not a marina owner  
5 either. But boats are typically plugged into a branch  
6 circuit, not plugged into a feeder. And if they're  
7 plugged into a branch circuit, then under this they're  
8 covered to the 30 milliamps, correct?

9 MR. MUTCH: Correct.

10 BOARD MEMBER BAKER: If we go ahead and recommend  
11 adopting this language, it's September -- it would go into  
12 effect September 2019?

13 MR. MUTCH: Well, in September of 2019 we would --  
14 this rule would expire and we would go with what the  
15 published 2020 NEC requirement is.

16 BOARD MEMBER BAKER: And the 2020 code would get  
17 accepted by the state when?

18 MR. MUTCH: So if we adopt this language, on  
19 September 1st of 2019, we will enforce the Article 555,  
20 the ground-fault protection requirements published in the  
21 2020 code, but we won't adopt the entire 2020 code until  
22 July of 2020.

23 CHAIRPERSON PREZEAU: Rod, did you have a hand in  
24 crafting this language?

25 MR. MUTCH: May or may not have.



1           Larry Vance may or may not have had a hand in it as  
2 well.

3           CHAIRPERSON PREZEAU: Dominic.

4           BOARD MEMBER BURKE: I tend to agree with Don.

5           It seems like it's to avoid the tripping the feeders  
6 on a 30 milliamp.

7           So basically you have 30-milliamp protection  
8 downstream on a pedestal, and you can avoid tripping the  
9 whole marina out on -- you know. And the only problem I  
10 can see -- and correct me if I'm wrong -- is that that's  
11 cumulative, right? It might not trip out on a 30 milliamp  
12 set at this pedestal, but if that's leaking and that's  
13 leaking and -- then your marina can get up to a 100  
14 milliamps before there's any protection if I'm  
15 understanding you properly.

16           MR. MUTCH: Correct.

17           BOARD MEMBER BURKE: An ungrounded boat system is  
18 not the easiest system to deal with.

19           MR. MUTCH: Correct.

20           So there was a study in 2014 that the 2017  
21 code-making panel referenced, and it had to do with the  
22 difference between protection of the branch circuits and  
23 the feeders. And they found that some of the electric  
24 shock grounding incidents were tied back to the actual  
25 wiring on the dock and not necessarily the boats. So --

1 and it involved faulty feeder wiring on the dock. So  
2 that's why they included protection -- ground-fault  
3 protection of the feeders. So --

4 BOARD MEMBER BURKE: Because I believe the ground-  
5 fault protection for personnel that were used in other  
6 applications is 5 milliamps because that's where the  
7 ventricular defibrillation starts where it would stop the  
8 heart.

9 MR. MUTCH: Correct.

10 BOARD MEMBER BURKE: So it seems like the whole --  
11 it's gone beyond what we're used to.

12 CHAIRPERSON PREZEAU: Well -- and that's why it's a  
13 little bit shocking -- disturbing; I'll use that.

14 And I appreciate, Don, your -- but, you know, it's  
15 still 30 milliamps for branch circuits, right? But these  
16 are thresholds that we're not accustomed to.

17 MR. MUTCH: So the reason for that is they did a  
18 study -- another study in 2006, the Coast Guard did, and a  
19 person in freshwater, they injected current into the water  
20 -- well, they didn't put a person in there.

21 CHAIRPERSON PREZEAU: I was hoping that --

22 MR. MUTCH: But they put test probes and measured  
23 current flow in freshwater. And so when a person is in  
24 water -- in freshwater and there's current flowing through  
25 the water, the resistance of a person's body is lower than

1 resistance of the water, so a higher portion of that  
2 current flows through the person. Okay? Because -- so  
3 let's say the person is 6 feet long and the voltage  
4 gradient going across that length, more of the current is  
5 going to flow through the person's body than is going to  
6 flow through the water. So --

7 CHAIRPERSON PREZEAU: Because electricity actually  
8 does not take the path of least resistance; it takes all  
9 paths.

10 MR. MUTCH: Right, yeah.

11 So the 30 milliamp protection was found sufficient to  
12 prevent that amount of current flowing through a person's  
13 body when it's flowing through the water. That was the  
14 study in 2006.

15 CHAIRPERSON PREZEAU: What if you're only 5'1 1/2?  
16 Sorry.

17 MR. MUTCH: So that's why it's different for GFCI  
18 protection at 5 milliamps. That prevents electrocution.  
19 But the 30 milliamp protection was found sufficient to  
20 prevent electric shock grounding.

21 BOARD MEMBER BURKE: In freshwater.

22 MR. MUTCH: In freshwater.

23 That's not the case in saltwater. Saltwater is --

24 CHAIRPERSON PREZEAU: I was going to say --

25 MR. MUTCH: Saltwater is more conductive than the

1 human body. So there isn't as near a -- as much of a  
2 shock hazard in saltwater.

3 CHAIRPERSON PREZEAU: So it's actually safer.

4 MR. MUTCH: It's safer. Although, electrocution is  
5 a hazard in saltwater because if you contact a metal part,  
6 now you've got a higher resistance. So ...

7 CHAIRPERSON PREZEAU: All right. Well, thank you,  
8 Rod. You were -- your comments were insightful and  
9 helpful.

10 The Chair will entertain a motion.

11 (Pause in proceedings.)

12 Or not. Okay. I don't know what to tell you.  
13 Steve, the meeting's not over either, right?

14 SECRETARY THORNTON: Right.

15 CHAIRPERSON PREZEAU: So -- but -- I'm going back to  
16 the transcripts, and I'm not looking to, you know, eat up  
17 time, but David spoke about, in January, about the  
18 supplemental legislative budget.

19 And I'm reading from the transcripts. The last time  
20 that Jose' was here talking to the Board, we discussed  
21 that for salaries we ended up getting a wage increase for  
22 the electrical inspectors last cycle. We all remember.  
23 Yay.

24 One of the things that occurred is that it was not  
25 fully funded in the program. So this time because of the

1 short session we're doing is we're requesting  
2 authorization for that.

3 SECRETARY THORNTON: Yes.

4 CHAIRPERSON PREZEAU: Can you report on that?

5 SECRETARY THORNTON: That was approved.

6 CHAIRPERSON PREZEAU: So no hiccups there.

7 SECRETARY THORNTON: No.

8 CHAIRPERSON PREZEAU: Anything else under  
9 Departmental/Legislative Update?

10 SECRETARY THORNTON: No. That's it.

11 CHAIRPERSON PREZEAU: Any questions for Steve?

12 BOARD MEMBER JENKINS: Madam Chair, are we going to  
13 have more discussion about this apprenticeship rulemaking,  
14 or was this the last we're talking about it?

15 SECRETARY THORNTON: What -- do you have a question?

16 BOARD MEMBER JENKINS: Well, I --

17 SECRETARY THORNTON: I don't know all of the  
18 particulars on it. It just passed a short time ago.  
19 But ...

20 BOARD MEMBER JENKINS: I'm concerned that the  
21 apprenticeship programs themselves need to be involved in  
22 the actual setting of the standards that we put in place.  
23 Because if they're not put in with the apprenticeship  
24 programs in mind, there's a good chance that this rule  
25 gets set in place and then no apprenticeship programs will

1 accept or only few apprenticeship programs will accept the  
2 apprentices coming in because of the schooling issue.  
3 People are coming in half for the next five years.

4 I'm also concerned with if there's any more new cards  
5 being issued today for people that are applying to this  
6 program.

7 SECRETARY THORNTON: Anybody that meets the  
8 requirements to test and passes the test before 2023 will  
9 get their 01 card. After 2023 then you will have to have  
10 completed an apprenticeship program in addition.

11 BOARD MEMBER JENKINS: So if I'm a new person, say,  
12 working in the electrical industry, I walk into L & I  
13 today, and I want to use the route of a non-apprenticeship  
14 program, can I get a card today and start accumulating  
15 hours?

16 SECRETARY THORNTON: As a trainee, yes.

17 BOARD MEMBER JENKINS: And that's where I think it is  
18 a problem. Because we're setting them up for failure by  
19 allowing that to continue on.

20 That's my input on that.

21 I think at this point since we know that they cannot  
22 run that route all the way through ...

23 SECRETARY THORNTON: But whatever hours they  
24 accumulate between now and 2023, whatever that is, that  
25 will roll over into the apprenticeship program. So maybe

1 I get 6,000 hours between now and then. Then I only have  
2 to complete the next 2,000 in order to have completed the  
3 apprenticeship program.

4 BOARD MEMBER JENKINS: So if I understand you right,  
5 they'll get the hours, but what about the schooling  
6 portion of it? Because the way I understand it now, when  
7 people come into an apprenticeship program and they have  
8 zero or effectively zero schooling hours, an apprentice  
9 will have to start at ground zero even though they have  
10 4,000 hours set up, they won't have the schooling  
11 background. An apprenticeship program's going to say,  
12 Well, you need to start at ground zero to build up your  
13 schooling hours to meet your work hours.

14 SECRETARY THORNTON: And I don't know that I have the  
15 answer --

16 CHAIRPERSON PREZEAU: Which is going to be governed  
17 by your individual apprenticeship standards, right?

18 SECRETARY THORNTON: Yeah.

19 BOARD MEMBER JENKINS: And that to me --

20 CHAIRPERSON PREZEAU: That is consistent with the  
21 apprenticeship division leader.

22 You know, there's definitely -- the details need an  
23 incredible amount of attention.

24 BOARD MEMBER JENKINS: That's exactly why I'm kind of  
25 proposing or suggesting maybe the Board -- I don't know if

1 we have input on this -- but that when they go through  
2 this process that they include in discussion the  
3 apprenticeship programs that are available today that are  
4 actually doing this process. That way we don't set them  
5 up for a --

6 SECRETARY THORNTON: And I know that, you know, we  
7 have the apprenticeship-approval process at Labor and  
8 Industries. So if you want to start an apprenticeship  
9 program, you have to meet certain criteria, and they are  
10 -- our apprenticeship people are the ones that have said  
11 that whatever hours are on the books at Labor and  
12 Industries will be what the apprenticeships are given.

13 Now, I don't know that anybody thought about, you  
14 know, the classroom part of it and how are the  
15 apprenticeships going to look at that. I think that's one  
16 reason they put a 2023 effective date on it is to iron out  
17 some of those issues in the process.

18 BOARD MEMBER JENKINS: So that's --

19 CHAIRPERSON PREZEAU: Jason, do you typically attend  
20 the -- is it the quarterly meeting of the Apprenticeship  
21 Council?

22 BOARD MEMBER JENKINS: I'm not on the Council, no.

23 That's why --

24 CHAIRPERSON PREZEAU: Is that a quarterly meeting?  
25 Do they meet quarterly, the Apprenticeship Council?



1 SECRETARY THORNTON: I don't know.

2 UNIDENTIFIED FROM AUDIENCE: Yes, they do.

3 SECRETARY THORNTON: Yes, from the audience.

4 CHAIRPERSON PREZEAU: So I appreciate your concern,  
5 Jason. And, you know, I would hope that the  
6 apprenticeships, you know, that are currently operating in  
7 the state that offer pathways to EL01 certification are  
8 heavily engaged in the rulemaking process.

9 BOARD MEMBER JENKINS: I just want to make sure that  
10 the invite's there for any apprenticeship program that  
11 wants to get involved in this is also at the table for  
12 discussion when these rules are set in place. Because I  
13 just hate to see anybody that signs up today, starts  
14 getting -- accumulating hours, goes into any  
15 apprenticeship program that they want to join, and come to  
16 find out that all this time they spent, they've got to  
17 start at ground zero again because they have no schooling  
18 hours.

19 CHAIRPERSON PREZEAU: Yeah, I mean, I -- because they  
20 -- they don't effectively start at zero, right? Because  
21 there's the basic classroom requirement -- training  
22 requirement, but it's much lighter than the 144, the 200  
23 hours annual classroom instruction.

24 BOARD MEMBER JENKINS: So someone assuming they have  
25 4,000 hours will all get to start in the middle of the

1 system, and then they approach any type of a  
2 apprenticeship program, and they say, "No, your hours  
3 you've done training will put you in year one or year  
4 two." So ...

5 CHAIRPERSON PREZEAU: And having -- I know that you  
6 have a large amount of familiarity with an apprenticeship  
7 program operating in the state of Washington, and I have  
8 some. And there are some current mechanisms that are in  
9 apprenticeship standards. So they just need to be mindful  
10 of those and additional -- potentially additional  
11 language.

12 And I'm just -- I'm happy that they -- that, you  
13 know, the industry has five years to -- hopefully they,  
14 you know, will get out on the front end of this, but have  
15 some opportunity to be mindful going forward.

16 SECRETARY THORNTON: And there have been  
17 apprenticeship people at some of the stakeholder meetings.  
18 Nobody has asked that specific question about the  
19 classroom hours. What are you going to do with somebody  
20 who has 6,000 work hours but not the classroom hours?

21 I can ask our apprenticeship people. But I don't  
22 know that --

23 CHAIRPERSON PREZEAU: Because you could conceivably  
24 have 6,000 work hours and no classroom hours.

25 SECRETARY THORNTON: Or no hours that they're going

1 to accept. So -- yeah. It's something to find out about  
2 for sure. I'll see if I can find something out, you know,  
3 shortly and then forward it on to you guys.

4 CHAIRPERSON PREZEAU: Okay.

5 BOARD MEMBER JENKINS: Thank you.

6 CHAIRPERSON PREZEAU: Any other questions for Steve?  
7 All right, Milton, how are you doing over there?

8 THE COURT REPORTER: I'm fine.

9 CHAIRPERSON PREZEAU: You're all right?

10

11 Item 3. Appeals

12

13 Item 3.B. Husky Injection Molding Systems LTD

14

15 CHAIRPERSON PREZEAU: So next item is -- we have  
16 presentment of orders.

17 So if the Board members recall -- so if we could have  
18 the parties in the Husky Injection Molding Systems matter  
19 come before us.

20 And for some Board members, this will be a first I  
21 think because what we have this morning is, as you recall,  
22 we had an appeal at the January meeting regarding Husky  
23 Injection Molding Systems, and that was -- you know, we  
24 heard that appeal and rendered a decision in that appeal.

25 And then the normal -- what we're normally used to is

1 the parties being able to agree on a proposed final order,  
2 and sometimes even in the interim between meetings as the  
3 Chair as counsel directs accordingly will signed a  
4 proposed final order and move it along.

5 But what we have in this matter is a dispute between  
6 the parties in terms of content and wording of the  
7 proposed final order.

8 And it is my understanding from counsel that these  
9 disputes are meritorious and are likely unresolvable  
10 between the parties given additional time.

11 ASSISTANT ATTORNEY GENERAL LOWY: Good morning. I'm  
12 Marta Lowy. I represent the Department.

13 We have a fundamental difference; though, I don't  
14 think that having more time would necessarily help us or  
15 reconcile the difference.

16 CHAIRPERSON PREZEAU: And Mr. Lees, you agree with  
17 that assessment?

18 MR. LEES: I do, yes.

19 Judd Lees -- L-E-E-S -- for the record.

20 CHAIRPERSON PREZEAU: So here's the -- I'm going to  
21 read some official language, and then we'll start off.

22 So I have consulted with our attorney and would like  
23 to clarify for the parties as well as the Board members  
24 exactly what a presentment entails.

25 As you will recall, at the last Board meeting we

1 heard the Husky Injection Molding appeal to the proposed  
2 decision and order issued December 29, 2015, in the matter  
3 of Husky Injection Molding, OAH docket number  
4 04-2016-LI-00113. That case involved citations number  
5 ECAML02694 and ECAML02695. Following that hearing the  
6 Board rendered its decision affirming the ALJ's decision  
7 and affirming the citations. The details of our decision  
8 are reflected in the minutes from our last meeting.

9       It is my understanding that Ms. Lowy as counsel for  
10 the Department prepared a proposed final order, which she  
11 sent to Mr. Lees who's the attorney of record for Husky  
12 Injection Molding. Mr. Lees did not sign off on the  
13 Department's proposed order and, in fact, offered  
14 alternative language.

15       And for the Board members, we were given two  
16 documents that are relevant to this matter, and they are  
17 -- they begin with "Before the Electrical Board, State of  
18 Washington" in the matter of Husky Injection Molding  
19 Systems, and they are strikingly similar and they are  
20 strikingly dissimilar. And what I mean by that is one  
21 document is in its entirety the proposed final order as  
22 authored by Ms. Lowy representing the Department of Labor  
23 and Industries and contains no alternative language.

24       The other document which contains two colors of font,  
25 right? both black and blue, and it's my understanding that

1 the blue language in that document is the language that  
2 Mr. Lees believes should be contained in the proposed  
3 final order. And in addition, it also includes draft  
4 changes that I believe Ms. Lowy authored, if you will.  
5 Because it's -- it can be a little bit confusing because  
6 if you -- for example, I'm reading from the proposed final  
7 order that contains both parties' language. And, for  
8 example, Findings of Fact 1.11, you have to -- for the  
9 Board members, you have to sort of -- where there are  
10 track changes in addition to Mr. Lees' proposed language  
11 and Ms. Lowy's proposed language combined. The sentence  
12 doesn't make sense unless you take into consideration what  
13 is included in the track changes.

14 And just to illustrate, if I don't do that, if I read  
15 Findings of Fact 1.11, (as read) "When reassembling the  
16 injection molding system, Husky technicians placed precut  
17 wire in the cable trays, but did not connect the wire to  
18 any of the various components." Actually that one makes  
19 sense.

20 But some of them don't unless you take into  
21 consideration the language that is in the track changes;  
22 it doesn't necessarily make sense.

23 So the challenge -- and I'm just -- you know, and  
24 Pam's going to make sure and keep me out of trouble here.  
25 But here's our challenge is -- I appreciate the work of

1 the parties and your candor this morning in saying, "Hey,  
2 we fundamentally have a disagreement in the language."  
3 And I will stop talking at a certain point. Because  
4 what's going to end up happening is they get to -- each  
5 party -- the parties get to argue the merits of their  
6 proposed final order, not what decision we rendered in  
7 January, but the language in here.

8 And then it's our responsibility to consume their  
9 arguments and consume not only these documents but the  
10 initial proposed order as written by the ALJ and figure  
11 out what is most accurate in terms of consistency with the  
12 Board's decision.

13 And if you recall, the Board in January we did not  
14 weigh into the initial proposed order. What we did was  
15 through motions seconded and carried affirmed the  
16 citations but did not get into a weighty discussion on  
17 the initial proposed order.

18 And so it's a bit of a challenge, right? And Pam can  
19 whenever it is appropriate after the arguments or before  
20 the arguments offer what our options are as Board members  
21 and what actions need to be taken or not taken.

22 ASSISTANT ATTORNEY GENERAL THOMURE: So if I could,  
23 Madam Chair, you recall we spent some time at earlier  
24 Board meetings trying to go through the findings of fact,  
25 and that was a very painful exercise and took a lot of

1 time. And so we evaluated that, and I recommended that  
2 the Board then make the findings and let the parties work  
3 out the language of the findings. And so -- and usually  
4 they are able to do so.

5 We also have traditionally because there's three  
6 months between the Board meetings have been requiring the  
7 parties to take those three months, work out the -- see if  
8 they can work out the findings. And if not, come before  
9 the Board.

10 I understand that these both parties were busy, and  
11 these findings were just provided in the last few days --  
12 proposed findings. What I'm suggesting is that the Board  
13 members hear from each counsel in terms of why they think  
14 -- in what language they are asking and the reasons why,  
15 and then the Board can have a discussion regarding if  
16 you're prepared to make a ruling to rule, if you want to  
17 go through each finding, how you want to handle it, and  
18 what our options are.

19 That's my suggestion.

20 CHAIRPERSON PREZEAU: Very good.

21 So -- yes. And it's my understanding that Ms. Lowy,  
22 that you present first in terms of your proposed final  
23 language for the proposed final order.

24 ASSISTANT ATTORNEY GENERAL LOWY: So as you all may  
25 point, the Department prevailed in the appeal, and that's



1 why we were charged with the responsibility of preparing a  
2 proposed final order -- findings of fact, conclusions of  
3 law and final order.

4 So I went very carefully through the materials, and  
5 one of the area of fundamental disagreement I would say --  
6 and Mr. Lees can probably affirm that -- is the Department  
7 uses the language "installation," the term "installation"  
8 of the molding -- the injection molding machine. What the  
9 company does, Husky prefers the term "assemble."

10 But when we look at the WAC's and we look at the  
11 testimony of Mr. Matts, for instance, I recall him saying,  
12 "We do this during every install." The WAC 296-46B-100  
13 defines what "installation" means. And in this case,  
14 Husky was installing parts of machinery.

15 So many of the changes involve a change from  
16 "installation" to "assemble." And I don't think I'm  
17 divulging a state secret when I tell you that part of this  
18 kind of positioning ourselves for litigation maybe in  
19 superior court and onward.

20 So I believe that the Department's language is  
21 accurate. It reflects the testimony. And it reflects the  
22 law.

23 And other blue material that you may note here are  
24 additions. And the Department doesn't think that these  
25 additions are relevant. The citations were issued for

1 work done, not for work not done.

2 So in affirming the citations, one affirms that the  
3 inspectors were correct, observing particular tasks that  
4 Husky employees were involved in and cited them because  
5 they were not licensed and did not have a permit.

6 So adding findings of fact about tasks that somebody  
7 else did is irrelevant and muddies the water and just  
8 doesn't have any bearing on the citations. You are cited  
9 for what you did, not for what you didn't do. So why have  
10 it in the order?

11 The Department is willing to adopt the word  
12 "technicians" instead of "employee." And in our original  
13 order -- proposed order we employ the term "Husky  
14 employees." I think saying Husky technicians doesn't  
15 really make much of a difference, but if it is going to  
16 bring Mr. Lees to accept otherwise the Department's  
17 proposed findings and conclusions of law, then the  
18 Department is willing to amend that language. But  
19 otherwise, we really stand by it because it is accurate.  
20 It reflects what the members of the Board addressed on  
21 January 25 and is really straightforward and conforms  
22 with the testimony and with the citations and with the  
23 law.

