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## Electrical Board Meeting

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### TRANSCRIPT OF PROCEEDINGS

April 27, 2023

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DEPARTMENT OF LABOR AND INDUSTRIES  
STATE OF WASHINGTON

ELECTRICAL BOARD MEETING  
TRANSCRIPT OF PROCEEDINGS  
April 27, 2023

Pages 1 through 171

**CERTIFIED  
TRANSCRIPT**

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1           BE IT REMEMBERED that an Electrical Board  
2 meeting was held on Thursday, April 27, 2023, at 9:02  
3 a.m., before CHAIRPERSON JASON JENKINS, BOARD MEMBERS  
4 BOBBY GRAY, KERRY COX, DOMINIC BURKE, IVAN ISAACSON, MIKE  
5 NORD, DYLAN CUNNINGHAM, DON BAKER, JACK KNOTTINGHAM,  
6 ERICK LEE, JAMES TUMELSON, and SECRETARY/CHIEF ELECTRICAL  
7 INSPECTOR WAYNE MOLESWORTH. Also present was ASSISTANT  
8 ATTORNEY GENERAL BEN BLOHOWIAK, representing the Board;  
9                                   WHEREUPON, the following proceedings  
10 were had, to wit:

11  
12                                   <<<<<< >>>>>>

13  
14                                   CHAIRPERSON JENKINS: All right. It  
15 is April 27th, 2023, in Spokane, Washington, at  
16 approximately 9:02 a.m. My name is Jason Jenkins,  
17 electrical board chair. I'd like to call the Washington  
18 State Electrical Board meeting to order.

19           So I want to thank you, everyone, for attending.  
20 It's been a -- for some of us, a longer drive than  
21 others, so it's -- happy to be here.

22           As we mentioned already, the court reporter is not  
23 here today. So we'll be recording this meeting to be  
24 transcribed later. And to maintain a good record, I'm  
25 going to ask all to please speak your name prior to



1 saying anything. It's going to feel awkward. If you --  
2 give me a hand on this to help me out, if someone is  
3 speaking that -- maybe have them stop, let them speak  
4 their name so we can keep the recording (inaudible). I  
5 appreciate that.

6 So -- and as a reminder, our next meeting is a  
7 special meeting in Olympia, Washington. It is an  
8 evidentiary meeting -- evidentiary hearing on June 1st  
9 and 2nd, Thursday and Friday, 2023.

10 You all should have received an email on that. If  
11 not, let me know. We'll make sure it gets sent out. And  
12 if you can't attend, I much appreciate an email back.  
13 That way, we can make maybe a quorum for this meeting.

14 Next regularly scheduled meeting is going to be in  
15 Pasco, Washington, on July 27th and/or (inaudible) as far  
16 as details.

17 So we'll start off with the roll call. So Board  
18 Member Erick Lee.

19 BOARD MEMBER LEE: Present.

20 CHAIRPERSON JENKINS: Board Member Don  
21 Baker.

22 BOARD MEMBER BAKER: Here.

23 CHAIRPERSON JENKINS: Board Member  
24 Ivan Isaacson.

25 BOARD MEMBER ISAACSON: Here.



1 CHAIRPERSON JENKINS: Board Member  
2 Dylan Cunningham.

3 BOARD MEMBER CUNNINGHAM: Here.

4 CHAIRPERSON JENKINS: Board Member  
5 Bobby Gray.

6 BOARD MEMBER GRAY: Here.

7 CHAIRPERSON JENKINS: Board Member  
8 Dominic Burke.

9 BOARD MEMBER BURKE: Here.

10 CHAIRPERSON JENKINS: Board Member  
11 Jack Knottingham.

12 BOARD MEMBER KNOTTINGHAM: Here.

13 CHAIRPERSON JENKINS: Board Member  
14 Mike Nord?

15 BOARD MEMBER NORD: Here.

16 CHAIRPERSON JENKINS: Board Member  
17 Kerry Cox?

18 BOARD MEMBER COX: Here.

19 CHAIRPERSON JENKINS: And Board Member  
20 James Tumelson?

21 BOARD MEMBER TUMELSON: Present.

22 CHAIRPERSON JENKINS: And the  
23 secretary for the board, Wayne Molesworth.

24 SECRETARY MOLESWORTH: Present.

25 CHAIRPERSON JENKINS: Thank you.



1           So for the record, we do have a quorum, and first  
2           item on our agenda today is the safety message. And I've  
3           asked Wayne Molesworth, would you please lead that.