24 Thank you.

25 CHAIRPERSON PREZEAU: Thank you, Ms. Lowy.

1 Mr. Lees.

2 MR. LEES: Thank you.

3 In reviewing the proposed findings of fact, I tried  
4 not to stand on authorship or better terminology. I just  
5 reviewed it primarily against the transcript. Because  
6 what I remembered was this was kind of a novel issue.  
7 This was just a quick review.

8 Husky Injection Molding fabricates this huge  
9 component. There's a number of components in a PDP -- the  
10 power distribution panel. It assembles it; it tests it in  
11 its production facility in Canada. Then because it can't  
12 find a box big enough to ship it in, it disassembles; it  
13 premarks everything. And so it -- the act -- hence, the  
14 reason why I focused on the term "reassembly" or  
15 "assembly," which was the activity that was engaged in  
16 that was observed by the inspector in this case.

17 And what I picked up on, really the changes are --  
18 fall into really two or three areas. A) obviously capture  
19 the determination by the Electrical Board here that the  
20 citations should be reinstated, and so that was untouched.  
21 Secondly, the Board in its deliberation, certain members  
22 had a clear issue with the Administrative Law Judge's  
23 determination that this was a power -- this fell under the  
24 power generation exception. Do you remember that? I  
25 think it's subheading 23. That was a nullity. So I

1 specifically wanted the findings of fact, conclusions of  
2 law to reflect that.

3 But the focus it appeared to me was on the cable  
4 trays, the installation of cable trays, the laying of  
5 cable in that. There was no testimony that it was  
6 connected, so it was undisputed that they were not  
7 connected by these technicians. But they took these  
8 precut cable trays, put them in there. And for the  
9 inspector, I think that, in fact, that's in his report.  
10 That's the first thing he noticed. "Yeah, that's  
11 electrical work," whether it was precut or not. And I  
12 know certain members of the Board had questions about  
13 that.

14 And then secondly, with regard to the laying of the  
15 cable or the placement of cable in there, which was power  
16 cable, not communication, not the precut communication  
17 wire.

18 So in going through, I had really a couple of  
19 interests in mind was to get clarity for purposes of  
20 future work by Husky and other fabricators who assemble  
21 then disassemble and then reassemble, to provide some  
22 clarity there. And then secondly, make sure there was  
23 accuracy.

24 So in reviewing these, most of these take the term  
25 "installation," which is frankly a conclusory term.

1 That's the term that's used in the law: electrical  
2 installation. And part of the argument is what is  
3 installation? And when you use that term in a finding of  
4 fact, it's kind of in some ways meaningless for guidance.  
5 What is an installation? Well, this is an installation.  
6 What part of it is an installation? Is it the cable tray,  
7 the laying of the cord, the reassembly, et cetera?

8 So I was careful in delineating those various  
9 elements that were called out by Board members that were  
10 of concern in this. Again, yes, for purposes of clarity.

11 So there's the assembly issue. I'm going through --  
12 and I'm not going to go through item by item. But again,  
13 technicians -- which I think is an important part because  
14 at least one Board member was concerned with warranty  
15 issues and making sure that the people that were doing the  
16 reassembly were technicians at least. So that  
17 clarification, which the Department has I appreciate  
18 conceded. But it is reassembly. It is reassembly because  
19 we're dealing with a fabricator.

20 Now, I did not include a finding that reassembly is  
21 not, quote, installation or is not covered work. I leave  
22 that for future deliberations by this Electrical Board or  
23 by an ALJ. But what I did zero in on that was clearly  
24 electrical work requiring a permit was the cable, the  
25 laying of the power cables and the cable trays. And so

1 that's what you see kind of throughout.

2 The additional findings were where you see there's  
3 not a delineation and an addition. But -- for example, on  
4 page 3, 1.14 and 1.15 I think are necessary to describe,  
5 again, to create the factual background as to what went on  
6 here. And this was a determination by the administration  
7 law judge, which I didn't think was disturbed on appeal.  
8 And specifically 1.15 as to what was done by the  
9 electrical subcontractor, the certified electricians in  
10 this case, which is the connection from the power source  
11 to the power distribution panel there, the PDP, I thought  
12 it was important to at least create for the record that  
13 that was done by a certified electrician. In fact, the  
14 record is that certified electrician or that company  
15 called, notified the inspector. He's saying, "It looks  
16 like there's some power cable that's being laid by these  
17 folks at Husky Injection." So that's the new one, 1.15,  
18 1.14.

19 And then 1.17, again, to draw a clear delineation,  
20 even though in this case the Board will determine that  
21 citations should have been issued in this case. We did  
22 have the undisputed fact that there was a certified  
23 electrical contractor there that was doing the power.  
24 There's no question about that.

25 Again, then going to each of the citations on page 4,

1 just a clarification regarding reassembly. And I'm sorry,  
2 now we're dealing with conclusions of law. My apologizes.

3 The one I wanted to point out was 2.11. I have it at  
4 the bottom of page 4. That, the Department in its  
5 proposed findings of fact and conclusions of law got  
6 wrong. They indicated that pursuant to its bid Husky  
7 technicians laid the cable from the power hookup to the  
8 PDP using this machine to power the wiring. That's not  
9 the record, again. The undisputed requirements and the  
10 bid specifications and the actual work performed is this  
11 electrical subcontractor that did all that and didn't use  
12 this power 2 wiring; they used their own wiring, whatever  
13 it was. And in fact, as you recall, then there's conduit,  
14 and it came down to the machine.

15 So that is not just a clarification but a correction  
16 on 2.11.

17 And you see in 2.12, the next page, again, this is  
18 not power generation equipment which was clear from at  
19 least my sifting through the order and I wanted to -- we  
20 put that in there.

21 So that's really the explanation. And I'm more than  
22 happy to go through each one. But the general correction,  
23 if you will, on our part was to specify the type of work  
24 that was done here, specify what the Board had problems  
25 with, and also then comply with the Board's determination

1 that this is not power-generation equipment.

2 Down the road we may convince this Board that it's  
3 something else or there may be some rulemaking. But one  
4 of the discussion in the transcript was, This is not very  
5 clear and maybe there needs to be some clarification down  
6 the road. But you were faced with these facts, and so I  
7 wanted to make the findings of fact, conclusions of law  
8 just as clear as possible.

9 That's again what generally I did. I did not try to  
10 do the usual attorney trick of changing everything. I  
11 sent it back to Ms. Lowy in a red-line manner, nothing up  
12 my sleeve so she knew exactly what I had issues with, and  
13 ultimately that is placed before you. My apologies that  
14 we couldn't work it out. We obviously have a lot of  
15 respect for one another. We've been involved with these  
16 types of disputes before. But I agree with her  
17 assessment, that there is pretty fundamental issues that  
18 the Board will have to, with all due respect, wrestle  
19 with.

20 I'd be glad to answer any questions or again address  
21 specific changes.

22 CHAIRPERSON PREZEAU: So I'm looking at -- do Board  
23 members have questions? We're going to have more  
24 conversation obviously. I'm not --

25 Janet, are you --



1           I mean, I'm -- it's a little bit -- because as I  
2   said, this is a little bit of a rarity, this process.  But  
3   I want to ensure all folks that we'll have ample  
4   discussion and opportunity for counsel to offer a  
5   rebuttal, Ms. Lowy, if you're interested in that.  But  
6   also want to give an opportunity for Board members to  
7   weigh in.

8           Janet, are you --

9           BOARD MEMBER LEWIS:  No.  I'll wait for the rebuttal.

10          CHAIRPERSON PREZEAU:  Okay.

11          BOARD MEMBER JENKINS:  I think that's -- I'll wait  
12   also.

13          CHAIRPERSON PREZEAU:  Is it -- am I mispronouncing  
14   your name?  Is it Ms. Lowy?

15          ASSISTANT ATTORNEY GENERAL LOWY:  (Correcting  
16   pronunciation) Lowy.

17          CHAIRPERSON PREZEAU:  Lowy.  Sorry.  I apologize.

18          ASSISTANT ATTORNEY GENERAL LOWY:  No problem.

19          CHAIRPERSON PREZEAU:  Ms. Lowy, did you want to give  
20   a rebuttal or --

21          ASSISTANT ATTORNEY GENERAL LOWY:  Yes.

22           I would like to call your attention to WAC  
23   296-46B-100.  (As read) "An installation includes the act  
24   of installing, connecting, repairing, modifying, or  
25   otherwise performing work on an electrical system,

1 component, equipment, or wire except whatever is exempt  
2 under WAC 296-46B-925."

3 So every piece of work that was performed involved  
4 installation. And the reason the Department did not  
5 accept the proposed amendments Husky submitted to us is  
6 that the way it is drafted in the red-line or blue-line  
7 draft here, it actually limits the scope of work that  
8 comprise the citations. They did this. They did this.  
9 They did this. It doesn't matter what they didn't do.  
10 They still did what they did, and for that they were  
11 cited.

12 MR. LEES: If I might?

13 CHAIRPERSON PREZEAU: Please.

14 MR. LEES: Again, installation is a conclusory term,  
15 so I -- I think it's more appropriate as a conclusion of  
16 law that X Y Z constitutes installation versus a finding  
17 of fact that "so and so" installed something. It may be a  
18 nominal difference.

19 But, for example, I think one of the proposed  
20 findings was that Husky installed the power distribution,  
21 the PDP, the panel.

22 CHAIRPERSON PREZEAU: Are you referring to the  
23 initial order?

24 MR. LEES: Initial order, yes.

25 And the testimony was that this was reassem -- that

1 it was reassembled. So is just placing it there, is that  
2 installation? I would argue it's not.

3 You can have as a conclusion of law -- and I left  
4 that alone frankly in terms of whether or not the cross  
5 connection is an installation. You'll see I didn't put  
6 words in your mouth that it's not an installation. But I  
7 did put in there that clearly use of cable trays and the  
8 power, whether those power cords are connected or not  
9 constitutes electrical installation. You'll see that even  
10 in my findings of fact.

11 So I focused on what I perceived as the Board's  
12 concern, kind of left the issue of assembly as to whether  
13 or not that constitutes installation for another day. But  
14 I didn't put words in the Board's mouth that that's not an  
15 installation. I'll just be fair with you on that on the  
16 record. I just left that alone. But I do think that is  
17 quite different with the process that happened in this  
18 case with regard to this heavy equipment supplier. So I  
19 did use the word "installation" where I felt was  
20 appropriate.

21 CHAIRPERSON PREZEAU: Janet.

22 BOARD MEMBER JANET: I think you both mentioned that  
23 there may be something incorrect in both of the orders  
24 here. On 1 1 -- 1.13, Mr. Lees, you said that Husky did  
25 not lay any wire for the main power hookup. And that

1 again appears -- you know, there are apparently two  
2 different types of cable, the main power cable and other  
3 kinds of cable. And that appears again in 2.11 that they  
4 -- that Husky did not lay the cable for the main power.

5 However, Ms. Lowy's -- the opposite is stated in both  
6 of those sections that they did. And in 1.13 Husky laid  
7 the cable for the main power hookup and again in 2.11.

8 So I want to -- I would like that clarified in the  
9 record what was actually said.

10 MR. LEES: As I pointed out in my initial remarks,  
11 that was -- it might have been a clear error that there  
12 was an electrical subcontractor that took the PDP,  
13 whatever they did with that, whether connecting the  
14 conduit. They provided the wire. And it's undisputed in  
15 the record that that occurred. It also was subject to the  
16 bid documents and the award. They say, "We're not" --  
17 this is Husky talking. "We're not doing the power  
18 source." That is permitted work. It requires a permit.  
19 It requires inspection. And that's why the electrical  
20 subcontractor did that. Hence, that's why I made the  
21 correction in my findings -- my proposed findings.

22 ASSISTANT ATTORNEY GENERAL LOWY: And that's why the  
23 Department is addressing what Husky actually did and not  
24 what somebody else did. Because what somebody else did, a  
25 licensed contractor in Washington state, isn't relevant to

1 the citations. I mean, they -- there is testimony in the  
2 record that -- and in the bid which is Exhibit G that they  
3 laid in the cable for the main power hookup. They did not  
4 do the hookup, you know, the actual energizing. But they  
5 did all the installation to bring it about to where  
6 somebody can plug it in. I hope that's the right word ...  
7 professionally speaking.

8 BOARD MEMBER LEWIS: My question wasn't about the  
9 hookup, but who laid the main power cable in the tray.

10 So you clarified that Husky employees actually laid  
11 the main power cable.

12 ASSISTANT ATTORNEY GENERAL LOWY: Yes, that is  
13 correct.

14 BOARD MEMBER LEWIS: Thank you.

15 MR. LEES: And our position is they did not. The  
16 record's clear that they did not. They didn't lay -- what  
17 they laid was the cable from the PDP, the brains, to the  
18 other components. They didn't hook them up. But our  
19 proposed findings of fact indicate that even without a  
20 hookup, that's quote "electrical work" according to the  
21 Board. But there's a fundamental disagreement. And I  
22 thought the record was clear; they did not have anything  
23 to do with the power source. That was up to the  
24 electrical subcontractor.

25 BOARD MEMBER NORD: Madam Chair?

1 CHAIRPERSON PREZEAU: Go ahead.

2 BOARD MEMBER NORD: I am confused.

3 CHAIRPERSON PREZEAU: Well -- and that's sort of --  
4 and I think what's happening here is --

5 BOARD MEMBER NORD: Well, can I point out something  
6 here?

7 CHAIRPERSON PREZEAU: Sure.

8 BOARD MEMBER NORD: Okay.

9 CHAIRPERSON PREZEAU: What are you looking at?

10 BOARD MEMBER NORD: Well, first of all, Mr. Lees,  
11 you're -- if I understand you correctly, you're saying  
12 that Husky did not install the power cables into the  
13 trays, correct?

14 MR. LEES: No. They did in the cable trays, they  
15 did, yes. If by "install," you mean laying in there, they  
16 precut or cut them, put them in there. And then the  
17 electrical subcontractor actually connected them. But  
18 they did in the cable trays.

19 And what we're arguing about now is the power source,  
20 the power source to the PDP.

21 BOARD MEMBER LEWIS: No, that's not my question.

22 MR. LEES: Oh, I apologize.

23 BOARD MEMBER LEWIS: Laying it in the tray. That was  
24 my question.

25 MR. LEES: I agree. And my findings -- proposed

1 findings of fact indicate that, that they did lay it in  
2 and that it constitutes installation. But the finding  
3 that you were questioning -- and I apologize. Which one  
4 was that?

5 BOARD MEMBER LEWIS: 2.11.

6 BOARD MEMBER BAKER: 1.11.

7 MR. LEES: 1.11, that's correct. And my proposed  
8 findings indicated that they replaced the precut wire in  
9 there. And that -- ultimately in the conclusion of law,  
10 that constitutes installation.

11 BOARD MEMBER NORD: Because on page 6 on 2.24, you  
12 changed the wording to say (as read), "In the present  
13 case, Husky installed cable trays and laid power wire  
14 within the cable trays without obtaining an inspection and  
15 approval from the authorized representative of the  
16 Department as required. Husky performed this electrical  
17 installation work" -- and you've added "this electrical"  
18 -- "installation work that is required to be licensed as  
19 Husky was not exempt from the licensing requirement.  
20 Husky was not exempt from the permitting requirements.  
21 Husky violated RCW 19.28.101."

22 MR. LEES: Yes, that's my language. That's just a  
23 clarification just, again, for future guidance as to what  
24 clearly constitutes an install -- you know. At least is a  
25 partial definition of an installation is the laying of

1 cable, whether it's connected or not.

2 The concern I had -- let's see -- the one that I took  
3 issue with was 2.11 at the bottom of 4. And the reason I  
4 changed that, I said, "... Husky's technicians did not lay  
5 in the cable for the main power hookup using factory  
6 precut Machine 2 power wiring." By that, I was talking  
7 about the power supply to the PDP. The record is clear  
8 that that was an electrical subcontractor that did that.  
9 And what the inspector took issue with was the laying of  
10 cable from the PDP, even though it wasn't hooked up to  
11 power, by laying that in the cable tray, that constitutes  
12 an installation. And I left that alone. That was --  
13 (inaudible) -- sign off on this; that's a determination of  
14 agreement. For purposes of this decision, that's  
15 installation -- electrical installation.

16 CHAIRPERSON PREZEAU: Jason.

17 BOARD MEMBER JENKINS: Madam Chair, the way I  
18 understand this happened was they had a electrical  
19 contractor come in, hook up the PDP, and then they found  
20 that they could not run the cables the way they wanted to,  
21 so they installed a cable tray and dropped in the power  
22 wires from the PDP to the individual components out there.  
23 And my understanding -- they keep calling it communication  
24 wires, but they're actually power cables to run motors.  
25 They're not just communication wire; it's actual power to



1 run motors.

2 And so I don't know if we're supposed to go through  
3 and itemize every one of these lines, but in a big picture  
4 I disagree with Mr. Lees' comments about reassembly. I do  
5 believe it's still installed. Everything they did was  
6 installing the system.

7 And I kind of made a couple notes here, but that --  
8 I think it's a big picture there that I'm not sure if  
9 we're supposed to send them back to them and have them  
10 reformat again.

11 CHAIRPERSON PREZEAU: Well, what's happening here  
12 just for clarification is the parties -- Ms. Lowy and  
13 Mr. Lees are saying, "Hey, Electrical Board, you ruled on  
14 this. And we are unable to render a proposed final order  
15 that we can agree on." So they're asking us as the  
16 tribunal of record to make that determination of which --  
17 what the proposed -- what our proposed final order or our  
18 final order going forward what it looks like, right? So  
19 it can be a number of things.

20 It can be, hey, we want to take Mr. Lees' proposed  
21 final order in its entirety. We want to take the  
22 Department's proposed final order in its entirety. Or we  
23 want to create a mish-mash of the language of the two  
24 parties and have our own proposed final order.

25 Is that right?

1 ASSISTANT ATTORNEY GENERAL THOMURE: Correct.

2 BOARD MEMBER JENKINS: So to add that information, I  
3 think she's -- Ms. Lowy's correct by saying that the other  
4 information about the electrical contractors is irrelevant  
5 here. It shouldn't -- there's no reason to have it in  
6 here.

7 I propose that we have them go back and rechange this  
8 -- or agree with that it is installed and change the  
9 wording to make that happen throughout the whole system,  
10 and remove the items with anything irrelevant such as  
11 electrical contractor being involved, and make sure it's  
12 clear that yes, the PDP was installed by a electrical  
13 contractor. So anything beyond that is not brought up,  
14 but everything from the PDP out to the location is what  
15 we're disputing and what we're calling illegal work.

16 Does that make sense?

17 ASSISTANT ATTORNEY GENERAL THOMURE: Well, the Board  
18 can direct that in a motion and the Board approves, that  
19 is one option. The Board members can say, "We have  
20 decided that the term should be 'installed' versus  
21 'reassembled' and that 'this' and 'this'" -- and then go  
22 back -- unless you want -- that is an option.

23 And so just for the Board's edification, the statute  
24 provides that the findings and conclusions on -- there  
25 must be a finding and a conclusion on all material issues

1 of fact of law or law to support the cited regulation.

2 BOARD MEMBER JENKINS: Would you like me to put that  
3 in the form of a motion or ...

4 CHAIRPERSON PREZEAU: Yeah, because that was a  
5 proposal. I just want to --

6 BOARD MEMBER JENKINS: I know. I just -- I'd rather  
7 hear from everyone else too, so I'm not making my own in a  
8 bubble here.

9 CHAIRPERSON PREZEAU: Alice.

10 BOARD MEMBER PHILLIPS: I understand what you're  
11 saying.

12 And I'm kind of going back through the transcript  
13 here, and in numerous places it talks about -- even your  
14 witness is referring to it as an installation.

15 So my proposal -- and I'd like to hear from everybody  
16 else too is to simply accept Ms. Lowy's --

17 CHAIRPERSON PREZEAU: The Department's proposed ...

18 BOARD MEMBER PHILLIPS: -- the Department's proposed  
19 findings.

20 BOARD MEMBER NORD: And I also concur with that. I'm  
21 not comfortable with Mr. Lees' document.

22 I would propose to the Board that we consider the  
23 Department's proposal, Ms. Lowy's, as a motion.

24 BOARD MEMBER WARD: I agree with that too, with the  
25 change the technician that you mentioned because there was

1 an agreement on that.

2 BOARD MEMBER PHILLIPS: Is that a motion?

3

4 Motion

5

6 BOARD MEMBER NORD: I will make that as a motion.

7 BOARD MEMBER BURKE: I'll second.

8 ASSISTANT ATTORNEY GENERAL THOMURE: With the  
9 amendment -- the friendly amendment?

10 BOARD MEMBER NORD: With the friendly amendment. I  
11 agree with that 100 percent.

12 CHAIRPERSON PREZEAU: So -- and I apologize. I'm  
13 trying to keep track of what the Board is doing and make  
14 sure that I have answered the questions that have  
15 developed in my mind.

16 But it is my understanding that the motion that is  
17 before the Electrical Board right now is to adopt the  
18 Department's proposed final order as written.

19 ASSISTANT ATTORNEY GENERAL THOMURE: With the change  
20 to the word "technicians."

21 CHAIRPERSON PREZEAU: Oh, thank you. With the --  
22 thank you very much -- with changing the "employees" to  
23 "technicians."

24 ASSISTANT ATTORNEY GENERAL LOWY: Thank you.

25 CHAIRPERSON PREZEAU: Discussion on the motion?

1 I need to look at one thing before I call for the  
2 question.

3 MR. LEES: Could I add just --

4 CHAIRPERSON PREZEAU: And there was multiple seconds?  
5 Yes? Okay.

6 So there's one thing that I need to look at.

7 MR. LEES: Could I make a comment while you're  
8 looking?

9 Because, again, back to Member Lewis' comment, 2.11  
10 of the proposed says (as read), "Pursuant to its bid,  
11 Husky employees laid in the cable for the main power  
12 hookup using factory precut Machine 2 power wiring."

13 So again, maybe even under Ms. Lowy's concern with  
14 things that Husky did not do, it's clear that Husky did  
15 not do that. So that's power supply to PDP.

16 And back to I think it's Member Jenkins, the focus  
17 should be the PDP to the various components.

18 So I just point out that that's erroneous.

19 ASSISTANT ATTORNEY GENERAL THOMURE: So a point of  
20 order. There is a motion, there is a second. There needs  
21 to be discussion. And that motion needs to be resolved.

22 CHAIRPERSON PREZEAU: So ...

23 BOARD MEMBER JENKINS: Madam Chair?

24 CHAIRPERSON PREZEAU: Jason.

25 BOARD MEMBER JENKINS: I'd like to make an amendment

1 to the motion to add in that Husky did not supply power to  
2 the PDP, only from the PDP to the actual devices.

3 CHAIRPERSON PREZEAU: So here's the -- so this is  
4 exactly what I was actually looking at, and this is --  
5 because if you look at the language that is in the  
6 Department's proposed final order in noncompliance  
7 citation ending in 694, 2.11, there's a bit of a mash-up  
8 happening here, right? Because here's the -- because --  
9 it's on page 4, 2.11. Because it's -- the reason I say  
10 mash-up is when it says, "Pursuant to its bid, Husky's  
11 employees laid in the cable" which should be -- really  
12 should say "laid cable" or -- you know, because it's cable  
13 tray. And they did not -- what is not in dispute is that  
14 -- I think it was Northwest -- I can't remember the name  
15 of the electrical certified contractor, but they provided  
16 the power to the machine.

17 And then as you indicated, Jason, and I don't think  
18 there's any disagreement that from the power distribution  
19 panel was communication cabling and power cabling to the  
20 other components including motors, and that's what's in  
21 the cable tray, and it's that's Machine 2 cable, right?

22 BOARD MEMBER JENKINS: Yes.

23 CHAIRPERSON PREZEAU: So this -- so what we frankly  
24 need to do here is clarify this language to make sure that  
25 it is clear. Because it is -- we are in agreement. All

1 parties I think are in agreement that Husky technicians  
2 did not provide the primary power, but it was the power  
3 between the pieces -- the devices on the machine.

4 ASSISTANT ATTORNEY GENERAL LOWY: If I may just -- I  
5 have a comment here.

6 I think that with the language and maybe that is  
7 unclear, Husky's employees laid in the cable for the main  
8 power hookup using -- they prepared and they readied it.  
9 It was -- everything they did, all the installation short  
10 of the actual energizing. I hope I'm not adding confusion  
11 to --

12 MR. LEES: You are --

13 ASSISTANT ATTORNEY GENERAL THOMURE: Wait, wait.

14 MR. LEES: -- because you're contrary to the record.

15 ASSISTANT ATTORNEY GENERAL THOMURE: Wait, wait.

16 MR. LEES: They did not. They didn't touch any wire  
17 here to the PDP.

18 ASSISTANT ATTORNEY GENERAL THOMURE: I think there  
19 needs to be -- we have to have -- we have to follow the  
20 parliamentary procedures. We have a motion. We have a  
21 second. We now have a proposal to amend the final  
22 solution the maker of the motion needs to address and the  
23 Board is having discussion on the motion. And I believe  
24 the Board needs to focus on those motions. You need to  
25 resolve them or if you need additional information. But

1 -- then the Board may ask for additional clarification.

2 CHAIRPERSON PREZEAU: Dominic.

3 BOARD MEMBER LEWIS: Madam Chair, aren't we  
4 discussing the amendment which -- is that what's on the  
5 floor right now, --

6 CHAIRPERSON PREZEAU: Yes.

7 BOARD MEMBER LEWIS: -- discussing the amendment  
8 about the cable from the PDP?

9 CHAIRPERSON PREZEAU: Yes.

10 BOARD MEMBER LEWIS: All right. So can we have that  
11 discussion about the PD -- the cable -- about the -- from  
12 the PDP.

13 ASSISTANT ATTORNEY GENERAL THOMURE: I need to  
14 clarify -- or we need -- the Board needs to clarify. Has  
15 that friendly amendment been accepted by the motion maker?

16 CHAIRPERSON PREZEAU: That is my understanding.

17 BOARD MEMBER NORD: I will agree with it.

18 CHAIRPERSON PREZEAU: Which is why we're attempting  
19 to have discussion on -- right?

20 Dominic.

21 BOARD MEMBER BURKE: We use terminology that I think  
22 electrically we understand and use something such as  
23 secondary side of the PDP. And I think we can take care  
24 of this main power discussion in this argument or this  
25 lack of clarity, if you will.



1           Don't even bring up the single source connection from  
2 the contractor. That's irrelevant. We're not focusing on  
3 that. We're focusing from the PDP out. And if we took  
4 2.11 and we struck, you know, the main power hookup and  
5 inserted something along the lines of secondary from the  
6 PDP to the field, I think we could still, you know, handle  
7 the motion and possibly address the amendment in a  
8 somewhat clear manner.

9           It's the discussion. I just -- because there could  
10 be main power on the secondary side of the PDP --

11           CHAIRPERSON PREZEAU: I understand.

12           BOARD MEMBER BURKE: -- to the motor or main power --

13           CHAIRPERSON PREZEAU: That's what's causing the  
14 confusion.

15           BOARD MEMBER BURKE: -- to the source. So we need  
16 to I think separate that and look at the system --  
17 (inaudible)

18           BOARD MEMBER NORD: I think both parties are in  
19 agreement with that. The feeders were provided by the  
20 contractor.

21           BOARD MEMBER BURKE: Understood. So that's an  
22 irrelevant discussion. We need to focus on how to change  
23 that, the second PDP or some form of that.

24           I think that adds a lot of clarity.

25           BOARD MEMBER BAKER: From the PDP to the equipment.

1 BOARD MEMBER BURKE: Yes. Field wiring PDP to  
2 equipment, however you want to --

3 BOARD MEMBER BAKER: Husky employees installed  
4 prefabricated cable from the PDP to the equipment. They  
5 didn't connect them; they just installed them.

6 BOARD MEMBER JENKINS: Madam Chair? I --

7 CHAIRPERSON PREZEAU: Just a minute.

8 BOARD MEMBER JENKINS: Sorry.

9 CHAIRPERSON PREZEAU: Jason.

10 BOARD MEMBER JENKINS: I think our bigger picture or  
11 issue is maybe Ms. Lowy, I -- you may understand what the  
12 thing was is the power to the PDP was not -- is off the  
13 table. That is not -- they didn't even lay cable in for  
14 that.

15 ASSISTANT ATTORNEY GENERAL LOWY: Whatever the  
16 findings contains, that is the word that was done by Husky  
17 staff.

18 BOARD MEMBER JENKINS: And that's after the PDP. The  
19 stuff up to there has nothing to do with Husky employees.  
20 That's the electrical contractor installed all of that.

21 I think that's our biggest hurdle I think we're  
22 running with this. So if we can make sure that's clear  
23 that only the stuff after the PDP is what's included in  
24 2.11 currently, whatever it takes to do that. That's part  
25 of the discussion, right?

1 CHAIRPERSON PREZEAU: Janet.

2 BOARD MEMBER LEWIS: It appears in 1.13 and 2.11 in  
3 Ms. Lowy's.

4 The confusion is the term "main power," main power  
5 versus secondary power or ...

6 BOARD MEMBER BAKER: Madam Chair?

7 CHAIRPERSON PREZEAU: So it is my under -- so here's  
8 -- I want to make sure we preserve a good record. And I  
9 think that -- so the motion -- the amended motion that is  
10 in front of us as I understand it is to -- and I just want  
11 to keep clarity -- is to adopt the Department's proposed  
12 final order with one amendment being that where it says  
13 "employees" to have the alteration -- or the amendment of  
14 "technicians."

15 What I believe is becoming clear is that it is  
16 possible that the -- I would like to take a vote on this  
17 motion. And if it is -- because I think that the -- it's  
18 possible that there's more work that needs to be done.

19 BOARD MEMBER NORD: Madam Chair, if I withdraw the  
20 motion and, you know, offer another one and move -- with  
21 the rework into it, would that be easier?

22 CHAIRPERSON PREZEAU: Well, I think it needs some --  
23 I think we vote on the motion and then figure out what  
24 happens after that if anything needs to happen.

25 Does that make sense?

1 Janet.

2 BOARD MEMBER LEWIS: Well, we haven't voted on the  
3 amendment yet. I would like to hear the amendment as  
4 stated, which I heard the words which seem clear I thought  
5 was we were replacing the words "for the main power" with  
6 "from the PDP to the equipment." Was that what was --

7 BOARD MEMBER JENKINS: In general speak, yes, as far  
8 as the amendment portion of the original motion. Yes.

9 CHAIRPERSON PREZEAU: So did that amendment get  
10 seconded?

11 BOARD MEMBER NORD: Yes, I believe it did.

12 CHAIRPERSON PREZEAU: Okay. So let me just see if  
13 I'm tracking.

14 So in the discussion on that -- so now it's been  
15 amended twice, right? is Janet just identified that there  
16 is additional work that has to get -- or there's some  
17 additional language that maybe needs to be addressed.

18 Did I hear you correctly?

19 BOARD MEMBER LEWIS: I don't think it's been amended  
20 twice. I think there's the original motion to accept the  
21 Department's proposed final order with -- that was the  
22 motion, then the amendment to the motion was to change the  
23 wording and --

24 CHAIRPERSON PREZEAU: For technicians.

25 BOARD MEMBER LEWIS: Oh, technicians, that's correct.

1 I'm sorry.

2 CHAIRPERSON PREZEAU: And then the --

3 BOARD MEMBER LEWIS: Then the second amendment was to  
4 change the wording from "the main power" to "from the PDP  
5 to the equipment" in 1.13 and 2.11.

6 ASSISTANT ATTORNEY GENERAL THOMURE: Well, the second  
7 amendment only dealt with 2.11. There's been discussions  
8 now about -- raised about that it also needs to be changed  
9 in 1.13. That's what we need to clarify.

10 CHAIRPERSON PREZEAU: Yeah. And the other thing  
11 that's getting incredibly high risk is because Milton  
12 (addressing court reporter), I see you -- you're almost  
13 out of paper.

14 THE COURT REPORTER: We can go for another 5, 10  
15 minutes -- 5 minutes.

16 CHAIRPERSON PREZEAU: So that's the reason why I was  
17 trying to call some focus -- or some clarity here is to  
18 understand where we're at. And it feels like this process  
19 is getting a bit out of control, right? And what I mean  
20 by that is -- and this is why I was very cautious in the  
21 beginning is to make sure that -- you know, we want -- our  
22 goal is to render a valid and clear decision -- decisions.  
23 And I am uncomfortable with the amount of time that I have  
24 had to review the documents in front of us and compare  
25 them to the -- I mean, I have the transcripts from the

1     October -- or the January meeting. I have the proposed  
2     final order. I have a copy of it from the ALJ. I feel  
3     uncomfortable with the amount of time that I've had to  
4     review these documents and render a what I feel confident  
5     -- a decision that I feel confident about. That's where  
6     I'm at.

7             And so what I would like to do or what I think is the  
8     cleanest thing at this moment is to restate the motion,  
9     render a decision, and take a break.

10            ASSISTANT ATTORNEY GENERAL THOMURE: You have to call  
11     for the motion -- vote on the motion that's pending. You  
12     need to resolve that.

13            CHAIRPERSON PREZEAU: Agreed. So the Board -- all  
14     the Board members, the motion that is in front of us is to  
15     affirm the -- is to adopt the proposed final order as  
16     offered by the Department with two amendments. One of  
17     them being everywhere where it says "employees" of Husky  
18     to replace the word "employees" with "technicians." And  
19     then in noncompliance citation ending in 2694 dot 11 to  
20     change the language to "Pursuant to its bid, Husky's  
21     technicians installed the cables using factory precut  
22     Machine 2 wiring to the ancillary devices" ...

23            BOARD MEMBER JENKINS: From the PDP.

24            CHAIRPERSON PREZEAU: ... "from the PDP."

25            All those in favor, signify by saying "aye."

1 THE BOARD: Aye.

2 CHAIRPERSON PREZEAU: Okay, we're going to have to  
3 have hands. Up high. One, two, three, four, five, six,  
4 seven, eight, nine.

5 All those opposed signify by saying -- or by raising  
6 your hand.

7 One, two. Two. Motion carries.

8

9 Motion Carried

10

11 CHAIRPERSON PREZEAU: So take a break?

12 ASSISTANT ATTORNEY GENERAL THOMURE: Well, we haven't  
13 resolved with the parties.

14 What I would suggest, either Ms. Lowy can -- you can  
15 put the language in or you can e-mail it to me, and I will  
16 insert the language from the transcript. Or actually, why  
17 don't you insert the language, sign off on it, and then  
18 get me the order.

19 CHAIRPERSON PREZEAU: Well, and the other thing that  
20 I would suggest is -- and I know -- and this is why I want  
21 to take a break because Milton (the court reporter) is  
22 running out of paper, or we just stop talking and let  
23 Milton load his paper -- is because we have identified  
24 that there is inconsistent language now in the findings of  
25 fact 1.13, I don't think that our work's done.

1 ASSISTANT ATTORNEY GENERAL THOMURE: Well, it is.

2 The motion was to accept the order --

3 CHAIRPERSON PREZEAU: Oh, you're correct.

4 ASSISTANT ATTORNEY GENERAL THOMURE: -- as proposed  
5 with those two amendments, and it's passed.

6 CHAIRPERSON PREZEAU: Correct.

7 MR. LEES: Just for clarification, 1.13 remains as  
8 is?

9 CHAIRPERSON PREZEAU: That is correct.

10 MR. LEES: It's inconsistent with 2.11.

11 CHAIRPERSON PREZEAU: That is correct.

12 MR. LEES: To Ms. Lewis' point.

13 Maybe we'll voluntarily agree to clean it up.

14 CHAIRPERSON PREZEAU: Very good.

15 Well, I appreciate the parties' time and efforts to  
16 arrive at a mutually agreeable conclusion. And thank you  
17 for your time this morning. And thanks, Board members.

18 So let's take a break and let's try to come back at  
19 -- you know that lunch is coming. So we'll come back at  
20 ten minutes after 11:00. Thank you.

21

22 (Recess taken.)

23

24 CHAIRPERSON PREZEAU: Okay. If we could -- I would  
25 like to reconvene the April 26, 2018, Electrical Board



1 meeting be called to order.

2 And we -- so we -- or just to focus my attention,  
3 we're still under the appeals. And I neglected to say --  
4 so just to clarify, agenda item 3.a., which is Kirby  
5 Electric, Inc., and Douglas E. Kirby and citations ending  
6 in 208 and 211 have been continued to the October meeting,  
7 and the parties are in agreement on that. So it's not  
8 under our consideration.

9 MR. LEES: That's the annual meeting in Hawaii,  
10 correct?

11 ASSISTANT ATTORNEY GENERAL THOMURE: We are moving it  
12 back to Pasco.

13 CHAIRPERSON PREZEAU: Okay. So we just rendered a  
14 decision in the Husky Injection Molding, agenda item 3.b.  
15

16 Item 3.c. Kirby Electric, Inc., and Douglas E. Kirby  
17

18 CHAIRPERSON PREZEAU: And so now we're under 3.c.,  
19 which is Kirby Electric, Inc., and Douglas E. Kirby with  
20 citations ending in 7017 and 7018.

21 And so the parties have assembled. And I think --  
22 David.

23 BOARD MEMBER CORNWALL: Madam Chair, I need to excuse  
24 myself at this point.

25 CHAIRPERSON PREZEAU: Okay. So let the record

1 reflect that you are recusing yourself in the matter we  
2 just read. Very good.

3 So good morning. My name is Tracy Prezeau, and I am  
4 the Chair of the Electrical Board. The matter before us  
5 today is an appeal in the matter of Kirby Electric and  
6 Douglas Kirby, L & I docket number 01-2017-LI-00351.

7 This hearing is being held pursuant to due and proper  
8 notice to all interested parties in Tacoma, Washington on  
9 April 26, 2018, at approximately 11:15 a.m.

10 This is an appeal from a proposed decision and order  
11 issued by the Office of Administrative Hearings on  
12 November 9, 2017. It is my understanding that the  
13 decision upheld citations and notice EJORP07017 and  
14 EJORP07018 issued by the Department of Labor and  
15 Industries on September 8, 2016. It is further my  
16 understanding that the appellant has timely appealed that  
17 decision to the Electrical Board.

18 And at this time, the appellant is not present but  
19 is present through counsel in Mr. Lees. And the  
20 Department is present and represented by Assistant  
21 Attorney General ...

22 ASSISTANT ATTORNEY GENERAL GREER: Lucretia Greer.

23 CHAIRPERSON PREZEAU: Yeah, Ms. Greer. Thank you.

24 The Electrical Board is the legal body authorized by  
25 the legislature to not only advise the Department

1 regarding the electrical program, but to hear appeals when  
2 the Department issues citations or takes some other  
3 adverse action regarding an electrical license or  
4 certification or installations.

5         The Electrical Board is a completely separate entity  
6 from the Department and as such will independently review  
7 the action taken by the Department. When the Department  
8 issues penalties that are appealed, the hearing is  
9 assigned to the Office of Administrative Hearings to  
10 conduct the hearing pursuant to the Administrative  
11 Procedures Act. The ALJ who conducts that hearing then  
12 issues a proposed decision and order. If either party  
13 appeals, that decision is subject to review by the  
14 Electrical Board. Please keep in mind that while our  
15 review is de novo, we sit in the same position as the  
16 administrative law judge and will review the entire record  
17 regardless of whether a certain piece of evidence is  
18 referenced by the ALJ. We are bound by the evidence in  
19 the record and no new evidence can be submitted at this  
20 hearing.

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

25         At the conclusion of the hearing, the Board will

1 determine if the findings and conclusions reached by the  
2 ALJ are supported by the facts and the rules pertaining to  
3 licensing, supervision, certification and electrical  
4 installation.

5 Any questions before we undertake this matter?

6 And Mr. Lees, just to keep me on track, you're the  
7 appealing party?

8 MR. LEES: I am.

9 CHAIRPERSON PREZEAU: And so as such you would  
10 present first.

11 MR. LEES: That's correct. Thank you.

12 Any other comments? Or should I jump in?

13 CHAIRPERSON PREZEAU: Please jump in.

14 MR. LEES: Okay. Again, for purposes of the record,  
15 My name's Judd Lees -- L-E-E-S. I am representing both  
16 Kirby Electric and Douglas Kirby in this appeal.

17 The citations were issued pertaining to some work  
18 that was performed on August 24, 2016. And our appeal  
19 today is twofold, that the nature of the work that was  
20 performed prior to issuance of a permit that day on August  
21 24th was not strictly speaking electrical installation  
22 work, and secondly, even if it was, that both parties,  
23 good faith compliance with the governing statutes in both  
24 the WAC's and the RCW's should result in non-issuance of  
25 two citations at issue.

1           The facts are straightforward. Opposing counsel, the  
2 assistant attorney general in preparing her response  
3 correctly pointed out we did not take issue with any of  
4 the findings of fact; it was solely with the conclusions  
5 of law.

6           Kirby Electric has both a service department as well  
7 as an installation department. They received a phone call  
8 the night before the work at issue relating to problems  
9 with an RTU, a roof-top unit. Assuming that it was merely  
10 a service issue, a team of two electricians was sent out.  
11 The journeyman electrician had some Class B permits in the  
12 event they were needed or perhaps no permit was needed.  
13 At the hearing we talked about the variety of things that  
14 they could have encountered.

15           When they went and inspected the RTU at the location,  
16 they determined that it would require some electrical  
17 installation work, that it would be permitted; it would  
18 require a permit. At that point the journey-level  
19 electrician left to obtain a permit back at Kirby  
20 Electric. They have an individual who obtains those on  
21 behalf of the electricians ideally normally a new  
22 construction before the worker goes out to the job site,  
23 and they have the permit in hand. But again, in this  
24 situation they were unaware that a permit would be  
25 required.

1           So the journey-level person is off. The apprentice  
2 that is remaining -- again, this is undisputed facts --  
3 was involved in some hanging of some conduit.

4           An ECORE inspector happened to come into the area and  
5 observed the individual doing the work, called him down,  
6 asked him both about his certification and the permit.  
7 And the individual then handed the phone, called the  
8 journey-level person who was obtaining both some  
9 additional materials but also the permit, and they got on  
10 the phone, and he explained that he was in the process of  
11 getting the permit.

12           It's undisputed that the permit was obtained roughly  
13 15 minutes -- 10 to 15 minutes after the inspector was  
14 there. And obviously this was not a situation where,  
15 again, an electrician saw an inspector, took off to get a  
16 permit, knew they were in the wrong; this is -- they were  
17 in the process of getting the permit.

18           And so, again, there's this quick kind of bang bang.  
19 The inspector comes. The permit is obtained. And the  
20 inspector did an investigation, determined that this was  
21 work requiring a permit. There were no permit at the time  
22 it was commenced; and therefore, two citations were  
23 issued.

24           Our argument and the argument we made at hearing is  
25 that first, under the strict definition of what is work

1 that requires a permit, I questioned the inspector with  
2 regard to WAC 296-46B-901, specifically subheading (1) (as  
3 read), "Electric permit is required when inspections  
4 cannot be made -- or are to be made, equipment is to be  
5 energized and services connected." Neither of those three  
6 took place in this case.

7 I know the Department's position is that that's --  
8 those aren't the only times that a permit is required  
9 before that. But again, the Department's position at the  
10 time of the hearing and has been throughout the permit is  
11 linked to an inspection. Clearly no inspection here.