4

5

SAFETY MESSAGE

6                               SECRETARY MOLESWORTH: So yesterday we  
7           had a supervisors meeting here in Spokane, and one of the  
8           safety topics I thought was really relevant to travel,  
9           because some of you have traveled a long ways to get  
10          here, probably drove, and the safety topic was distracted  
11          driving.

12          And, you know, we think of distracted driving as  
13          being on your phone, texting, and just in general talking  
14          on the phone. You know, that's the -- that's what people  
15          think. Right?

16          But talking on the phone is not with your hands --  
17          even in hands-free mode, talking on the phone is  
18          distracting because you're thinking about something else  
19          and not thinking about what's happening in front of you  
20          and behind you in the vehicle.

21          And so we're having conversations about new policies  
22          that are coming out in the agency about hand-free use.  
23          We've decided that maybe we should encourage people not  
24          to do hands-free use on the move because you're not able  
25          to think ahead.



1           You know, I've had instances myself where I've been  
2 talking on the phone, private vehicle, my own time --  
3 want to make sure that's clear -- and -- and went by my  
4 exit, right, completely went by my exit.

5           Hit that exit every day on my way home. Went right  
6 by it because I was distracted. I was talking about  
7 something else. I was deep into that thought about that  
8 conversation and -- and realized that it was dangerous  
9 for me to be doing that.

10          So my topic today is virtually, when you're thinking  
11 about distracted driving, don't just use your cup holder  
12 or your thing that's glued to your windshield to put your  
13 phone in and then be using your phone while you're  
14 driving. Anything can distract you from what's happening  
15 in front of you and behind you.

16          Maybe you don't see that car coming up on you really  
17 quick because they're texting on their phone, and they  
18 hit you, and you don't get out of the way because you're  
19 talking to somebody else, and you're not paying attention  
20 to what's happening around you.

21          So please, for your safety and mine, I would  
22 encourage you to think about distracted driving as a  
23 whole. Anything that's not concentrating on what's in  
24 front of you, behind you, beside you should be considered  
25 distracted driving.





1           So thank you. That's my safety topic for today.

2                           CHAIRPERSON JENKINS: Okay. Thank you  
3 very much.

4

5                           APPROVE TRANSCRIPT FROM  
6                           JANUARY 26, 2023, ELECTRICAL BOARD MEETING

7                           CHAIRPERSON JENKINS: This is the  
8 chair. Chair would entertain a motion to approve the  
9 Washington State Electrical Board minutes of  
10 January 26th, 2022.

11                           BOARD MEMBER NORD: Board Member Nord,  
12 motion.

13                           CHAIRPERSON JENKINS: We have a  
14 motion.

15           Do we have a second?

16                           BOARD MEMBER ISAACSON: Board Member  
17 Isaacson, second.

18                           CHAIRPERSON JENKINS: We got a motion  
19 and a second. Any discussion?

20           Hearing none, all in favor, signify by saying aye.

21                           BOARD MEMBERS: Aye.

22                           CHAIRPERSON JENKINS: Any opposed?  
23 Motion passes.

24        ////

25        ////



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APPEALS

RANDY'S HEATING

CHAIRPERSON JENKINS: So moving on to our next item is appeals, as well as the -- we received the agenda, the Randy's Heating has been -- Randy's Heating, ECHBO01063, ECHBO01065, ECHBO01066, and ECHBO01067 has been continued to the July meeting.

NCR CORPORATION

CHAIRPERSON JENKINS: So moving on to our next item is the NCR Corporation appeal.

Do we have someone from the Department, for NCR, and do we have a (inaudible)?