12 What the individual was just to do was just to look  
13 at -- get up on a manlift to look at the conduit. No wire  
14 -- well, at least there was no testimony from the  
15 Department that any wire was pulled through that conduit.

16 So that's -- those are the facts. And my argument  
17 very briefly is, again, at least under the definition of  
18 the cited WAC that it's not permitted work. Now, I  
19 understand there are trades and practices -- and I've  
20 appeared before this Board twice now. And I'm kind of --  
21 based on the work I performed, this is new for me; maybe  
22 it's new for you. But that, again, oftentimes I look at  
23 these WAC's and the regulations with kind of fresh eyes.

24 And no inspection was needed; therefore, again, the  
25 nominal work that was performed in those 10 minutes I

1 would argue did not require a permit.

2 More importantly, I think in the heart of the  
3 argument here is that the inspector, again, was not called  
4 to the project to perform an inspection, spotted work  
5 connected with the journey-level electrician who was in  
6 the process of obtaining the permit at the time. And I  
7 would argue that based on both the administrator's as well  
8 as the company's good-faith compliance with the whole  
9 purpose of obtaining the permits, that that should excuse  
10 the issuance of the citations or at least the alleged  
11 misconduct in this case.

12 The hearing did have its intended purpose. The  
13 client became acquainted with these provisional permits.  
14 He had not heard about those before. And I would  
15 anticipate there will be no issues in the future. He did  
16 have the Class B permits, so it could self-issue. But  
17 again, once it determined -- once that electrician  
18 determined that that would be insufficient, they did what  
19 they should have done, which was to leave the project.

20 I concede that in addition what should have happened  
21 is for the apprentice to stand down. That didn't occur in  
22 this case. But again, based on the work that was done,  
23 there's an argument that it did not require a permit.

24 Those are my comments. I'll be glad to answer any  
25 questions.



1 CHAIRPERSON PREZEAU: Thank you.

2 Ms. Greer.

3 ASSISTANT ATTORNEY GENERAL GREER: Good morning,  
4 members of the Board, Madam Chairman.

5 This is actually a case about sequential decision and  
6 choices. Under the electrical laws of the state, conduit  
7 is electrical equipment. Before electrical equipment is  
8 installed, you have to have a permit. In order to have an  
9 inspection, which is required by statute, you have to have  
10 a permit.

11 Under WAC 296-46B-901, subsection (1) which is relied  
12 upon both by Kirby Electric and Kirby, when electrical  
13 work permit is required under chapter 19.28 RCW,  
14 inspections cannot be made, equipment can't be energized  
15 or service is connected unless a valid work permit is  
16 obtained.

17 The Department didn't just rely on subsection (1),  
18 but we also relied on subsection (5), which provides that  
19 you have to have a permit before work is started. There  
20 is no good-faith exception to the requirement that you  
21 have to have a permit.

22 In this case, the sequence of events, the time frame  
23 is important. On the evening of the 24th of -- 23rd of  
24 August 2016, a contractor contacted the service department  
25 manager for Kirby Electric, Mr. Collins, and said, "I have

1 an issue with an HVAC. I need a crew tomorrow morning at  
2 6:00 in the morning at a warehouse in Sumner." This is a  
3 contractor who does regular business with the service  
4 department, either for repairs or personal jobs. The  
5 service manager chose not to get additional information  
6 to find out if this was -- would be exempted work, Class B  
7 work or standard permit work.

8 The next morning at 6:00 the journeyman electrician  
9 and his apprentice contacted the business owner, contacted  
10 the contractor, went out, took a look at the unit and  
11 realized this is new installation, this is a new HVAC, the  
12 voltage is higher than is allowed under a Class B, plus  
13 it's a new installation and said, "I have to have a  
14 standard permit. I also don't have enough conduit on my  
15 truck." He contacted Mr. Collins at about 6:20 in the  
16 morning and said, "Hey, I'm going to need to get more  
17 equipment. I need -- I'm going to have to get a permit."

18 At that point the journeyman electrician chose to  
19 instruct the apprentice electrician to hang the conduit  
20 they had on the truck while he went and got the permit and  
21 got the additional equipment.

22 Kirby had chose and has chosen to arrange to have his  
23 permitting be centralized for the standard permit through  
24 an administrative office -- person in their office. This  
25 person arrives at work at 7:00 in the morning and leaves

1 at 4:00. So even though the journeyman realized he needed  
2 a standard permit by that next morning, the person he  
3 needed to get the permit from doesn't get into work until  
4 7:00, and he told the apprentice to go ahead and hang  
5 conduit.

6 When the inspector noticed the truck and it was Kirby  
7 Electric, other contractor, he said, "Well, okay, this  
8 looks like there's probably work going on. I'm going to  
9 see if it's electrical work." He checked. There were no  
10 electric permits. He goes into the building, and he sees  
11 the apprentice on a manlift hanging conduit. He waits for  
12 the apprentice to come down, contacts him, checks his  
13 certification card, says, "Where's the permit?"

14 He says, "Well, we have one." Then he, you know,  
15 "I'll let you talk to my journeyman."

16 So he calls the journeyman who's at the office. At  
17 that point, it's about 7:25, 7:30 in the morning. And the  
18 permit is actually purchased on-line by Kirby Electric  
19 staff at 7:42 in the morning.

20 After talking to the inspector, the journeyman tells  
21 the apprentice, "Don't do any more work until I get back."

22 Again, there is no good-faith exception to complying  
23 with the law.

24 It's also important to note that Mr. Collins who's  
25 the service manager representative specifically testified

1 that their procedure is to get the permit first; that's  
2 the policy, that's the ideal. So while the policy is no  
3 work without a permit, it's not the company practice.  
4 And he pointed out that this crew like a lot of the crews,  
5 a lot of people working, you're not going to want to sit  
6 around. Time is money. Getting a customer's work done is  
7 important. Keeping a regular customer happy is important.  
8 So they went ahead and started the work.

9       What were the odds that at 7:25 in the morning, an  
10 ECORE inspector, one of six we have statewide, was going  
11 to be doing a sweep along with other ECORE staff in that  
12 part of Western Washington in Sumner and happened to  
13 notice a truck on the side of the building and go check  
14 it out.

15       The Department's position is is that it's very clear  
16 this is electrical equipment. It's upheld by the case  
17 law. It's not in my brief, but in Magula versus the  
18 Department of Labor of Industries, 116 Washington  
19 Appellate 966, 2003 published opinion, conduit is  
20 electrical equipment. It requires a permit. Kirby  
21 Electric did not have one. Their administrator when he  
22 was contacted, his attitude was basically, "We only did an  
23 hour's worth of work. You could cut us -- why don't you  
24 cut us some slack. This isn't fair." And when the  
25 inspector tried -- the ECORE inspector tried to provide

1 some guidance, he was told basically, "I don't need your  
2 help."

3 So this is not the first time Kirby Electric was  
4 caught violating this particular statute and set of WAC's.  
5 This is a third occurrence. This is a \$2,000 fine.

6 I've included as part of Department's brief a copy of  
7 the penalty schedule because it did not appear that it --  
8 (inaudible). I thought it would be easier for the Board  
9 to have that readily to look at.

10 And also, this was not the first time Douglas Kirby  
11 had been caught. This is the second time for him not  
12 requiring these permits to get done.

13 In terms of choices, there was one additional part I  
14 wanted to point out.

15 Kirby Electric, the journeyman electrician in the  
16 field when it's Class B work takes a picture -- he uses  
17 one of his stickers, fills it out, takes a picture of it  
18 and e-mails it to their administrative person to document  
19 the permit number into the system. When the journeyman  
20 calls in a need for a standard permit or e-mails for the  
21 standard permit, the administrative person completes the  
22 permit and sends it back to the journeyman in a PDF.

23 Permits are available 24 hours a day, seven days a  
24 week, 365 days a year on-line. There is also provisional  
25 permits.

1 Kirby Electric had multiple choices on August 24,  
2 2016. Either call in for the permit, wait until 7:00 and  
3 call in and get one. The journeyman having the authority  
4 which Kirby Electric chose not to let him have to go  
5 ahead and purchase a permit. Or as counsel pointed out,  
6 just stand down. Wait the hour or so it took to get back  
7 with the permit.

8 They chose not to do any of that. The company policy  
9 was not followed which is no permit, no work. They went  
10 ahead and did work, and they got caught. So that is a  
11 matter of the sequencing in the law requires in order for  
12 it to get an inspection, work has -- electrical work has  
13 to be inspected. To get it inspected, you have to get the  
14 correct permit or an exemption in order -- and you have to  
15 purchase the permit before you do the work, not as you're  
16 doing the work, not five minutes into the work, not after  
17 you've done the work, before you do the work.

18 So the Department is respectfully asking that you  
19 affirm the initial order of the ALJ. And again, the facts  
20 aren't disputed. The burden of proof is on Kirby Electric  
21 and Mr. Kirby to prove that one, they shouldn't have  
22 gotten the citations, and/or two, that the penalty amounts  
23 were incorrect. And we assert that the penalties are  
24 correct and the citations are correct.

25 Thank you. And I'll take any questions.

1           CHAIRPERSON PREZEAU: Mr. Lees, would you like an  
2 opportunity to have --

3           MR. LEES: Of course. Yes, thank you.

4           Just very briefly. First, in terms of the due  
5 diligence ostensibly that I guess the person at the  
6 service department should have done the night before is  
7 determine whether this was going to require a replacement  
8 or merely a plug-in. There was some testimony about the  
9 variety of things that could have gone wrong. I would  
10 argue that an inspection's necessary to determine the --  
11 what corrective action is needed. The client's calling  
12 because the machine isn't -- I mean, the equipment doesn't  
13 work, the RTU is not functioning. And I think asking  
14 additional questions probably wouldn't have done anything.

15           So they did what was the proper thing. They were,  
16 again, armed with a Class B, went out and determined based  
17 on the inspection that it would require additional work  
18 and required a permit -- (inaudible).

19           Yes, what are the chances that ECORE would have been  
20 in the area. But the key thing here is that it was the --  
21 obtaining the permit was in motion. The process was,  
22 quote, working with or without an inspector from ECORE.  
23 That's where that individual was when he got on the phone  
24 with the ECORE inspector; he was in the process of getting  
25 that correct permit. So I think, again, that goes to the

1 issue of the compliance with perhaps not according to the  
2 Board interpretation of WAC, the letter, but perhaps the  
3 spirit.

4 And then finally in terms of the absence of good  
5 faith, I would argue I have not seen case law that says  
6 there is no wiggle room on the part of these inspectors,  
7 especially based on this situation where a phone call is  
8 made 10 minutes after the individual shows up on the job  
9 site and the permit is obtained immediately thereafter.

10 So based on those, I would ask the Board that it  
11 would set aside the two citations in this case.

12 CHAIRPERSON PREZEAU: Ms. Greer, do you have  
13 rebuttal?

14 ASSISTANT ATTORNEY GENERAL GREER: No. Thank you.

15 CHAIRPERSON PREZEAU: Okay. Any questions from Board  
16 members?

17 Mr. Lees, I think that the transcript -- and I  
18 apologize. I don't think that I am going to be able to --  
19 Mr. -- the journey-level worker, right? the employee of  
20 Kirby Electric under your direct identifies once he has an  
21 opportunity to review the scope of work he's being asked  
22 to perform recognized that he needed a permit. So I think  
23 the argument that a permit was not necessary is -- to  
24 cover the work is not -- for me is not in dispute.

25 MR. LEES: May I respond briefly?



1           I think he recognized that the work going forward  
2 required a permit. And again, attorneys, we make the  
3 arguments that we make, but my review of the WAC at issue  
4 doesn't -- it doesn't make it absolutely clear that it's  
5 needed from the outset. I mean, the subheading (5) is  
6 kind of a circular argument. It says, "except as allowed  
7 by -- for a Class B permit. This is WAC 296-46B-901,  
8 "where an electrical permit is required." And it goes on,  
9 and it has to be posted. So it's kind of a circular  
10 argument. I would argue that subheading (1) says a  
11 permit's required for inspections, energizing or  
12 connection. So ....

13           I would argue, again, for purposes of making a record  
14 that the work that that individual or the apprentice  
15 performed was not permitted work, but that the electrician  
16 recognized that the work moving forward would require a  
17 permit ... with all due respect.

18           CHAIRPERSON PREZEAU: Thanks for the clarification.  
19           Jason.

20           BOARD MEMBER JENKINS: Madam Chair, I do agree with  
21 your -- concur with your idea that just installing EMT is  
22 electrical work regardless of if it's at what point  
23 they're in. Because the intention is to be using it for  
24 electrical devices. So it is electrical work in my  
25 opinion.

1           And I also on WAC rule 296-46B-901, number (1) is  
2   equally as important as number (5). Number (1) doesn't  
3   supersede number (5) by saying, "Well, because you can't  
4   call inspection, it nullifies the rest of (1) through (6)  
5   I think there is. Number (5) is just as important. You  
6   need to have a permit prior to work.

7           My bigger concern honestly that's kind of outside the  
8   scope of this is does -- based on the testimony of Vadim  
9   Kalchik, I don't think they totally understand the  
10   responsibility of pulling permits and the safety involved  
11   and knowing what their jobs are involved based on the  
12   RCW's. They just pull permits and not knowing what  
13   they're pulling permits for. And so that's a bigger  
14   concern outside of even the scope of this. So their  
15   business model has just kind of set themselves up for  
16   failure in this. They have a poor business model to take  
17   care of permits.

18           CHAIRPERSON PREZEAU: Dominic?

19           BOARD MEMBER BURKE: No, I'm good.

20           BOARD MEMBER BAKER: Section (1) says "when an  
21   electrical work permit is required." And it eventually  
22   refers you to section (5) that says clearly the work  
23   permit must be obtained and posted at the job site or the  
24   electrical work permit number must be conspicuously posted  
25   and identified as the electrical work permit number on or

1 adjacent to the electrical service panels supplying the  
2 power prior to beginning any electrical work.

3 When he instructed that apprentice to start  
4 installing conduit, he was starting to do electrical work;  
5 that's an installation. And he left to go get the permit,  
6 get material, whatever. At that point he violated the law  
7 prior to beginning any electrical work.

8 On page 39 of the transcript -- maybe it's page 54 of  
9 the Board packet -- am I saying that correctly? In his  
10 testimony says, "... we do not have to have a hard copy on  
11 the job site anymore.

12 "So it doesn't necessarily have to be posted; is that  
13 correct?

14 "Yes, it doesn't have to be posted."

15 So his understanding of the law wasn't correct as  
16 well. The WAC clearly says it has to be posted prior to  
17 beginning any electrical work. I don't know how we can  
18 dispute that.

19 CHAIRPERSON PREZEAU: Other comments/questions?

20

21

Motion

22

23 BOARD MEMBER BAKER: I make a motion that we affirm  
24 the finding of facts and conclusions of law.

25 BOARD MEMBER JENKINS: Second.

1 BOARD MEMBER NORD: Second.

2 CHAIRPERSON PREZEAU: So it has been moved and  
3 seconded to affirm the proposed initial order finding of  
4 facts and conclusions of law. Discussion on the motion?

5 Seeing none, all those in favor signify by saying  
6 "aye."

7 THE BOARD: Aye.

8 CHAIRPERSON PREZEAU: Opposed? Motion carries.

9

10 Motion Carried

11

12 ASSISTANT ATTORNEY GENERAL GREER: Point of  
13 clarification, Madam Chair.

14 The initial order in subparagraph 6, 1 through -- 6.1  
15 through 6.5 is the initial order. Is the Board also  
16 affirming the order, not just the findings and  
17 conclusions?

18 CHAIRPERSON PREZEAU: I believe we just affirmed the  
19 proposed initial order.

20 ASSISTANT ATTORNEY GENERAL GREER: Thank you. I just  
21 wanted to make sure. Thank you.

22 CHAIRPERSON PREZEAU: So before the parties depart,  
23 so the Board has made its decision.

24 And the Department, if you have prepared a proposed  
25 final order or will you prepare an order and you work with

1 Mr. Lees in order -- and if so, are the parties -- this  
2 one might be fairly straightforward -- could arrive at a  
3 agreement on the construction of that proposed final  
4 order. If you are unable to do so, this matter will be  
5 automatically set for presentment at the next regularly  
6 scheduled Board meeting, which is in Pasco, Washington in  
7 July.

8 ASSISTANT ATTORNEY GENERAL GREER: I anticipate that  
9 we'll be able to come to an agreement on the --

10 MR. LEES: I do as well.

11

12 Item 3.d. Bid Mechanical, Inc., and Clifford Dobson

13

14 CHAIRPERSON PREZEAU: I do think we should probably  
15 do the next appeal before we adjourn for any sort of lunch  
16 break. However, I am going to need a handful of minutes  
17 to -- I am not prepared for my opening statements. So  
18 yeah, I'm going to need about five minutes before the  
19 parties -- in the matter of Bid Mechanical appeal to be  
20 ready to start that appeal.

21

(Briefly off the record.  
Board Member Brickey  
departed the proceedings.)

22

23 CHAIRPERSON PREZEAU: Okay. So it is 11:50 a.m., and  
24 I would like to call -- reconvene the April 26, 2018,  
25 Electrical Board meeting to order.

1           So thank you for allowing the Chair a little time to  
2 prepare.

3           So again, good morning. My name is Tracy Prezeau,  
4 and I am the Chair of the Electrical Board.

5           The matter before us today is an appeal in the matter  
6 of Bid Mechanical, Inc., versus the Department of Labor  
7 and Industries, docket number 07-2017-LI-00495.

8           This hearing is being held pursuant to due and proper  
9 notice to all interested parties in Tacoma, Washington on  
10 April 26 at approximately 11:50 a.m. This is an appeal  
11 from a proposed decision and order issued by the Office of  
12 Administrative Hearings on November 9, 2017. It is my  
13 understanding that decision upheld citations and notice  
14 ESTLU00345, ESTLU00346 and ESTLU00347. It is further my  
15 understanding that the appellant has timely appealed that  
16 decision to the Electrical Board.

17           And at this time, the appellant, Clifford Dobson, is  
18 present. And the Department is present and represented by  
19 Assistant Attorney General Ms. King.

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

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

4 When the Department issues penalties that are  
5 appealed, the hearing is assigned to the Office of  
6 Administrative Hearings to conduct the hearing pursuant  
7 to the Administrative Procedures Act. The ALJ who  
8 conducts that hearing then issues a proposed decision and  
9 issue. If either party appeals, that decision is subject  
10 to review by the Electrical Board. Please keep in mind  
11 that while our review is de novo, we sit in the same  
12 position as the administrative law judge and will read the  
13 entire record regardless of whether a certain piece of  
14 evidence is referenced by the ALJ. We are bound by the  
15 evidence in the record, and no new evidence can be  
16 submitted at this hearing.

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

21 At the conclusion of the hearing, the Board will  
22 determine if the findings and conclusions reached by the  
23 ALJ are supported by the facts and rules pertaining to  
24 licensing, supervision, certification and electrical  
25 installations.

1 Do the parties have any questions before we start?

2 And Mr. Dobson, I believe you're the appealing party.

3 MR. DOBSON: Yes.

4 CHAIRPERSON PREZEAU: And as such, you will have the  
5 burden of proof to establish that the proposed decision is  
6 incorrect. And I would love an opportunity to hear from  
7 you.

8 And again, just a reminder, before the parties begin  
9 their arguments, if you would state and spell your name  
10 for the purpose of the record.

11 So Mr. Dobson, please.

12 MR. DOBSON: My name is Clifford Dobson,  
13 C-L-I-F-F-O-R-D, D-O-B-S-O-N.

14 Do I just jump right in now?

15 CHAIRPERSON PREZEAU: Uh-huh.

16 MR. DOBSON: I think that the citation should be  
17 vacated simply because what was done was done by a  
18 certified electrician. A permit was pulled on it. It was  
19 inspected by the Department prior to any of this. The  
20 inspector happened to be in the area. He said he saw our  
21 truck -- which I'm proud to say we put our name on the  
22 truck; we don't hide -- and he decided to inspect. He  
23 wasn't called to be there. He just came in to inspect.

24 My contention is even in his investigation there  
25 was a permit issued for the electrical. And Exhibit B1



1 -- or B on page 1, it clearly shows that there's a wire  
2 protruding from the wall that was run by certified  
3 electrician. That's clearly in place.

4 And also in the inspector's evidence, he has an  
5 actual picture of the electrical permit. That would be  
6 Exhibit 10, page 1 of 2 and page 2 of 2. The permit was  
7 issued.

8 What we do, this is new construction; it's not  
9 retrofit or anything like -- you know. So there's no  
10 wiring that we do. This wire that's protruding from the  
11 wall actually originates inside of our outdoor unit. And  
12 there's no direct connection between the branch circuit to  
13 the outdoor unit and this piece of equipment. There's no  
14 way that -- it all goes through a solid-state circuit  
15 board. So there's no power to this ever until the outdoor  
16 unit is energized. And that was done by an electrician.  
17 It even shows the wiring was done by a -- well, the wiring  
18 was done. And the permit even shows that that's what it  
19 was permitted for. All we do is come along and put the  
20 unit on the wall. Which ...

21 I'm a little nervous.

22 CHAIRPERSON PREZEAU: Don't be nervous.

23 MR. DOBSON: Well, it's a lot of money coming out of  
24 my pocket here.

25 We show a unit snapped to the wall. There is a

1 manufacturer's raceway that we slide that wire through  
2 that run previously. We snap that unit down to the wall  
3 after we made our refrigeration connections, and then we  
4 just try and connect the wires. The electricians when  
5 they wire the system, they do lots of things like in  
6 Exhibit C, page 1, it shows a bunch of curly Q's and stuff  
7 on the wire, and it doesn't allow for the safety panel to  
8 be screwed in place over the wiring with that.

9       So all I'm saying is what we do is put the unit in  
10 place and connect the wire to our unit, and the permit was  
11 already pulled for the equipment. And my contention is  
12 that we did nothing wrong. It did not require a permit to  
13 do this. It does not require a permit to do this. That's  
14 my standing.

15       Thank you. I guess that's all I have to say.

16       CHAIRPERSON PREZEAU: Okay.

17       Ms. King.

18       ASSISTANT ATTORNEY GENERAL KING: My name is Linda  
19 King. My last name is spelled K-I-N-G. I am the  
20 assistant attorney general representing the Department of  
21 Labor and Industries. And next to me is Electrical  
22 Inspector Lucas Steele who did this investigation.

23       It is the Department's position that the electrical  
24 work permit just discussed is not the work permit that  
25 Mr. Dobon's company, Bid Mechanical, got cited for. The

1 Department's position is that when in this new single  
2 family construction the wall unit was placed up on the  
3 wall, that an electrical installation took place as is  
4 evidenced by Exhibit 6, page 2 of 2, the fact that the  
5 ground was terminated.

6 Mr. Steele went to a house next door to this one, saw  
7 a truck with Bid Mechanical's name on it next door, went  
8 over there and did what he is supposed to do, make  
9 inspections. He walked in. He saw an employee of Bid  
10 Mechanical named Joseph Forenpohar, had a discussion with  
11 him.

12 This man, this employee was up on a ladder working on  
13 this wall unit that's portrayed in Exhibit 6, page 2 of 2.  
14 He had stripped those wires and had terminated that  
15 ground, and also said that he had installed other heating  
16 air conditioning wall units in this new construction  
17 single family residence.

18 The Department's position is that if one of these  
19 wall units -- heating and air conditioning wall units is  
20 being replaced, then there won't be the need for an 06A  
21 electrical contractor, which is what Bid Mechanical is --  
22 an 06A electrical contractor. There would not be a need  
23 for that contractor to go and get a permit for that. But  
24 when it is a new construction, the position is that there  
25 has to be an electrical work permit. There's a difference

1 between mounting a new wall heating and air conditioning  
2 unit and replacing an existing one. And it's that  
3 distinction that the Department is resting its decision to  
4 issue these citations.

5 Mr. Forenpohar -- I apologize; I can't say his name  
6 -- Bid Mechanical's employee did not have a valid  
7 certificate of competency nor did he have a valid  
8 electrical trainee certificate. There was no electrical  
9 work permit pulled for the work by the employee of Bid  
10 Mechanical, and it was required.

11 When Bid Mechanical's employee did the electrical  
12 installation of this wall unit in this new construction,  
13 he was working outside the scope of his 06A employer's  
14 authority. He -- Mr. Dobson did know that -- in the  
15 testimony in the transcript Mr. Dobson did acknowledge  
16 that this employee worked outside of his authority when he  
17 did the stripping of these wires.

18 Mr. Dobson is the electrical administrator for Bid  
19 Mechanical, and after acknowledging that this employee did  
20 work that he was not authorized to do said that it was out  
21 of his control because he was not there at the time. This  
22 is the electrical administrator for this company saying  
23 that.

24 The administrative law judge heard the testimony of  
25 both the inspector and Mr. Dobson on behalf of his

1 company, looked at all the different exhibits and  
2 concluded that the Department of Labor and Industries met  
3 its burden and affirmed all the different citations. The  
4 administrative law judge heard testimony from the  
5 electrical administrator for Bid Mechanical that he felt  
6 that since those wires sticking out on Exhibit 6, page 2  
7 of 2 were clips, then in his opinion he felt that those  
8 were allowable under his 06A license.

9 The electrical administrator for Bid Mechanical also  
10 did not recognize that the Department has issued  
11 information regarding the installation of these types of  
12 units in an Electrical Currents, which was also considered  
13 by the judge. I believe that that is Exhibit 7. And  
14 according to Exhibit -- according to Exhibit 7, page 2 of  
15 2, the distinction is being made between replacing one of  
16 these types of units and new construction. Different --  
17 there's different concerns, different safety concerns  
18 between both of them. The Department issued this Currents  
19 back in August 2015. Electrical administrators are  
20 required to know and make sure that their companies stay  
21 up-to-date with what is or is not legal under the RCW's  
22 and the WAC's.

23 So the Department is -- the administrative law judge  
24 listened to the Department's inspector say what he did,  
25 what he observed, who he talked to, the investigative

1 steps he took regarding who is certified, who is not, how  
2 many citations should issue and concluded that the  
3 citations should be affirmed.

4 The Department is requesting that this Board affirm  
5 each of the citations and the appropriate penalty amounts  
6 that go with them. So the citation ending in 347  
7 employing an uncertified individual to conduct electrical  
8 work, that would be the employee that did not have a valid  
9 certificate of competency, did not have a valid electrical  
10 trainee permit or certificate and was there without anyone  
11 -- without supervision. 346, 19.28.101, an electrical  
12 work permit was required. It was not there. Those things  
13 are not disputed. And then the Department requests that  
14 the citation ending in 345, 19.28.041, that when this  
15 uncertified employee performed an unpermitted electrical  
16 installation at a construction site of a new single family  
17 residence, Bid Mechanical acted outside its scope under  
18 06A electrical contractor licensing.

19 Thank you.

20 CHAIRPERSON PREZEAU: Mr. Dobson, would you like an  
21 opportunity for rebuttal?

22 MR. DOBSON: I would. Just give me a second here.

23 CHAIRPERSON PREZEAU: Sure.

24 MR. DOBSON: The current news was referencing  
25 retrofit mini-split, not new construction. New

1 construction, the electricians do all the wiring up to  
2 the heads. They aren't around ever when we're installing  
3 the final and testing the equipment. So it seemed  
4 ludicrous to me that there would be a necessity for a  
5 permit from the 06 to install HVAC equipment that had  
6 already been permitted. And that's all we're doing. To  
7 install the head itself is not a electrical issue. It's  
8 not -- it's -- basically it's the same thing as a blower  
9 in your furnace. It's an integral part downstream of the  
10 branch circuit. There is no branch circuit permit  
11 required. I can't see anywhere in the code that it says  
12 that one is required for this. That would be double-  
13 permitting the whole job. It's not a thermostat. It's --  
14 I don't know how they can justify saying that it is  
15 required for this.

16 That's all I have to say. I'm done.

17 CHAIRPERSON PREZEAU: Okay.

18 Ms. King.

19 ASSISTANT ATTORNEY GENERAL KING: Bid Mechanical is  
20 not disputing whether or not its employee was certified or  
21 not. So there is no argument upholding -- or according to  
22 -- upholding citation 347 for 19.28.271, employing an  
23 uncertified individual.

24 The Department -- electrical administrators are  
25 required to make sure that their company operates within

1 the law. The fact that this was -- the mounting of this  
2 type of heating and air conditioning wall unit in new  
3 construction is something the Department considers to be  
4 electrical installation. There is not a different way to  
5 look at it. An electrical work permit is required. And,  
6 therefore, the work was done outside of the scope of the  
7 06A license.

8 That's all. Thank you.

9 CHAIRPERSON PREZEAU: Board members?

10 BOARD MEMBER NORD: Just I'd like to make an  
11 observation here.

12 Mr. Dobson, I refer you to page 118 of the Board  
13 packet, Exhibit 8, page 1 of 2. It looks like to me in  
14 the year 2015 you were issued multiple citations over  
15 multiple months for the same violations.

16 MR. DOBSON: Yes, sir.

17 May I address that?

18 BOARD MEMBER NORD: Madam Chair, may he address that?

19 ASSISTANT ATTORNEY GENERAL THOMURE: This is the  
20 stage where there's questions from the Board members.

21 CHAIRPERSON PREZEAU: Yeah, but I think --

22 BOARD MEMBER NORD: I'm asking the question: Will  
23 you allow it?

24 CHAIRPERSON PREZEAU: It's in the -- it's a matter of  
25 the record. It's part of the Department's exhibits,



1 right? is the citation history for Bid Mechanical and also  
2 for Clifford Dobson.

3 BOARD MEMBER NORD: Correct.

4 CHAIRPERSON PREZEAU: I would caution in that -- so  
5 what we have in the record is the history of those  
6 infractions. It would be considered new information I  
7 believe if we discussed the details of those infractions.

8 BOARD MEMBER NORD: I agree with you totally. I just  
9 want to point out that we have within 2015 alone three  
10 different instances in the month of February, the month of  
11 August, and the month of September for the same citations.  
12 And those were all paid. And then Clifford Dobson,  
13 Exhibit 9, page 1 of 2, as electrical administrator over a  
14 period of ten years has been cited for the same citation  
15 for violation of RCW 19.28.061 has chosen to pay all of  
16 those citations. So this does not appear to be a  
17 first-time problem.

18 CHAIRPERSON PREZEAU: Jason.

19 BOARD MEMBER JENKINS: Madam Chair, maybe there's a  
20 misunderstanding as far as what allowances -- his  
21 allowances for working on this.

22 If I was -- if I was the electrician on this job, I  
23 would expect to show up and see page 130 of our packet  
24 sitting on the wall as an electrician, and I would do what  
25 you see in your exhibits, page 133, including putting the

1 cover on it.

2           So I don't know -- maybe it's a misunderstanding that  
3 just because a wire is sticking through the wall installed  
4 by a electrician, it's not okay to make the electrical  
5 correction to the actual head unit itself. That is part  
6 of the original permit from the electrical contractor for  
7 that job. So him taking the sheeting off, removing the  
8 insulation off the wires and at this point just landing  
9 the ground wire is electrical work per the electrical  
10 contractor's permit. I think that's why the State is  
11 issuing no permit because you would require an electrical  
12 permit to continue the work that the electrical contractor  
13 has not finished yet.

14           Am I -- I think I'm on base with that.

15           CHAIRPERSON PREZEAU: Yeah, I mean, I made a couple  
16 of notes in the transcript. And I'm on Board packet page  
17 75 which is also page 53 of the transcript. And it  
18 appears to me -- and this is -- I believe this is under  
19 examination by the ALJ of Mr. Dobson. And it's -- and  
20 beginning on line 18 it says, "The -- Joey Forenpohar was  
21 supposed to mount the wall -- the units on the wall and he  
22 exceeded -- by, you know, stripping the wires and  
23 connecting them, he exceeded his authorization. So I have  
24 no control over that because I was not on-site."

25           Which indicates to me that Mr. Dobson or during this

1 hearing in front of the ALJ that you recognize that line  
2 of distinction.

3 BOARD MEMBER BAKER: I'll just add, you know, on page  
4 54, the next page, in your testimony, Mr. Dobson, you say,  
5 "... Joey exceeded his authorization, which, you know,  
6 employees do that.

7 "I'm responsible for, you know, staying on top of  
8 stuff. I will give L & I that. I did not stay on top of  
9 stuff ...."

10 When he started doing the terminations, you know,  
11 doing electrical, that's when he crossed the line. I  
12 think you know that.

13 Unfortunately I have employees too, so I get it. But  
14 at that point, that puts you in a whole new position here.

15 CHAIRPERSON PREZEAU: Alice.

16 BOARD MEMBER PHILLIPS: I'm just curious. On Exhibit  
17 C, page 1, which is page 133 of our Board packet, and then  
18 also on page 134 of the Board packet, you showed a panel  
19 of the unit with wires, and you mentioned it earlier that  
20 were looped.

21 MR. DOBSON: Yes, ma'am.

22 BOARD MEMBER PHILLIPS: And then the next page shows  
23 them without the loops. Did your electrician do that?

24 MR. DOBSON: I did that.

25 BOARD MEMBER PHILLIPS: You did that. Because you

1 did it because you couldn't get the panel on is what  
2 you're saying. The cover.

3 MR. DOBSON: Correct, correct.

4 BOARD MEMBER SCOTT: So did the electrician do the  
5 one with the loops?

6 MR. DOBSON: Yes, sir.

7 BOARD MEMBER SCOTT: It wasn't your employee?

8 MR. DOBSON: No, sir.

9 So these are -- are these pictures of the actual  
10 units in question that the inspector caught your employee?  
11 Or are these pictures of another unit?

12 MR. DOBSON: These are inspections of the rest of the  
13 project. After Mr. Steele's comments, like you say when  
14 we were being cited, we called the general and said, "Hey,  
15 you got to get -- you have to have the electricians come  
16 back because L & I will not let me land these wires inside  
17 the unit."

18 From Mr. Steele's statements to me, I cannot even  
19 land those wires until an electrician lands them like the  
20 picture indicated, then I have to go back and change them.

21 BOARD MEMBER BAKER: In order to get the cover on.

22 MR. DOBSON: In order to get the safety cover on.

23 BOARD MEMBER SCOTT: But your employee had landed  
24 them, right? Or not?

25 MR. DOBSON: He was -- he was starting to land them,

1     yes, sir.

2             BOARD MEMBER PHILLIPS:    So I'm confused again.  So  
3     are you saying normally your employee lands the wire?

4             MR. DOBSON:   Normally no.

5             BOARD MEMBER PHILLIPS:    Normally the electrician  
6     lands the wires?

7             MR. DOBSON:   Normally I land the wires.

8             BOARD MEMBER PHILLIPS:    Normally you do it.  But in  
9     this particular case, an electrician did it.  So this  
10    isn't a picture of the actual unit that you're being cited  
11    for.

12            MR. DOBSON:   This is a picture of the actual project  
13    I'm being cited for.

14            In this house, there are eight of these heads.

15            BOARD MEMBER PHILLIPS:    But -- and this particular  
16    one was done by an electrician, and the rest of them were  
17    done by you?

18            MR. DOBSON:   There was several of them done by  
19    electrician -- by the electrician that I had to go back in  
20    on -- (inaudible) -- and change their wiring.

21            BOARD MEMBER PHILLIPS:    So why would you have an  
22    electrician do a couple of them and you do the rest?  Why  
23    would that --

24            MR. DOBSON:   I had the electrician do a couple of  
25    them because of Mr. Steele's comment that we are not

1 allowed --

2 BOARD MEMBER PHILLIPS: So this was done after the  
3 inspection.

4 MR. DOBSON: After the -- yes, after the inspector  
5 came to the site this was done by an electrician.

6 BOARD MEMBER PHILLIPS: Okay.

7 CHAIRPERSON PREZEAU: So to your point, right? in the  
8 Department's exhibits, Exhibit 6 is a photo of the actual  
9 unit that Bid Mechanical, as I understand it --

10 BOARD MEMBER SCOTT: What page?

11 BOARD MEMBER BURKE: 111.

12 CHAIRPERSON PREZEAU: Sorry.

13 Actually it's page 115. And also page 111.

14 MR. DOBSON: This is a picture that Mr. Steele  
15 provided what he had seen our employee doing. That's all  
16 our employee had done to that point.

17 BOARD MEMBER PHILLIPS: So your contention is that  
18 your employee just bounced the unit, connects the ground  
19 wire and --

20 MR. DOBSON: No, I am not. I am saying he shouldn't  
21 have even done that according to Mr. Steele as 06's were  
22 not allowed to even touch this wire.

23 BOARD MEMBER PHILLIPS: Well, I'm asking what  
24 normally happens --

25 MR. DOBSON: What normally happens is --

1 BOARD MEMBER PHILLIPS: -- what Mr. Steele told you  
2 should happen.

3 MR. DOBSON: What normally happens, the employee --  
4 they mount the heads, pull it through. I go back and wire  
5 it.

6 BOARD MEMBER PHILLIPS: Okay, thank you.

7 MR. DOBSON: And in this case, the employee ...

8 BOARD MEMBER PHILLIPS: Thank you.

9 CHAIRPERSON PREZEAU: Which is corroborated by the  
10 inspector's statement.

11 Any other questions?

12 BOARD MEMBER SCHMIDT: I have a question.

13 CHAIRPERSON PREZEAU: Kevin.

14 BOARD MEMBER OR SCHMIDT: Or clarification.

15 I think Ms. King said that you required a permit to  
16 mount the unit. Would you mount the head unit or to mount  
17 the wire? That's what I heard. She said be required to  
18 mount the unit, that the unit was an electrical component.  
19 I could have that wrong.

20 ASSISTANT ATTORNEY GENERAL KING: If I may, if I said  
21 that, that was imprecise use of language in an area of  
22 regulation that demands very precise wording of  
23 everything. Every step you take, look around, there's  
24 something there to regulate electrical installations.  
25 And if I said it like that, then that was me being

1 imprecise.

2 BOARD MEMBER SCHMIDT: So just to confirm, it's the  
3 connection of the wire.

4 CHAIRPERSON PREZEAU: That's my under -- correct.

5 BOARD MEMBER SCHMIDT: Okay. Thanks.

6 BOARD MEMBER BAKER: And it's also my understanding  
7 that any time a contractor performs an installation he's  
8 responsible for providing the permit for his work. So the  
9 termination of those conductors would require, to my mind,  
10 require that individual of that contractor to have a  
11 permit. If you were to go out -- if you were to install  
12 the unit in the wall, the wires hang out, you were to come  
13 back and terminate those wires? I believe -- and someone  
14 can correct me if I'm wrong -- but I believe you're  
15 required to have a permit to do that termination. You  
16 can't work under the -- you know, I haven't read the  
17 Currents, and I've been out of the residential for a  
18 little while, so I might be missing something. But I  
19 believe that a permit's required for that work. You can't  
20 work under somebody else's electrical permit.

21 BOARD MEMBER CUNNINGHAM: (Inaudible.)

22 CHAIRPERSON PREZEAU: You want to repeat that a  
23 little louder please.

24 BOARD MEMBER CUNNINGHAM: Yeah. Sorry.

25 The Electrical Currents describes two scenarios where



1 you're doing a replacement of a furnace or some other  
2 piece of HVAC equipment. And it indicates that the 06A  
3 contractor terminated the wires on one piece of equipment  
4 or a condensing unit or furnace. This is new  
5 construction. I think that's what inspectors --  
6 (inaudible). Since it's new construction, it's like --  
7 (inaudible).

8 CHAIRPERSON PREZEAU: Any other questions/comments?

9 So Board members are turning their attention likely  
10 to the proposed final order from the ALJ. You will notice  
11 very quickly that there is a fourth citation that is  
12 listed in the proposed -- or the initial order ending in  
13 348. That is -- that the ALJ included in the decision.

14 Ms. King, do you want to address that or ...

15 ASSISTANT ATTORNEY GENERAL KING: I believe that that  
16 is one that was addressed to Mr. Dobson as electrical  
17 administrator for his 06A electrical contracting business,  
18 Bid Mechanical, for failure to ensure that the work done  
19 did comply with RCW 19.28 and WAC 296-46B failure of  
20 administrator. That's from memory.

21 Where is it in here?

22 CHAIRPERSON PREZEAU: So -- and this -- and  
23 Mr. Dobson, I'll give you an opportunity or ask you this  
24 question: It is my understanding from reading the record  
25 that you did not appeal the citation ending in 348.

1           MR. DOBSON: Why should I? I mean, seriously why  
2 should I? You know.

3           Clearly it was my responsibility to make sure that my  
4 employees do everything as they're told. And I had  
5 instructed the employee to get his 06A card current. I  
6 didn't know all that was involved. So why should I bother  
7 appealing it? I mean, it's just a ridiculous waste of  
8 time. I'm going to be cited for it no matter what.

9           CHAIRPERSON PREZEAU: So where I'm going with this is  
10 -- the question is: Whether or not it should be included  
11 in the ALJ's order and -- or more importantly, the Board  
12 renders a decision because it is my understanding that  
13 Mr. Dobson did not -- when he appealed these citations and  
14 started this process, he only appealed citations ending in  
15 345, 346 and 347. So when I was reading this Board  
16 packet, I identified that citation ending in 348 is not in  
17 jurisdiction of the ALJ or I believe the Board.

18           ASSISTANT ATTORNEY GENERAL KING: May I respond?

19           CHAIRPERSON PREZEAU: Please.

20           ASSISTANT ATTORNEY GENERAL KING: It really wasn't  
21 until I took another look at this that I remembered that  
22 the 348 was not being appealed. The Department does have  
23 a proposed final order that if the Board were to affirm  
24 all of the findings of facts and conclusions of law in the  
25 proposed order, it does not include that since it is not

1 part of this appeal. And there was never any confusion  
2 during the hearing about that being under appeal. And he  
3 -- she doesn't address -- the Board judge doesn't -- or  
4 the administrative law judge doesn't address that citation  
5 I don't believe during any of the testimony.

6 CHAIRPERSON PREZEAU: So just to offer further  
7 clarification, on page 138 of the Electrical Board appeal  
8 packet, it is Mr. Dobson's letter to the Department of  
9 Labor of Industries with attention to the chief electrical  
10 inspector, and it references citations ending in 345 -- in  
11 this order -- 347 and 346. And so he never actually  
12 appealed 348.

13 If you go to page 136 of the Electrical Board packet,  
14 it is correspondence from the chief -- or the secretary to  
15 the Electrical Board, Steve Thornton, to Mr. Dobson, and  
16 this letter includes citation 348. It's in response to  
17 Mr. Dobson's letter which the Department received on April  
18 18, 2017. But in reviewing the transcripts, as Ms. King  
19 as you indicated, it was never discussed because it was  
20 never technically appealed. And so the -- I don't believe  
21 that it's within this Board's jurisdiction. You never  
22 actually -- you're not asking for the appeal of 348.

23 MR. DOBSON: No. I -- and I don't -- I just -- I  
24 think the other part of it is wrong because there was a  
25 permit issued for the job. It was done by an electrician.

1 That's my contention. The wire was done by an  
2 electrician. There's no direct connection to the branch  
3 circuit. None. Zero connection. There's a one-amp fuse  
4 on a circuit board that controls everything going through  
5 that wire.

6 ASSISTANT ATTORNEY GENERAL THOMURE: Could I clarify?

7 CHAIRPERSON PREZEAU: Sure.

8 ASSISTANT ATTORNEY GENERAL THOMURE: So for purposes  
9 of the Board's consideration going forward, would the  
10 parties agree that on page 13 of the Board packet that 1.4  
11 and 2.4 were inadvertently included by the ALJ and  
12 regardless of anything else should be deleted as well as  
13 any references to ESTLU00348 in the order specifically on  
14 page 15, 4.10. And the only other reference was on page  
15 18, 5.18 there's a finding and conclusion of law regarding  
16 that. And then under -- on page 19 under the initial  
17 order there is one in the reference.