Will you please take a seat up there and identify yourself for the -- for the recording.

MR. BARNES: My name is John Barnes, I'm an assistant attorney general, and I represent the Department of Labor and Industries.

CHAIRPERSON JENKINS: Thank you very much.

MR. FERN: Hello. My name is Alex Fern. For the record, that's A-l-e-x, F-e-r-n. I am local counsel for NCR Corporation. I'm local attorney from Kutak Rock.

CHAIRPERSON JENKINS: Thank you very



1 much. The matter before us today is an appeal of the  
2 matter of NCR Corporation, Docket No. 02-2021-LI-01613.  
3 The hearing is being held on pursuant and due proper  
4 notice to all interested parties in Spokane, Washington,  
5 on April 27th, 2023, at approximately 9:08 a.m.

6 This is an appeal of the proposed order on the  
7 subject judgment issued by the Office of Administrative  
8 Hearings on January 6th, 2022.

9 It is my understanding that the decision affirmed  
10 citation notices ELYOD02202 and ELYOD02203 issued by the  
11 Department of Labor and Industries on September 22nd,  
12 2020. It is further my understanding the appellant has  
13 timely appealed the decision to the electrical board.

14 So the electrical board is a legal body authorized  
15 by the legislature -- legislature to not only advise the  
16 Department regarding the electrical program, but also to  
17 hear appeals when the Department issues citations or  
18 makes some other adverse action regarding electrical  
19 license, certification, or compliance.

20 The electric board is a complete, separate entity  
21 from the Department and, as such, will independently --  
22 independently review the actions taken by the Department.

23 When the Department issues penalties, the hearing is  
24 assigned to the Office of Administrative Hearings to  
25 conduct hearing pursuant to the Administrative Procedures



1 Act. The ALJ who conducts that hearing then issues a  
2 proposed decision and order. If either party appeals,  
3 that decision is subject to review by the electrical  
4 board.

5 Please keep in mind that, while our review is  
6 de novo, for example, we sit in the same position as the  
7 administrative law judge and will review the entire  
8 record regardless of whether the certain piece of  
9 evidence is referenced by the ALJ, we are bound by the  
10 evidence in the record, and no new evidence can be  
11 submitted at this hearing.

12 Each party will be given approximately 15 minutes  
13 today to argue their merits of the case. Any board  
14 member may ask questions at -- anytime, and the time may  
15 be extended at the discretion of the board.

16 At the conclusion of this hearing, the board will  
17 determine if the findings and conclusions reached by the  
18 ALJ are supported by the facts and the rules pertaining  
19 to the electrical installations.

20 Are there any questions before we begin?

21 MR. FERN: None here.

22 CHAIRPERSON JENKINS: As the  
23 (inaudible) party, you have the burden of proof to  
24 establish the proposed decision isn't correct.  
25 Therefore, we hear from you first.



1           So once again, if you would please speak your name  
2           and spell it for the court -- recording again.

3                       MR. FERN: Yes. Once again, my name  
4           is Alex Fern, attorney for NCR Corporation. The name --  
5           or my name is spelled A-l-e-x. Last name is spelled  
6           F-e-r-n, like the plant.

7                       CHAIRPERSON JENKINS: You may begin.

8                       MR. FERN: Okay. Well, thanks,  
9           everyone, for taking the time to meet with me today -- to  
10          meet with us.

11                      I know that it's a pretty long record, so, you know,  
12          I'm going to take the liberty of providing a bit of  
13          background. I'm assuming that everyone here has had an  
14          opportunity to at least somewhat review the record, but I  
15          know it's north of 3,000 pages. So I hope that I -- it's  
16          okay with everyone just to provide a bit of background.

17                      So NCR Corporation is a corporation based out of  
18          Georgia. They're a business-to-business corporation.  
19          They do not serve consumers directly. A lot of what they  
20          do is software. If you've used an ATM, you probably used  
21          software that's been developed by NCR Corporation.

22                      And so that's -- that's really what they do. So  
23          here, NCR -- you know what? I'm just going to start from  
24          the beginning.

25                      What I am here today to appeal and where NCR



1 Corporation feels like there was an erroneous decision by  
2 the administrative law judge through the Office of  
3 Administrative Hearings is, it is the position of NCR  
4 Corporation that these citations that were issued in this  
5 matter were issued for a particular reason.

6 And I'm going to get into that reason in just a  
7 minute, but it is our position that the reason that those  
8 citations were upheld was for a completely different  
9 reason.

10 So when you look at the OAH's decision, what they're  
11 talking about is, they talk about a contract between NCR  
12 and Starbucks. And that's a nationwide contract. That's  
13 a contract that NCR entered into Starbucks with in order  
14 to set up really point of sale systems in Starbucks all  
15 across the country because that's what NCR does.

16 Starbucks is in the coffee business. They're not in  
17 the business of setting up their computers, setting up  
18 their software, all that stuff. They leave that to NCR.  
19 Then they go -- once that's set up, they go and they sell  
20 their coffee.

21 So -- however, on this issue for summary judgment,  
22 when NCR was reviewing the record, they were looking at  
23 the reason that the inspector in this matter, Inspector  
24 Lyon (phonetic) -- I hope I'm pronouncing that  
25 correctly -- Inspector Lyon issued these citations.



1           Now, when you look at Inspector Lyon's deposition,  
2           it's pretty lengthy, but there is one point in particular  
3           where Inspector Lyon is asked point-blank very, very  
4           directly, Why were these citations issued?

5           And when he is asked that, his response is, quote,  
6           The basis of the citation was written on the principle of  
7           when I asked a contractor -- two different contractors  
8           who they were hired by, I was told NCR. And when I spoke  
9           with someone who identified themselves as a project  
10          manager for NCR representing Starbucks, that person  
11          indicated that they hired two different subcontractors to  
12          perform the installations.

13          So what we've got here is, we've got really two  
14          different sets of contracts, if you will. So if what  
15          we've got is -- NCR is this massive nationwide company,  
16          and what they did is, they contracted with two other  
17          nationwide companies, LMI and SDS.

18          And they went to LMI and SDS and said, "Okay. We  
19          need you to, you know, subcontract, you know -- we don't  
20          know electrical contractors in each town in Washington  
21          State. You do. That's what you do. So we're going to  
22          contract with you to contract with other people to run  
23          this electrical wiring."

24          So NCR contracts with LMI and SDS. LMI and SDS  
25          contract with these regional companies. These regional



1 companies contract with local companies. So what  
2 happened here is, Inspector Lyon shows up to the site,  
3 and he looks at -- he finds the local guy, the guy who's  
4 actually doing the work -- and by all accounts, I think  
5 it's fair -- you know, I think it's undisputed that the  
6 guy doing work on-site that day did not have a current  
7 appropriate license.

8 So Inspector Lyon said, "Okay. Well, who hired  
9 you?"

10 (Inaudible.)

11 "Okay. It's the regional company that hired you.  
12 Well, who hired the regional company?"

13 "LMI and SDS."

14 "Well, who hired them?"

15 "NCR."

16 And NCR is who I'm here representing today. So it  
17 looks like, you know, I'm appealing NCR's citations, but  
18 from what I can tell from the record, it looks like fines  
19 were issued all the way up the board.

20 And it's the official position of the inspector of  
21 the Department and of the Office of the Attorney General  
22 that each and every one of these four companies, all the  
23 way down the chain, needed to have an electrical license.

24 Now, as an NCR representative, I can tell you I'm  
25 kind of thrown off by that because, you know, it's a





1 Georgia corporation. We're here entering these contracts  
2 in Georgia, and, you know, we're not holding ourselves  
3 out saying, "Oh, we're going to be sending NCR people in  
4 to do wiring."

5 In fact, if you look at the Office of the Attorney  
6 General, if you look at their own briefing, they say --  
7 and I quote -- hang with me here.