18 Would the parties agree that references to all of  
19 those citations that were not properly before the  
20 administrative law judge can be deleted by agreement?

21 ASSISTANT ATTORNEY GENERAL KING: Deleting that  
22 citation ending in 348, yes, the Department does.

23 ASSISTANT ATTORNEY GENERAL THOMURE: Mr. Dobson,  
24 would you agree to that?

25 MR. DOBSON: Okay, fine.

1           CHAIRPERSON PREZEAU:  Additionally, I think the ALJ  
2   -- this is in -- on page -- appeal Board packet page 15  
3   under 4.8.  So where we're referencing -- the ALJ is  
4   referencing the prior citation history, the ALJ cites an  
5   incorrect date.  They list -- so for violating RCW  
6   19.28.061(5)(d) on September 15, 2015, August 26, 2015.  
7   And the ALJ includes the date of May 7, 2015.  That is for  
8   violation of 19.28.061(5)(a) and not (5)(d).  The date  
9   should be February 12, 2015, you know, referencing page  
10  120 of the Electrical Board packet.

11           BOARD MEMBER PHILLIPS:  (Inaudible.)

12           CHAIRPERSON PREZEAU:  No.  So the Vice Chair just  
13  asked if I've reviewed those.  Those dates are consistent.

14           BOARD MEMBER PHILLIPS:  Do we need a motion on each  
15  individual one?

16           ASSISTANT ATTORNEY GENERAL THOMURE:  No.

17           BOARD MEMBER PHILLIPS:  Taking them separate?

18           What I'd like to do is accept the administrative law  
19  judge's final order with the changes that we just captured  
20  on the record.  So do I need to go through each one of  
21  those changes again for the motion?  Or ...

22           ASSISTANT ATTORNEY GENERAL THOMURE:  I think you can  
23  just say, "I move to accept with the agreed changes that  
24  the parties have made regarding the 0348 and the  
25  correction of the date that the Chair has made on the

1 record.

2

3

Motion

4

5 BOARD MEMBER PHILLIPS: So I would make a motion to  
6 accept the administrative --

7 CHAIRPERSON PREZEAU: There's one more clarification  
8 before any motion is made. And I just want to confirm  
9 this with Mr. Dobson. Because in conclusions of law 5.15,  
10 she -- the ALJ references individuals possessing an 06  
11 certification. I believe that -- I'm looking to the  
12 parties, but I believe that should say 06A? Because  
13 that's what we're talking about, right?

14 Mr. Dobson, you are -- you have an 06A certification,  
15 correct?

16 MR. DOBSON: I also have an 06 journeyman. I am an  
17 06 journeyman.

18 CHAIRPERSON PREZEAU: But I'm looking to the parties.  
19 I believe that that --

20 Even though you also possess an 06 certification,  
21 what the ALJ likely should have included in this language,  
22 though, it should be 06A instead of 06. Because then it  
23 goes on to reference like-in-kind replacements of single  
24 furnace, along with installation of new air conditioner  
25 or heat pump. That's 06A scope of work.

1 MR. DOBSON: Again, that says the installation of a  
2 new branch circuit. That is not a branch circuit.

3 CHAIRPERSON PREZEAU: I understand your contention,  
4 Mr. Dobson. I don't -- but what I'm trying to do is make  
5 sure that this language is technically correct.

6 MR. DOBSON: That's out of my area of expertise.

7 ASSISTANT ATTORNEY GENERAL THOMURE: So Alice was in  
8 the middle of making a motion.

9 BOARD MEMBER PHILLIPS: Yes.

10 I make a motion to accept the administrative law  
11 judge's finding of facts with the previous mention  
12 exclusion of citation ESTLU00348 and the corrected dates  
13 in prior history 4.8. And on section 5.15, the correction  
14 to individuals possessing an 06 should be individuals  
15 possessing an 06A license certification.

16 BOARD MEMBER JENKINS: Second.

17 CHAIRPERSON PREZEAU: So it's been moved and seconded  
18 to accept the ALJ's proposed order with the amendments of  
19 striking in the record -- or in the order any reference to  
20 citation ESTLU00348, correcting the citation -- or  
21 violation history 4.8, replacing May 7, 2015, with  
22 February 12, 2015, and in conclusions of law 5.15 to  
23 insert the letter "A" after "06." It's been moved and  
24 seconded.

25 Discussion on the motion? Questions on the motion?

1 Okay. Seeing none, all those in favor, please  
2 signify by saying "aye."

3 THE BOARD: Aye.

4 CHAIRPERSON PREZEAU: Opposed? Motion carried.

5

6

Motion Carried

7

8 CHAIRPERSON PREZEAU: So the Board has made its  
9 decision. And Ms. King as the prevailing party, have you  
10 or will you prepare a final order?

11 ASSISTANT ATTORNEY GENERAL KING: I have prepared a  
12 final order. I can either take it with me and add those  
13 changes by type, or I can make those changes now by  
14 handwriting and have the parties initial it.

15 ASSISTANT ATTORNEY GENERAL THOMURE: I would suggest  
16 that, Madam Chair, that you see if the parties can go and  
17 resolve it. And it's perfectly acceptable to interlineate  
18 by hand on the order. That way the order is done and  
19 eliminates the possibility or the need for Mr. Dobson or  
20 the Department to come back at the next meeting.

21 CHAIRPERSON PREZEAU: In the event that -- certainly  
22 in the event that the parties are unable to reach an  
23 agreement on what the construction of that proposed final  
24 order looks like, then the matter will automatically be  
25 presented -- will be set for presentment at the next



1 regularly scheduled Board meeting which is in July in  
2 Pasco.

3 Mr. Dobson, do you have any questions about this  
4 process?

5 MR. DOBSON: No.

6 CHAIRPERSON PREZEAU: All right. Thank you to all  
7 parties for being present today. And I'm hopeful that you  
8 can reach an agreement on the proposed final order today.

9 Okay. So I would argue that we should likely take a  
10 lunch recess. Whatever you guys want. We still have the  
11 Secretary's Report, the Correction Reduction Initiative  
12 Review, Certification and CEU Quarterly Report, and public  
13 comment.

14 So Board members, I'm -- you know, how long do you  
15 want to -- how much time do you want for lunch?

16 BOARD MEMBER JENKINS: Half hour?

17 CHAIRPERSON PREZEAU: Half hour? Okay. So we will  
18 take a lunch break and come back at ten minutes after  
19 1:00.

20

21 (Lunch recess. Randy Scott  
22 departed proceedings.)

23 CHAIRPERSON PREZEAU: Okay, everybody, it is 1:15,  
24 and I would like to reconvene the April 26, 2018,  
25 Electrical Board meeting call to order.

## 1 Item 4. Secretary's Report

2

3 CHAIRPERSON PREZEAU: We are under Secretary's Report  
4 on our agenda.

5 SECRETARY THORNTON: So Madam Chair, a couple of  
6 clarifications for the record. When I was talking about  
7 the information that I'd heard at the stakeholder  
8 meetings, some comments about the apprenticeship, I want  
9 to make sure that it's recorded that apprenticeships may  
10 allow the hours that are at Labor and Industries on  
11 record, not that they have to; it's their choice.

12 And the other comments about the compliance in cities  
13 were merely comments that I've been, you know, told at the  
14 stakeholder meetings. Nobody's officially reached out to  
15 me or the Department to ask anything about that.

16 So just to make sure that's clear.

17 Okay. Secretary's Report.

18 As of March 31, 2018, the fund balance is \$9,544,518.  
19 That's about five months of operating capital.

20 Our average monthly operating expenditures is about  
21 \$1,991,098. That's about an increase of 2 percent, about  
22 \$40,000.

23 Our average revenue for the first three quarters is  
24 \$2,034,403. That's up about 6.7 percent. So our revenue  
25 is growing a little faster than our expenditures.

1 Customer service-wise, 34,891 permits were sold last  
2 quarter. 93 percent of those were processed on-line. 97  
3 percent of contractor permits are sold on-line.  
4 Homeowners purchase about 63 percent of their permits  
5 on-line. On-line inspection requests are at about 83  
6 percent. Customers made roughly 74 percent of all  
7 electrical license renewals on-line. Those numbers stayed  
8 pretty consistent for the last year or so. For a while  
9 they were climbing a very small amount. But they've been  
10 pretty consistent here lately.

11 Percentage of inspections performed within 24 hours.  
12 I commented earlier that our response times were pretty  
13 good. In 2017 it was 74 percent within 24 hours. For  
14 2018 it's 88 percent.

15 Number of inspections performed within 48 hours. In  
16 2017 it was 91 percent. In 2018 we're up to 97 percent.

17 Number of focused citations and warnings. The field  
18 in 2017 issued 603. In 2018 they've issued 654. ECORE  
19 issued 356 in '17, 399 in '18, and that's a total of 959  
20 in 2017, and 1,053 in 2018.

21 Inspection stops per day was 10.1 in 2017 and 9.8 in  
22 2018.

23 Electrical disconnect corrections. 9,135 in 2017.  
24 10,882 in 2018.

25 License process turn-around time, our goal is 100

1 percent the same day. In 2017 it was 98 percent. In  
2 2018 it's climbed to 99 percent.

3 Turn-around time for plan review, we want it to be  
4 less than a week. In 2017 it was 2.2 weeks. In 2018 it's  
5 1.6.

6 Licensing. During the fourth quarter, there were  
7 6,194 electrical licenses processed. The turn-around  
8 time, like we said, was 98 percent the same day. We want  
9 it to be 100, but because of staffing issues and the  
10 number of phone calls, we didn't quite make that.

11 Our hold times on our phone calls are less than a  
12 minute and a half.

13 Staff have been submitting documents to IDM  
14 electronically to cut down on paperwork and the manual  
15 handling of paper. Most of the service locations send  
16 documents directly to the electrical licensing in-box.

17 Testing labs. We haven't had any new testing labs.

18 Like we talked earlier, rulemaking updates, the 02  
19 residential and the 04 sign specialties were updated. It  
20 became effective February 23rd. The petition for  
21 rulemaking on the marinas that we talked about earlier.

22 One more thing on the marinas. We need to have a  
23 determination one way or the other so that we can proceed  
24 or not.

25 CHAIRPERSON PREZEAU: So you're referring to the rule

1 language that you --

2 SECRETARY THORNTON: Yes.

3 CHAIRPERSON PREZEAU: Well, I did call for the Chair  
4 would entertain a motion.

5

6 Motion

7

8 BOARD MEMBER JENKINS: Madam Chair?

9 CHAIRPERSON PREZEAU: Nobody seemed to offer one.

10 BOARD MEMBER JENKINS: I make a motion that we do not  
11 go forward with the change of language and we stay  
12 currently with what we have today and having the 100  
13 milliamp rule expire on the current date set.

14 CHAIRPERSON PREZEAU: Is there a second?

15 BOARD MEMBER NORD: Second.

16 CHAIRPERSON PREZEAU: So if I understand correctly,  
17 what you -- the motion that has been made and seconded is  
18 to reject the language that was given to us today. And  
19 really this is a recommendation to recommend to the  
20 Department to retain the rule language as it exists. Is  
21 that correct?

22 BOARD MEMBER JENKINS: Correct.

23 CHAIRPERSON PREZEAU: Discussion on the motion?  
24 Alice.

25 BOARD MEMBER PHILLIPS: I need to make sure I'm clear

1 in my head that this rule -- if we leave it the way it is,  
2 it could change in 2020?

3 SECRETARY THORNTON: Yeah. The way it's proposed  
4 right now, it goes to the NEC verbiage on 2020 regardless  
5 of what that verbiage is.

6 BOARD MEMBER PHILLIPS: So regardless if we take  
7 action or don't on changing this or extending it or -- in  
8 2020 it could be a total different ballgame?

9 SECRETARY THORNTON: Uh-huh.

10 CHAIRPERSON PREZEAU: Well, and -- we haven't  
11 historically been on -- when we -- assuming that we would  
12 engage in rulemaking around the 2020 NEC, sometimes we  
13 have done things in the state of Washington that are in  
14 conflict with the National Electrical Code. Is that a  
15 fair assessment?

16 SECRETARY THORNTON: Yeah.

17 BOARD MEMBER BAKER: So this language (indicating),  
18 is this the recommendation from the Department? Is this  
19 what --

20 SECRETARY THORNTON: Yeah.

21 ASSISTANT ATTORNEY GENERAL THOMURE: Well, no. It's  
22 already been filed and published, right? CR102 has been  
23 filed, right?

24 SECRETARY THORNTON: Yes.

25 ASSISTANT ATTORNEY GENERAL THOMURE: So it's not just

1 a recommendation, is it?

2 BOARD MEMBER BAKER: Well, there's a alteration to  
3 get rid of the July 1st and sunset it to September 1st of  
4 2019. That's the part that's the recommendation from the  
5 Department.

6 SECRETARY THORNTON: Yeah, the underlined part is  
7 the --

8 BOARD MEMBER BAKER: The alteration is the  
9 recommendation.

10 SECRETARY THORNTON: Yeah.

11 BOARD MEMBER BAKER: It's already been filed.

12 ASSISTANT ATTORNEY GENERAL THOMURE: It's already  
13 been filed. It's not a recommendation. It is the  
14 Department's proposed changes to the rule.

15 BOARD MEMBER BAKER: Okay.

16 ASSISTANT ATTORNEY GENERAL THOMURE: That's all I'm  
17 saying.

18 BOARD MEMBER BAKER: Recommendations to --  
19 (inaudible)

20 ASSISTANT ATTORNEY GENERAL THOMURE: The Department  
21 has proceeded in the rulemaking process.

22 BOARD MEMBER BAKER: Okay.

23 CHAIRPERSON PREZEAU: And they're still in that  
24 process, right? And as noted previously, there's a --  
25 they're accepting written comments and there is a meeting

1 scheduled for May 9th at the Tumwater L & I office at 9:00  
2 a.m. for additional stakeholder input.

3 SECRETARY THORNTON: Yes, yes.

4 ASSISTANT ATTORNEY GENERAL THOMURE: Just for point  
5 of clarification, if I may, Madam Chair?

6 CHAIRPERSON PREZEAU: Please.

7 ASSISTANT ATTORNEY GENERAL THOMURE: These  
8 recommended -- the Department usually submits its proposed  
9 recommended changes to the rules to the Board before the  
10 CR101 filing is my understanding. And this is the first  
11 time that this is now coming before the Board at the CR102  
12 level.

13 BOARD MEMBER BAKER: Thank you for that  
14 clarification.

15 ASSISTANT ATTORNEY GENERAL THOMURE: What that means  
16 to the Board members is that when the Board has to -- you  
17 can seek the recommendation of -- or the Department has to  
18 seek the recommendation of the Board. Then at that point  
19 if it's done early enough in the process -- correct me if  
20 I'm wrong -- the Department can modify, change or  
21 incorporate the Board's suggestions in the rule that it  
22 actually files. I think that you're beyond that point. I  
23 mean, I don't think you can change the proposed language  
24 at this point in time.

25 MR. MUTCH: We can.



1 ASSISTANT ATTORNEY GENERAL THOMURE: You can? Okay.

2 MR. MUTCH: Up until the adoption date.

3 CHAIRPERSON PREZEAU: Rod, do you want to come up  
4 please.

5 ASSISTANT ATTORNEY GENERAL THOMURE: I just want to  
6 -- I'm not trying to be difficult. I just want to make  
7 sure the Board members understand what they can and can't  
8 do.

9 MR. MUTCH: So filing the CR102 notifies the public  
10 of the proposed change, and it announces the public  
11 hearing and the public comment period. Until the Director  
12 signs the adoption, the CR103, that is still able to be  
13 amended.

14 So we've done that before. For example, when we  
15 adopted the rules for the 2014 NEC, there was a proposal  
16 in there to define what a telecommunications device was.  
17 And right at the end we got a comment from the  
18 telecommunications industry, and we amended that right  
19 before it was adopted.

20 So it's my understanding that up until the CR103 we  
21 can amend that language.

22 ASSISTANT ATTORNEY GENERAL THOMURE: But the public  
23 comment is going to be on this (indicating)?

24 MR. MUTCH: Correct, yep.

25 Does that help?

1 BOARD MEMBER BAKER: I know you have a motion on the  
2 floor. But --

3 CHAIRPERSON PREZEAU: We're still under discussion.

4 BOARD MEMBER BAKER: Yeah. I'm inclined to support  
5 the Department's language just because I'm going to trust  
6 their wisdom and knowledge on this. I think I'm inclined  
7 to support the language that they have drafted.

8 BOARD MEMBER PHILLIPS: So what -- if this language  
9 isn't adopted or we don't recommend it, what are the  
10 negatives from your perspective that would result?

11 MR. MUTCH: Well, I don't know that -- I mean, what  
12 would happen would be we would revert to the language in  
13 the 2017 National Electrical Code. So positive or  
14 negative, that's an assessment that would have to be made  
15 by -- you know, of course, the marina industry has one  
16 opinion about what that is.

17 So it lowers -- so adopting this rule puts the  
18 Department in the position of adopting something that is  
19 less -- has a less safe threshold than the national code  
20 for a limited period of time.

21 BOARD MEMBER PHILLIPS: For a limited period of time?

22 MR. MUTCH: Yes. Until the 2020 code is published we  
23 would be in the position of adopting something that has a  
24 lower threshold of safety than the National Electrical  
25 Code currently requires. But it has a higher level of

1 safety than the 2014 code required. So we're compromising  
2 temporarily.

3 BOARD MEMBER PHILLIPS: But you're not going to go to  
4 that higher standard until after 14 months, correct? Or  
5 am I misunderstanding that?

6 MR. MUTCH: Correct.

7 So under that proposal, in September of 2019 we would  
8 adopt whatever the code panel comes up with for the 2020  
9 code.

10 BOARD MEMBER BURKE: If we don't extend this, I  
11 believe it goes back to the 30 milliamps, correct?

12 MR. MUTCH: Correct. On July 1, 2018.

13 BOARD MEMBER BURKE: To the extent that they're going  
14 to have that 100 milliamps on the feeders, 30 milliamps on  
15 the branch circuits.

16 MR. MUTCH: The risk is if we revert back to the 30  
17 milliamp requirement that's in the 2017 code, and if the  
18 2020 code comes out with a 100 milliamp allowance for the  
19 feeders, we would be going to a higher level of safety,  
20 and then when the 2020 code is adopted, it would be a  
21 lower level of safety.

22 BOARD MEMBER BAKER: Yeah, this feels like a bridge  
23 while you're waiting for that next code cycle to come out  
24 so we don't force the public to go to something that's not  
25 necessary.

1 BOARD MEMBER BURKE: For too short of a period of  
2 time.

3 BOARD MEMBER BAKER: For a short period of time.

4 BOARD MEMBER BURKE: Right.

5 CHAIRPERSON PREZEAU: Any other questions?

6 So the motion that has been made and seconded is to  
7 recommend to the Department basically reject the language  
8 that's provided for the Board members today and fall back  
9 on current language in WAC 296-46B-555, and it's really  
10 just subsection (1). All those in favor, signify by  
11 saying "aye."

12 BOARD MEMBER JENKINS: Aye.

13 CHAIRPERSON PREZEAU: Opposed?

14 REMAINING BOARD MEMBERS: Nay.

15 CHAIRPERSON PREZEAU: The motion fails.

16

17 Motion Fails

18

19 Motion

20

21 BOARD MEMBER BAKER: So I'll make a motion to accept  
22 the language as written before us today.

23 BOARD MEMBER BURKE: I'll second.

24 CHAIRPERSON PREZEAU: It's moved and seconded to  
25 accept the language that was proposed -- that was provided

1 to the Board members today in WAC 296-46B-555, subsection  
2 (1).

3 Discussion?

4 BOARD MEMBER WARD: I have to admit, I kind of --  
5 Madam Chair?

6 CHAIRPERSON PREZEAU: Yes.

7 BOARD MEMBER WARD: I was on the other side of the  
8 fence initially until we started having more discussion  
9 around it. And your bridge comment and, you know, Rod's  
10 clarification of what's going to happen in between, that  
11 kind of nailed it for me.

12 CHAIRPERSON PREZEAU: Any other discussion or  
13 questions? Everybody understand the motion?

14 All those in favor, signify by saying "aye."

15 THE BOARD: Aye (the majority).

16 CHAIRPERSON PREZEAU: Opposed?

17 BOARD MEMBER JENKINS: Nay.

18 CHAIRPERSON PREZEAU: Motion carries.

19

20 Motion Carried

21

22 CHAIRPERSON PREZEAU: Steve, did you have more under  
23 your Secretary's Report?

24 SECRETARY THORNTON: No. That was it.

25

1           Item 5.   Correction Reduction Initiative Review

2

3           CHAIRPERSON PREZEAU:   So Correction Reduction

4 Initiative Review.

5           MR. MUTCH:   Hello again, everyone.

6           So this -- I'll try and be brief, but I want to

7 answer any questions you folks may have.

8           This is kind of a continuation of the discussion

9 we've had the last couple Board meetings about corrections

10 that our inspectors write.  And this is about the

11 correction reduction initiative.

12           I believe this was started back when we started to

13 reduce the number of inspectors.  As a way to increase our

14 efficiency, if we can reduce corrections, we can reduce

15 call-backs, and it makes it more efficient, makes safer

16 electrical installations.

17           And so what --

18           CHAIRPERSON PREZEAU:   We started this under Chief

19 Fuller.

20           MR. MUTCH:   Yes, right.  2008-ish, somewhere in

21 there.  It's been around for about 10 years I believe.

22           So what we do is we look at the statewide the total

23 number of corrections that are written to a contractor per

24 inspection and the number of corrections -- or the number

25 of inspections with corrections associated with it.  So

1 our database is able to take the average of that, and for  
2 contractors that have at least 24 inspections during a  
3 fiscal year that have more than twice the average number  
4 of corrections per inspection, we put them into the  
5 correction reduction initiative, and the first letter is  
6 the introduction letter which is the letter that I -- I  
7 passed out these three documents to you. It's the one  
8 without the letterhead that's dated July 22, 2017.

9 So this is the letter that the contractors that have  
10 the highest number of corrections receive. And it's just  
11 the welcome letter, and it explains the process to them.

12 Each month they will receive an update on their  
13 progress compared to the previous fiscal year. And so the  
14 letter on the letterhead with the contractor's name  
15 redacted is the letter that the contractors receive each  
16 month.

17 So, for example, this one says, "Your company's  
18 number of corrections per inspection has increased by 10  
19 percent from the last fiscal year." So each month they  
20 get an update of where they're at with their corrections  
21 compared to the previous fiscal year.

22 And then they also get a list -- and I don't have  
23 that with me -- an actual list of all of the corrections  
24 that that contractor received in the previous month.

25 So they're useful in that they can see in one

1 document all of the corrections they receive and what  
2 permits they're associated with. A lot of guys I've heard  
3 pass these out to their electricians and they discuss the  
4 corrections.

5 They're also able to see corrections that may not be  
6 appropriate to their work scope. So -- or may not be --  
7 corrections that they receive, but may not be within the  
8 work scope that they did. So in that case, they can  
9 contact the Department, explain that correction, and we  
10 can actually remove that correction from their list. So  
11 it kind of helps us to stay on our toes as far as the  
12 inspectors, you know, issuing accurate corrections to the  
13 correct person that did the work.

14 The last document is this one (indicating). It's six  
15 pages. And this is the stats for that group of  
16 contractors for -- this is issued between July 1, '17,  
17 and March 31, 2018.

18 So the column on the right is the change in the  
19 number of corrections per inspection for this period  
20 compared to the previous fiscal year.

21 So, for example, that top contractor there, their  
22 corrections for this period have increased 99 percent over  
23 what they were in the previous fiscal year. They had --  
24 this -- the first one may not be a good example. You kind  
25 of want to look for one that has a similar number of



1 inspections for both of those two periods.

2 And then if you go all the way to the back page, that  
3 is -- it goes in order from the folks that improved or  
4 that had worse performance as far as corrections to the  
5 best.

6 And so like, for example, the top line on the back  
7 page, you've got a contractor that had 127 inspections  
8 with 78 total corrections in the previous fiscal year.  
9 And in this period, they had 105 corrections -- or  
10 inspections with only 18 corrections. So that contractor  
11 improved by 72 percent.

12 So we take an average of all of those -- of that  
13 group and the average reduction in corrections at the  
14 bottom of that right column is 27 percent. That means  
15 that on average this group of contractors reduced their  
16 corrections per inspection by 27 percent.

17 So it's a good tool to make contractors aware of  
18 their corrections and give them a way to reduce them.  
19 And this is only available for electrical contractors, of  
20 course. Because a property owner, we don't really have a  
21 way to track. They don't do enough repeat business with  
22 us to be able to track that.

23 And so there was some discussion a couple months ago  
24 about what we can do with property owners to reduce  
25 corrections, and I'm really still struggling with that.

1 But this is a good way that the Department's found to  
2 reduce corrections for electrical contractors.

3 So I just wanted to present that to you guys.

4 This shows up on the scorecard each month, and you  
5 may not be aware of what's involved in this initiative.

6 But that was kind of a explanation of what's involved with  
7 that.

8 Do you have any questions? I'd be happy to answer.

9 BOARD MEMBER NORD: Yeah, one question.

10 On the last page you show an electrical contractor  
11 the previous year had 72 inspections, 46 corrections, and  
12 then this year only had one inspection and zero  
13 corrections. Wouldn't that send a flag up to the  
14 Department what's going on with this guy because he's  
15 only got one inspection?

16 MR. MUTCH: Possibly. I mean, maybe they went out of  
17 business, you know. So -- I mean, you can look at all  
18 kinds of data here and come up with some -- that's an  
19 interesting one.

20 But we don't -- to my knowledge, we haven't used the  
21 tool for that purpose. We could probably go talk to them  
22 and see what's going on with that. But ...

23 BOARD MEMBER NORD: There seems like there's  
24 something -- something's going on here. All of a sudden  
25 it's just one inspection, one job.

1 MR. MUTCH: Right.

2 BOARD MEMBER NORD: Has he become part of the E CORE  
3 probably we need to go look at or ...

4 MR. MUTCH: True.

5 I haven't gone through the whole list, but there may  
6 be some that have very few inspections the first period  
7 and a lot more the second. So there's some kind of a  
8 story there; I just don't know what it is.

9 BOARD MEMBER LEWIS: Well, the contractor could be  
10 working in a different jurisdiction and getting permits  
11 with the city.

12 MR. MUTCH: Right.

13 BOARD MEMBER LEWIS: It wouldn't show up at the state  
14 level.

15 MR. MUTCH: Yeah.

16 CHAIRPERSON PREZEAU: So Ron, I think our  
17 conversation at the last Board meeting was really around,  
18 you know, the concept or notion of using this correction  
19 reduction initiative as a model, and it came up when we  
20 were talking about serious correction data and recognizing  
21 that as residential property owners, right? like they're  
22 not -- it might be a repeat customer depending on what  
23 they're doing. But likely possibly not. But certainly  
24 folks that have annual permits. So industrial facilities,  
25 you know, would be repeat customers.

1 MR. MUTCH: Yes, typically. Once per year, one  
2 permit per year.

3 It's harder to -- it's easier to track with licensed  
4 electrical contractors by contractor number. The annual  
5 permit is sold to a property owner; they have an address  
6 and they have a business name. So, you know, one year the  
7 person that purchases that permit may put a different -- a  
8 little bit different name on the two permits. The address  
9 should be the same. So it would be a manual process of  
10 trying to coordinate, you know, this permit and this  
11 permit at the same address. So I -- I don't know.  
12 There's challenges with that.

13 CHAIRPERSON PREZEAU: Well, I mean, I'm going to  
14 defer to you because you are the one that -- well, and the  
15 Department really just generally. You're much more fluent  
16 in how you record information from contractors and  
17 property owners, whether they're residential or commercial  
18 or industrial.

19 I just -- I think it's a fair characterization that  
20 when you presented the serious correction data to the  
21 Board in January, it was pretty -- some of the statistics  
22 were pretty alarming. I mean, especially when we're  
23 talking about grounding and bonding and grounding of  
24 services and industrial property owners and even  
25 commercial property owners. I mean, it really doesn't

1 matter what the facility is when you're talking about  
2 insufficient grounding and bonding of the service.

3 MR. MUTCH: Right.

4 CHAIRPERSON PREZEAU: We'll have to keep noodling on  
5 that I think. Because what I have, that report from the  
6 January meeting and, you know, the serious corrections,  
7 you know, per permit listed, you know, obviously  
8 residential owners have the highest rate. But still the,  
9 you know, industrial property owners have a, you know,  
10 serious corrections per permit rate that is three times  
11 that of, you know, electrical contractors.

12 MR. MUTCH: The thing that you want to remember on  
13 that, though, is an annual permit has usually an  
14 inspection every month. So even though they have a high  
15 -- they may show a higher number of corrections per  
16 permit, they're getting more inspections.

17 So I probably should have done that to show  
18 corrections per inspection. Because on an annual  
19 industrial permit, that represents separate tasks. So  
20 they'll do -- one month they'll do, you know, several jobs  
21 and we'll come in and inspect everything they did in that  
22 previous month. So it's really like having separate  
23 permits. That's a little misleading on that one.

24 CHAIRPERSON PREZEAU: Okay. Duly noted.

25 Any other questions for Rod?

1           Item 6. Certification/CEU Quarterly Report

2

3           CHAIRPERSON PREZEAU: All right. Certification/CEU  
4 Quarterly Report.

5           MR. VANCE: Hello, everyone. For the record, my  
6 name's Larry Vance. I'm a technical specialist with the  
7 Department of Labor and Industries' electrical program.

8           Recently I've been looking back through reports for  
9 this time period that the Board's previously looked at.  
10 And there's been virtually no change in the pass rates. I  
11 have information here back in the same time period in 2010  
12 to 2011, this time period if we ended a year at the end of  
13 March. The pass rate then was 51 -- let's say 52 percent.  
14 Today the pass rate is 47 percent. That was on a little  
15 bit different version of the examination, different  
16 version of the code at that time. There has been some  
17 changes along those -- during that time since 2010 to  
18 present. Those changes would include increasing  
19 continuing education requirements for electrical trainees  
20 from 16 hours -- in 2007 there was a requirement for 16  
21 hours of in-class training for trainees. That was  
22 increased to 32 hours I think in 2011, somewhere right in  
23 there. And then 48 hours in 2013.

24           So despite that increase in classroom education  
25 hours, I mean, it's -- you could interpret the fact it

1 might have had a percent and a half shift in the pass rate  
2 for 01 electricians. Nothing significant. Or you might  
3 also say that with the influx of people from out of state  
4 that have come to take our open-book certification exam,  
5 that possibly the folks coming from out of state that  
6 qualify and take the exam may not be as prepared as they  
7 need to be, and that might be driving that pass rate down  
8 a percent and a half. But is a percent and a half  
9 something that we're terribly concerned about? And I  
10 would say probably not, probably not. So there is no  
11 concern that we have any breeches in our exam process.

12 The contract has been renewed with PSI. So they will  
13 be continuing to offer our open-book examinations  
14 nationally, and Canada for that matter if someone wanted  
15 to take it in Canada.

16 So that is -- that's the summary of our examination  
17 process.

18 CHAIRPERSON PREZEAU: Are we -- I know that you're  
19 not the technical specialist that is updating the bank of  
20 exam questions to match the 2017 code; that's Rod's  
21 assignment. But are we on track for I think it's July 1,  
22 2018, readiness to move over to the 2017 test bank?

23 MR. VANCE: Yes, yes. Rod is tracking that up to I  
24 think about three decimal points as to -- is the  
25 completion rate of where he needs to be, and he has

1 reported that we are right on track for that.

2 So we have a responsibility to get the exam data --  
3 or the question bank to PSI. We're on track to get our  
4 work done on time, and hopefully there's not a glitch from  
5 there.

6 CHAIRPERSON PREZEAU: Yeah, because if the Board  
7 members recall, at the January meeting we had some pretty  
8 good discussion about -- because historically the program  
9 has offered multiple versions -- running multiple versions  
10 of, you know, respective examinations, which seems a  
11 little bit odd, right? We've adopted the 2017 code or  
12 2020 code that the examination should be on the current --  
13 you know, not only the current WAC's and RCW's but the  
14 current code.

15 Dominic.

16 BOARD MEMBER BURKE: Just a comment or maybe a  
17 question.

18 With recent legislation on requiring apprenticeship  
19 that we're all going to learn soon, it might be a good  
20 opportunity for you to start that metric of, you know,  
21 after requiring apprenticeship, are the past rates higher.  
22 You might be able to measure, you know, any benefit gained  
23 in the process. And I wanted you to be aware of that  
24 coming up that in five years we might be looking back for  
25 that metric, but without starting it now, it would be



1 pretty hard to put together. So ...

2 CHAIRPERSON PREZEAU: Well, the Department's done  
3 that in the past, right? I mean, I can recall --

4 MR. VANCE: Painfully, yes.

5 BOARD MEMBER BURKE: You have legislation behind you  
6 to do it this time. So ...

7 MR. VANCE: System changes are needed in order to  
8 identify someone is -- you've got people coming in from  
9 out of state that could be equivalent apprenticeship  
10 graduates. So it's about how they get identified at the  
11 test -- at the approval for the examination stage.

12 So what we need is is multiple buckets to -- in our  
13 system to approve somebody as, and then be able to collect  
14 the pass rate data based on those buckets. And we don't  
15 have that capability right now. That's strictly a manual  
16 process.

17 What we did find out through that is -- through the  
18 manual process is is that apprenticeship path has a  
19 significantly higher first-time pass rate. OJT is  
20 somewhere down around 30 percent pass rate. And  
21 apprenticeships were up in the 70 and even higher. So ...

22 It's just the fact -- possibly just -- people go into  
23 an open-book examination without ever having opened the  
24 book and maybe possibly not being aware of what's in the  
25 book. And that is the -- presents some difficulty for

1     them to pass the exam.

2             CHAIRPERSON PREZEAU:   CEU's?

3             MR. VANCE:   CEU's?  Let's see.  Currently 48 hours  
4     are required in-class training to renew a training  
5     certificate.

6             What the law requires is is that a training  
7     certificate be -- that it's good for two years and that  
8     it be renewed every two years, and that at the time of  
9     renewal that proof of education -- or proof of employment  
10    experience, in other words, affidavits of experience, so  
11    on and so forth.  That requirement exists for everybody  
12    who's not in an apprenticeship program.  Because typically  
13    another path to eligibility for the exam is the completion  
14    of an apprenticeship program.  So there's some  
15    apprenticeship programs that don't submit affidavit of  
16    experience; they just submit a completion certificate.  So  
17    there's two paths available for those in apprenticeship.

18            For those that have -- that are on the job, OJT  
19    folks, they need to be submitting their experience at  
20    renewal which is required every two years, of course,  
21    until they've passed their certification examination.

22            As far as CEU providers, we're not -- we continue to  
23    have an influx of CEU providers and those folks that want  
24    to enter that market here in Washington.  We don't hear --  
25    we really don't hear a lot about persons having any

1 problems finding appropriate continuing education classes.  
2 Or sometimes they just don't know where they're at. We do  
3 provide a list of all continuing-education providers and  
4 classes on the Internet as a courtesy to the provider  
5 industry and for those looking for training. But a lot of  
6 times it's just more based around, Hey, is there anything  
7 near me or something like that. And fortunately we have a  
8 very diverse group of providers across the state that --  
9 if you're in, you know, Tonasket or something like that,  
10 there might not be one in town, but there might be one in  
11 Yakima or more in Yakima. So -- yeah.

12 CHAIRPERSON PREZEAU: Any questions for Larry?  
13 Anything else?

14 MR. VANCE: No.

15 CHAIRPERSON PREZEAU: All right. Perfect. Thank  
16 you.

17 MR. VANCE: Yep.

18

19 Item 7. Public Comment(s)

20

21 CHAIRPERSON PREZEAU: So I just -- I have both  
22 sign-in sheets. One's for the appeals sign in which is  
23 not -- we're finished with the appeals; I just want to put  
24 that in the record. And under public comment, we only  
25 have one, which is Al Philips representing trades speaking

1 on improvement of the certification process.

2 And I think Mr. Philips has brought some show-and-  
3 tell equipment. I'll let you get settled in.

4 MR. PHILIPS: Take five. Two minutes to settle in.  
5 I apologize.

6 So while I do this, I'll thank an acquaintance of  
7 mine named Mike Holt who I found out last week was  
8 instrumental in helping our troupes in Afghanistan.

9 We unfortunately of the 3,000 fatalities in Middle  
10 East wars, 25 people were killed in the showers because of  
11 faulty electrical wiring. Halliburton is one of the  
12 companies required to support those troupes drove ground  
13 rods. And a guy I met last week drove 1,200 ground rods  
14 for a single building. The problem was not grounding; it  
15 was improper bonding. And unfortunately the people at  
16 Halliburton did not know the difference between grounding  
17 and bonding.

18 But Mike Holt flew out there and was able to convince  
19 the powers that be at Halliburton that there was a  
20 difference between grounding and bonding. And eventually  
21 they bonded the electrical system back together properly  
22 and our personnel -- (inaudible). So that was kind of  
23 neat.

24 Two more things, then we'll rock and roll.

25 As we get going, my name's Al Philips. I've been

1 here once before. And I'm here to make a recommendation  
2 to include a certification process for specialty  
3 electricians.

4 My background is I started working in electricity in  
5 1968, put myself through college at the U.W. and have been  
6 working either directly or indirectly in electrical work  
7 off and on since then.

8 I'm a electrical contractor. I'm a general  
9 contractor. My wife's an electrician. My grandchild is  
10 an electrician going through a gender change. So she was  
11 a she; she's now a he.

12 Aw, one more thing. Since I was not formally on the  
13 presentation, could I get you to pass this around so  
14 everyone could see it (handing to Ms. Rivera).

15 And one more thing. This presentation's coming to  
16 you because I had a discussion with Mark Leon (phonetic)  
17 who works for the Department of Labor and Industries who  
18 had informed me that --

19 CHAIRPERSON PREZEAU: Mr. Philips, may I ask how much  
20 time you think that you -- I'm not pressing you, but I  
21 just wonder, how much time do you think your presentation  
22 will require?

23 MR. PHILIPS: 15 minutes, maybe 20. No more.

24 CHAIRPERSON PREZEAU: Okay.

25 MR. PHILIPS: My name is Allen Philips. A-L-L-E-N,

1 Philips like the light bulb with one L -- P-H-I-L-I-P-S.

2 So Mark Leon and I had a discussion about log books  
3 with regards to specialty electricians and certification  
4 of their employment hours. And he informed me that there  
5 was a policy that was announced in a 2010 Electrical  
6 Currents that I was unaware of with regards to something  
7 called passive testing.

8 Passive testing is defined in the WAC as a certain  
9 set of operations taking electrical test equipment perhaps  
10 or pushing buttons but no modifications of equipment. And  
11 it was L & I's policy at that time and continuing to today  
12 that passive testing acts and work will not count towards  
13 certification.

14 So if I have a service tech, which I had at the time  
15 -- quite a few of them and maintenance techs, that they're  
16 going to a job site and finding out that all they were  
17 going to do is troubleshoot and the troubleshooting did  
18 not require repair but found out it was a misalignment or  
19 something like that, that I could not count their hours.

20 And after a fair amount of back and forth, Mark and I  
21 came to a agreement to reduce the hours of the people that  
22 had submitted by 50 percent. And I had already reduced  
23 their time by about 60 percent up to that point because  
24 much of their work was in PMS, preventive maintenance  
25 systems, and work like that.

1           During my discussion with him, he indicated that the  
2 rationale for not counting passive testing and  
3 troubleshooting as part of a electrician's work experience  
4 was that individuals doing that can also be non-certified.  
5 A non-certified individual can come to a job site like a  
6 technical representative and just take voltage  
7 measurements or push buttons to turn things on and off.  
8 The policy at L & I is such that an individual needs to be  
9 "qualified," within quotes, a qualified person.

10           And Rod, you can correct me at any point if I --

11           MR. MUTCH: You're good.

12           MR. PHILIPS: I'm old enough. I do make goofs.

13           That qualified individual then is going to be trained  
14 in the safety and the work to be done, kind of the  
15 equipment -- the electrical attributes of the equipment.  
16 So that's a qualified individual.

17           And so a qualified individual doesn't have to have a  
18 license if he doesn't have to have a license for this  
19 particular work, that L & I is not going to certify that  
20 work for a person who does have a trainee card.

21           The majority of this presentation I'm coming to you  
22 is one, the unintended consequences for that because there  
23 is a large population of tradesmen out there who are on  
24 service teams or doing PMS or plant -- equipment  
25 maintainers and other attributes that the unintended

1 consequences of these individuals may not be able to get  
2 a certification to take the state exam for 8 years, 10  
3 years, 12 years, which is depressing these people totally.

4 Having then gone around to a number of different  
5 interested people that seem to share some of the same  
6 concerns, the big picture that we came up with was nobody  
7 should have to spend more than four years while working at  
8 a legitimate trade full-time before they're able to take a  
9 test to get certified to work in their trade.

10 And so if the rules on passive testing are modified,  
11 we would be able to enhance the abilities of our citizens  
12 who work in the trades. And we've estimated it's between  
13 10- and 20,000 people to be able to test after four years.

14 So the logic is in front of me. On the chair right  
15 there is some test equipment that I could take in --  
16 (inaudible) -- volt meters that would qualify for hours.  
17 But in front of me is a piece of rigid, and if I'm an 01  
18 and I've got a Chicago bender, and I bend that rigid, I  
19 could count my hours towards my card. Many of us have  
20 done that. But I also can buy that. And the company that  
21 actually bent that piece of rigid is not certified. So  
22 it's possible to have an act at the electrical  
23 installation site that that act is not certified but we  
24 are -- I mean, it doesn't require an electrician to bend  
25 that pipe. Home Depot bent that for me. So I don't have



1 to have an electrician do that. But we are counting for  
2 01's when they go out and do pipe.

3 Over here is some structured wiring done by a team  
4 that I work with periodically. And if you're doing  
5 structured wiring, it's low volt -- really low volt. It's  
6 like 5 volt digital with a gigabyte transfer rate between  
7 the -- in the punch-downs. The people that have run just  
8 structured wiring don't have to have a license either.  
9 Yet if I have an 06 company, I can count the hours that a  
10 person -- a person working for an 09 company doing just  
11 structured wire doesn't have to have a license, but if  
12 he's working for an 06 company, I can count his work  
13 towards his ability to take the state exam.

14 If I'm a residential electrician, an 02, and I'm in  
15 new construction, and I will have my Hole-Hawg out there,  
16 and I can drill holes through my studs, and I got to make  
17 sure that my trainee doesn't move my holes up and down  
18 because it's hard to pull the Romex through the angles and  
19 stuff.

20 I can go to the warehouses, and I can buy predrilled  
21 studs. So there's no obligation that those studs have to  
22 be drilled by an electrician. Now, I recognize -- I had a  
23 discussion with Steve that if I'm on a job site and he's  
24 an employee of me, and I've got a guy drilling the studs  
25 or I got a guy building the pipe, being an electrical

1 contractor, I'm responsible to make sure that guy's an  
2 electrical trainee or journeyman. But there are instances  
3 where that work can be done where the person's not a  
4 certified electrician.

5 So my proposal to you -- and the piece of paper -- I  
6 hope it got around to most everybody. What that has is  
7 on the front is my proposal and the back is just the data  
8 that is the references. The back will be Electrical  
9 Currents information from 2005, 2010 and 2012. And the  
10 one in 2012 is the one that should be gray at the bottom  
11 that says "work accomplished when passive testing will not  
12 count towards a person's certification."

13 That's probably appropriate when trying to certify  
14 01's and 02's. Because an 01 and 02, you want them to be  
15 out there digging into the heavy equipment. But HVAC,  
16 06's, 07's, 04's, all of them are going to be doing work  
17 that might be involving passive testing. And I really,  
18 really, really try to express to the Board that we got to  
19 give the people that are in the workforce the opportunity  
20 to test if they're working in a trade legitimately, and  
21 there are some trades that part of the work is passive  
22 testing.

23 So Pam, you're probably going to correct me on a real  
24 minor point of law, but it seems to me that the Electrical  
25 Board can make a decision or rule a judgement without a

1 person coming forward asking for that; that's part of your  
2 responsibility is to advise the Director. And so the  
3 Board has the authority to make a recommendation or a  
4 decision telling the Director to change this current  
5 policy.

6 Is that a correct statement that the Board has the  
7 ability to make strong recommendation to the Department to  
8 change this policy?

9 ASSISTANT ATTORNEY GENERAL THOMURE: So you said a  
10 number of different things.

11 MR. PHILIPS: I bet I did.

12 ASSISTANT ATTORNEY GENERAL THOMURE: But I hope  
13 you --

14 The back story here is that Mr. Philips did submit  
15 an interpretation request on the formal paperwork by the  
16 Department requesting that the Board actually issue a  
17 decision. I sent him a letter after conferring with Tracy  
18 regarding that the area of -- this does not fit into the  
19 Board's purview with -- other than the Board's  
20 jurisdiction to render an interpretation of that.

21 You are correct, sir, that this meeting has allowed  
22 the public comment and that the Board certainly can have  
23 a discussion about that if it wants to. And it can say,  
24 "Yeah, that's a good idea," "It's not a good idea." And  
25 they can certainly say that to the Department. The

1 Department's under no obligation under those circumstances  
2 to do anything with that recommendation one way or the  
3 other.

4 MR. PHILIPS: So I do understand when I sent that in  
5 there was no true appropriate regulation in RCW to present  
6 issues associated with certification versus issues  
7 associated with wiring. So I'm aware of that.

8 So that piece of paper that I sent around is a  
9 summary of what I tried to say, which I do so ineloquently  
10 unfortunately.

11 The concept that the specialty electricians can use  
12 your support statewide and giving them legitimate paths  
13 towards examination. And I don't think that any of the  
14 passive testing that my people are doing which is we're  
15 going to -- VAV; there's a thing called a variable air  
16 valve, that it's going to be in the ceilings of many of  
17 the industrial and commercial buildings, and many of my  
18 VAV's were 480 volt, and monthly I was required to go  
19 around and take a voltage and a amperage check on each of  
20 these motors. There might have been 2,500 of them in my  
21 million square foot building, and each time it was a  
22 voltage check the person would be wearing a protective PEP  
23 appropriately for the work being done, and I felt that  
24 that work being done by those technicians should be able  
25 to count towards their certification.

1           So that's step one of my presentation.

2           Are there any questions for me?

3           CHAIRPERSON PREZEAU: Any Board members have  
4 questions?

5           MR. PHILIPS: So I got a little bit more to go grab  
6 over there, and then we'll be out of here.

7           CHAIRPERSON PREZEAU: Mr. Philips, while you -- I do  
8 have one question for you.

9           This letter that our Assistant Attorney General Pam  
10 Thomure sent to you dated February 20th outlining the --  
11 that she just referenced, did you receive that letter?

12          MR. PHILIPS: I did get that letter the day before my  
13 meeting with Mr. Thornton. And I understand it  
14 completely.

15          CHAIRPERSON PREZEAU: I just wanted to get that in  
16 the record.

17          MR. PHILIPS: I appreciate that.

18          CHAIRPERSON PREZEAU: Dominic.

19          BOARD MEMBER BURKE: I have one question.

20          Are you -- is your intention that there's no  
21 limitation on those hours, and that all hours can be  
22 counted? I mean, --

23          MR. PHILIPS: Yes and no.

24          BOARD MEMBER BURKE: -- is that your intended  
25 outcome?

1 MR. PHILIPS: No.

2 The initial one is these particular electrical work  
3 hours ought to count.

4 BOARD MEMBER BURKE: All of them?

5 MR. PHILIPS: Well, if a person's working -- so let  
6 me back up. If a person is working in a legitimate trade  
7 like an HVAC person, and during part of his work  
8 experience part of his work is exposure to electrical,  
9 part of it might be exposed to brazing and R14 and R21  
10 attributes, having worked with HVAC guys I came to the  
11 conclusion that that trade was just as legitimate and just  
12 as important as the line voltage 01's, and perhaps that  
13 trade ought to take an 8,000 hour certification process.

14 So wherever that person is being trained if they have  
15 been working within the trade I would like to count those  
16 hours. I would like to increase the hours obligated to  
17 count.

18 And the reason I do that, let's say I'm an 01 trainer  
19 and I've got an 01 company, and we're busy as heck  
20 Downtown Seattle; you've got these towers. And all I've  
21 got to be -- I've got two, three years of building cranes.  
22 I'm backed up. So I've got a team, and they're out there.  
23 They're running pipe and they're pulling wires, running  
24 pipe and pulling wires, running pipe and pulling wires.  
25 And I can't keep up, but I'm doing the best I can. And

1 I've gone -- three guys -- (inaudible) -- on Mondays and  
2 got to let those guys go because I picked them up; and  
3 hopefully they work, but they didn't. So at the end of  
4 four years of working Downtown Seattle, the team that I've  
5 got out there, they got a lot of pipe experience, and  
6 they've got a lot -- but they've never landed a  
7 transformer, okay? I didn't end up putting them down  
8 there to be a -- service perhaps equipment. Or maybe they  
9 got that. But they never seen how to do low voltage, how  
10 to do a fiberoptics, how to -- (inaudible). But yet my 01  
11 is allowed once he gets his license to go out into all  
12 these arenas where he has no experience and work. But  
13 what I've certified in that four-year period that the guy  
14 is safe, he knows how to ask questions, he knows how to  
15 work competent and work -- and being told -- do what he's  
16 told. So that individual, that 01, I'm confident that  
17 when I put him out in the field to a new company, that he  
18 will not be an unsafe individual.

19 So I'm also confident these other people -- I don't  
20 think of them as second-class citizens. I find that the  
21 HVAC techs, the low-voltage techs -- I got like seven  
22 marines in one company that are trying to -- who were  
23 power generation techs down in Iraq, and those guys are  
24 perfectly safe and perfectly competent. But they're  
25 struggling to get hours. So I'm trying to find out

1 systems so that our tradesmen in the state of Washington  
2 that are in the specialty trades are not getting a short  
3 shrift on having to meet certain types of obligations.

4 So what I want to have is a system that verifies  
5 safety. I have some ideas how that ought to be, but I'm  
6 not guaranteed -- but I want a system that can be  
7 concluded after four years.

8 Why do I care about safety? I used to run them  
9 through weapons. I used to have 192 500 kiloton bombs  
10 that were under my personal control on submarines over  
11 there at Bangor and off of the East Coast. We are really  
12 into safety. And I'm not going to try to give us a  
13 situation that's unsafe. But I also want to give us a  
14 system where the people aren't going to sit there --

15 I got a -- George has been an appliance tech for 24  
16 years. Okay? Sears is in a downward death spiral. I  
17 feel sorry for him. But he's worked for Sears, and he has  
18 no hours. Okay?

19 BOARD MEMBER BAKER: Sorry for interrupting you. But  
20 this is all around passive testing, right?

21 MR. PHILIPS: He (indicating) asked a broader  
22 question.

23 Passive testing is a -- and I'll pass some more  
24 information out here in a second.

25 BOARD MEMBER BAKER: Yeah, but at the top of your



1 letter it says, "I recommend" ...

2 MR. PHILIPS: That's the passive testing letter.

3 I've got another letter that --

4 BOARD MEMBER BAKER: So passive testing, is that  
5 regulated?

6 MR. PHILIPS: Yes and no. It is regulated but --

7 BOARD MEMBER BAKER: -- (talking over each other)  
8 contractor have a permit?

9 MR. PHILIPS: No, no. It's regulated --

10 BOARD MEMBER BAKER: Am I required to be an  
11 electrical contractor?

12 MR. PHILIPS: No.

13 BOARD MEMBER BAKER: Okay. So it's not regulated  
14 work.

15 MR. PHILIPS: Correct.

16 BOARD MEMBER BAKER: But you want those hours to  
17 count towards a regulated industry?

18 MR. PHILIPS: Yes. Because when that person is  
19 working for me as a regulated electrical contractor, L & I  
20 will fine me if I don't have him as a certified  
21 electrician or a certified trainee on a job site.

22 BOARD MEMBER BAKER: If he's doing regulated work.

23 MR. PHILIPS: No. If he's doing passive testing, if  
24 he has a tool belt with those things on his belt on the  
25 job site, then I'm eligible to be fined.

1 BOARD MEMBER BAKER: If he's doing regulated work.

2 MR. PHILIPS: No. If he's not doing regulated --  
3 he's wandering around the job site with a tool belt on,  
4 and he doesn't have a trainee card, I can get fined.

5 Now, I'm going to go to superior court, which I'm not  
6 going to go to superior court -- (inaudible).

7 My electrical inspectors will fine me if my guy's on  
8 a job site with tools without a card. And the reason he's  
9 going to fine me is they're not sure that I'm sneaking  
10 this guy around after the inspector goes away. So when  
11 the inspector gives me a fine, I'm not going to fight it.  
12 He hasn't because I haven't done this. But if he gives me  
13 a -- I'm not going to fight that.

14 CHAIRPERSON PREZEAU: Mr. Philips, you gave Rod --  
15 invited Rod Mutch at one point to check your accuracy.  
16 And it's -- I don't think he agrees with you.

17 MR. MUTCH: Do you want me to respond?

18 CHAIRPERSON PREZEAU: Yes.

19 MR. MUTCH: That's incorrect. We are obligated to  
20 prove that a violation occurred. And to do that, we have  
21 to witness the person engaged in the electrical  
22 construction trade. So carrying anything around on a job  
23 site is not regulated activity.

24 MR. PHILIPS: Let me ask you this: Rod, if I have a  
25 guy on a job site drilling holes in a residential wall

1 with a hole, I will get fined.

2 Now, I may be able to take it up to L & I to the main  
3 office, but that -- I have had people that have been fined  
4 that way.

5 ASSISTANT ATTORNEY GENERAL THOMURE: So if I can  
6 interject, this is the time set for public comment on the  
7 issue that you want to present to the Board. I'm not sure  
8 that the Board wants to engage and debate on anything else  
9 that hasn't been -- that you're not presenting asking the  
10 Board to review on. Because we're a half hour into -- or  
11 25 minutes into your presentation, sir.

12 MR. PHILIPS: So this is my point is -- and I've got  
13 more to say, but I'll stop at this point.

14 The other trades other than an 01 and 02 in the state  
15 of Washington that do electrical work should be able to  
16 test that they have been employed for 8,000 hours towards  
17 a license that supports their trade. They should not have  
18 to wait 12 years before they test.

19 I have a letter from Jim Reynolds (phonetic) saying  
20 they have to wait 16 years? And that's unacceptable from  
21 my point of view.

22 I'm just giving you the information. You might be  
23 able to come up with a different solution than mine. I  
24 have not heard of a solution to solve this problem other  
25 than the ones that I've presented such that an individual

1 should be able to test to work in his trade -- he's not  
2 going to be an expert, but he will be safe. And this is  
3 just a thought, a step one, towards that desired goal.

4 I have -- I get letters and phone calls all the time  
5 from people that are working in a trade and can't get  
6 licensed.

7 Thank you very much for your time. If you wish me to  
8 come back, Madam Chair, I'd be willing to come back if you  
9 wish; I have more to say about other issues.

10 CHAIRPERSON PREZEAU: So I think --

11 MR. PHILIPS: I'm an interested public person.

12 CHAIRPERSON PREZEAU: And that's obviously clear.

13 Mr. Philips, you've been before this body previously.  
14 I also know that you were active on the technical advisory  
15 committee when we were in rulemaking in 2017. And, you  
16 know, you even submitted some proposed changes to the  
17 rule. And certainly at this point, I echo the language  
18 that's in the letter that you received that's dated  
19 February 20th that, you know, certainly the Electrical  
20 Board can make recommendations as Pam already indicated  
21 or -- that are non-binding to the Department and to the  
22 Chief.

23 And there are certain things that we have more  
24 explicit jurisdiction over with respect to the  
25 administration of the examination, the practicality of

1 that, not the certification requirements.

2 And, you know, the letter clearly stipulated that you  
3 need to be -- on this issue that you have much passion  
4 about being -- communicating with the Director of the  
5 Department of Labor and Industries, right? and certainly  
6 ongoing conversations with program specialists and the  
7 Chief.

8 And unless there's -- unless I -- are there any Board  
9 members that have additional questions for Mr. Philips or  
10 have a recommenda -- a motion that they would like to  
11 voice at this time?

12 BOARD MEMBER BAKER: I would just say that I  
13 recognize the time and effort that you put into this, the  
14 passion you have for this. Interesting approach,  
15 interesting comments.

16 Our code is designed for the protection of equipment  
17 and personnel. And I personally have a hard time with a  
18 guy at Home Depot getting CEU credits for bending a piece  
19 of -- and I know. It was used as an example; I know. But  
20 passive testing not being regulated work, I'm just not  
21 sure how that fits into our testing.

22 Anyway, I appreciate the time and effort you put into  
23 it and the passion you have.

24 MR. PHILIPS: Thank you. I'll stick around if you  
25 have any other comments.

1           CHAIRPERSON PREZEAU: Great.

2           BOARD MEMBER CUNNINGHAM: Madam Chair, just one quick  
3 question.

4           Coming at it from a different profession, not being  
5 an electrician, how -- is there a -- are the hours that  
6 are reported by the person working through the training  
7 process qualified to do a specific task? If you  
8 understand his example, if you can have an individual --  
9 and I'm just hypothesizing here -- who works for four  
10 years installing either pre-bent pipe or combinations of  
11 -- (inaudible) -- fittings or bending them in the field,  
12 but he's never done anything else, and in my industry as  
13 an electrical engineer, I could have an employee who I'm  
14 responsible for training preparing to be eligible to test  
15 to become a licensed engineer in the state, and all I tell  
16 him do is -- (inaudible) -- and he's a smart individual,  
17 and he will take that standardized test, which most people  
18 who go to college are good at standardized tests, they  
19 could become a licensed engineer and know nothing about  
20 switch gear, line voltage, power, anything. But they  
21 could still become a licensed engineer.

22           So is there any criteria that says to be eligible to  
23 get your 01 license, you have to have done hours in all of  
24 these -- it's up to the individual who's doing their  
25 supervision to make sure they're well rounded and

1 prepared. Is that -- do you have any criteria? You have  
2 to do 1,000 hours of this and 2,000 hours of that?

3 CHAIRPERSON PREZEAU: There are certain stipulations,  
4 and I'll leave it to the Department to make sure that I'm  
5 -- I don't deviate here. This are certain stipulations  
6 like, for example, for -- to be eligible to sit the 01  
7 journey-level exam that there are some stipulations around  
8 the hours worked in terms of number of residential hours,  
9 of work performed, and some other safeguards.

10 Is it possible that you could have somebody work in  
11 -- you know, with a trainee's card for an 01 licensed  
12 contractor and have an incredibly narrow scope of work?  
13 And the answer to that is yes.

14 My experience -- my personal experience is vastly  
15 different than that. And what I mean by that is it wasn't  
16 a state requirement, but it was an apprenticeship  
17 requirement, which was I had to keep a hours book. And  
18 this hours book -- I haven't looked at it in a long time,  
19 but -- like I don't even have it anymore. I probably had  
20 to turn it in -- I mean, every month I would have to turn  
21 in one of the duplicate copies, right? -- because I keep  
22 the record itself as an apprentice -- in to my training  
23 director. It stipulated broke down by likely 20 to 25  
24 different work categories about how many hours I spent  
25 every day performing different type of work so that my

1 apprenticeship coordinator and the trustees that oversee  
2 that training trust have some level of assurance that I as  
3 -- when I approached my, you know, 8,000 hour threshold  
4 from the state to sit for the examination helped -- had  
5 internal safeguards that were even specific to that  
6 apprenticeship program. And others in the room that have,  
7 you know, graduated apprenticeship programs and/or helped  
8 administer those apprenticeship programs are nodding their  
9 head in agreement that that's what happens.

10 And it -- you know, that's what we want.

11 BOARD MEMBER LEWIS: Madam Chair?

12 CHAIRPERSON PREZEAU: Yes.

13 BOARD MEMBER LEWIS: That's what will happen when we  
14 move to an apprenticeship-only training because almost all  
15 state-approved apprenticeships have categories that you  
16 have to spend so many hours in different commercial,  
17 industrial, residential.

18 (Alice Phillips departed  
19 proceedings.)

20 So that will -- that law will sort of result in the  
21 01 license person getting a well rounded education and  
22 training.

23 BOARD MEMBER BURKE: I just want to say, also, that  
24 I think that the intent -- you know, like Don said, it's  
25 unregulated work. And so to the contrary, you can't have



1 someone who's worked for a testing agency that comes in  
2 after working for them for five years and all of a sudden  
3 that's all they've done and they can sit for the 01.

4 So while I appreciate what you're saying also, I  
5 think there's a fine line to figure out how you could  
6 qualify those hours between the apprenticeship even though  
7 it's unregulated work, you know.

8 But the other side of that is that you don't want to  
9 have people that have worked in that -- you know, for a  
10 testing company, per se, for five years and then all of a  
11 sudden they can sit for the journeyman.

12 BOARD MEMBER CUNNINGHAM: That's the same issue;  
13 they've only done one task.

14 BOARD MEMBER BURKE: Exactly. It's --

15 MR. PHILIPS: Could I comment real briefly on that?

16 Let's say I have somebody working for a fire alarm  
17 company for four years. After four years he could get --  
18 or two years he could become a low-voltage technician.  
19 Which means he can go work for any other low-voltage style  
20 company even though he doesn't have any experience there.  
21 Typically that person can stay in the trade like a fire  
22 alarm, but he can also go to fiberoptic, he can go to  
23 security, he can go to camera. He can do all sort of  
24 things that have a breath of experience.

25 Same thing with your 01 experience there, Madam

1 Chair. You didn't do a lot of low-voltage punch-downs as  
2 an 01 journeyman trainee. You did the PVC's, the pipes,  
3 the transformers, all the 01 stuff. But when you get  
4 certified in the next sentence that you're allowed to go  
5 do non-01 style work, and you won't have any experience in  
6 that. And you can go out in the community and find people  
7 that have concerns about that also.

8 So the question is -- but I'll be quiet. You do have  
9 the times and the schedules.

10 CHAIRPERSON PREZEAU: Okay. Any other questions?

11 So a couple of announcements before -- one has to do  
12 with parking? So a reminder that when -- two ways you can  
13 resolve the parking charges. You can take the envelope  
14 that is on your windshield and you can pay for it as you  
15 exit the building and expense that expense, or you can go  
16 to the parking lot and get the envelope and turn it in to  
17 Beth and not deal with that paperwork.

18 Additionally, the July meeting which is July 26th is  
19 located in Pasco. And it's my understanding -- and Alice  
20 was asking me some questions earlier. I just want -- I  
21 believe that the hotel that is housing that July meeting  
22 is adjacent to the airport, likely has a shuttle between  
23 the airport and the hotel. Bethany's indicating yes. So  
24 in the event that you elect to fly into Pasco -- and Megan  
25 is the -- right? -- is the go-to person for making travel

1 arrangements. And you could fly into the Pasco airport;  
2 there would be no need to rent a car. And you would be  
3 able to attend the July 26th meeting.

4 And then several Board members have left before  
5 adjournment, but I just want to go on the record that we  
6 still have -- we have more than a quorum, so everything's  
7 good in that regard.

8 And one of the folks who left is Randy Scott who is  
9 currently appointed by the Governor to serve as the public  
10 member. His appointment technically expires July of 2018,  
11 and Randy Scott is not seeking reappointment to the Board.  
12 And in the event -- just want to call your atten -- in the  
13 event that the Governor appoints a replacement, then today  
14 was Randy Scott's last meeting. So I just wanted to get  
15 in the record, thank him for -- and he's been retired and  
16 still coming to these meetings, which I applaud him for  
17 and that he made a commitment that he was -- and he knew  
18 he was going to be retiring from his regular job before  
19 his appointment term was expired, and he fulfilled his  
20 term. So I think that that is incredibly honorable.

21 Any other questions, comments, concerns? Did I miss  
22 anything, Beth? No?

23 The Chair will entertain a motion to adjourn.

24

25

Motion to Adjourn

1 BOARD MEMBER NORD: Motion.

2 BOARD MEMBER JENKINS: Second.

3 CHAIRPERSON PREZEAU: It's been moved and seconded to  
4 adjourn the April 26, 2018, Electrical Board meeting. All  
5 those in favor, signify by saying "aye."

6 THE BOARD: Aye.

7 CHAIRPERSON PREZEAU: Opposed?

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9 Motion Carried

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11 CHAIRPERSON PREZEAU: We are adjourned.

12 (Whereupon, at 2:35 p.m.,  
13 proceedings adjourned.)

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STATE OF WASHINGTON )  
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I, the undersigned, a Certified Court Reporter in and for the State of Washington, do hereby certify:

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

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

IN WITNESS WHEREOF, I have hereunto set my hand on this 15th day of May, 2018, at Tacoma, Washington.

---

H. Milton Vance, CCR, CSR  
Excel Court Reporting

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