8 So if you look at their briefing and their response  
9 to our motion for partial summary judgment, they say that  
10 NCR, quote, contracted with Starbucks to ensure that  
11 various electrical and telecommunication equipment was  
12 installed in Starbucks stores across Washington.

13 So, you know, if you look at the deposition, there's  
14 a little bit of back-and-forth. We feel like that's  
15 pretty clear. Even the Office of the Attorney General  
16 who is representing, you know, L&I in this matter isn't  
17 really taking the position that, you know, NCR is really  
18 going and saying, "Well, as a software company, we're  
19 going to try and figure out how to run wiring on our own.  
20 NCR doesn't do that."

21 What they do is, they enter into nationwide  
22 contracts with Starbucks, and they say, "We're going to  
23 find people who do that."

24 But based off -- if you look at the depositions of,  
25 you know, Inspector Lyon and Mr. Jordan, it's pretty



1 clear that they say -- it's not pretty clear. It's  
2 perfectly clear that they say, if you're going to  
3 subcontract this work -- if you're going to say, "Okay,  
4 we're going to find somebody -- you know, we'll set up  
5 your Starbucks, and we'll find somebody to run the  
6 wiring," that everybody in that chain needs to have a  
7 license.

8 We just have a hard time believing that's a fair and  
9 justifiable position to be taking, that that's not an  
10 erroneous and, you know -- I would use the words  
11 arbitrary and capricious because that's the legal  
12 standard, an arbitrary and capricious application of the  
13 law.

14 Sure, the guy on-site needs to have a license.  
15 Maybe the guy who subcontracts him. Maybe, you know,  
16 even the regional contractor.

17 To say that the software company based out of  
18 Georgia also needs to have an electrical license they  
19 were holding them -- when they said, "Okay, we'll make  
20 sure it gets done," you know, that's just -- that's just  
21 too far, in our opinion.

22 And so what happened, though, in this case -- and so  
23 the way we're getting presented before you is that that's  
24 the argument we went in and made. We made this argument  
25 that I'm making right now, you know, to the Office of



1 Administrative Hearings.

2 And so -- but when you look at their decision,  
3 they're not talking about the contract that NCR made with  
4 LMI and SDS and the contracts down below and the  
5 contracts down below that. They're looking at the  
6 contract between NCR and Starbucks, the master agreement.

7 Well, when you look at the depositions and you look  
8 at why the citations were originally issued, they weren't  
9 issued because of that contract with Starbucks. That's  
10 sort of a Monday morning quarterback situation is my --  
11 is NCR's position on that.

12 So, sure, later on the inspector went, after the  
13 citations were issued, after that decision was made,  
14 "Okay, we've got some violations here."

15 Then there was some additional discovery made, and  
16 they said, "Okay, well, there was this agreement with  
17 Starbucks, and we think this agreement with Starbucks --  
18 you know, that you -- when we look at the language you  
19 had with Starbucks where you say, 'Okay, we'll -- we'll  
20 make sure that this electrical wiring is run,' that --  
21 that's you agreeing to do electrical work."

22 And, you know, when you look at the language of that  
23 contract -- and I'm going to get into this a little bit  
24 later, but when you look at the language of the contract,  
25 I could see if somebody really wanted to read it that



1 way.

2 Maybe they could say, "Well, NCR is saying that  
3 they're going to run the electrical wiring themselves,"  
4 but it's -- even, you know, the Office of the Attorney  
5 General, after, you know -- after all this discovery was  
6 conducted, even in their own language, they concede, by  
7 the very way they phrase things, that it was really just  
8 NCR saying, "We're going to ensure that it's done."

9 NCR has never tried -- you know, we don't even have  
10 people. I'm local counsel. They don't even have anybody  
11 hired in Washington. Nobody even comes remotely close to  
12 Washington.

13 So that's really our main issue here that we're here  
14 to ask for a reversal on is because, when you look at --  
15 you know, and Inspector Lyon -- later on in this  
16 deposition, he talks about, "Well, there were multiple  
17 violations and there were -- I think there were  
18 violations when you look at the Starbucks contract and  
19 all that."

20 Once again, I contest that that's a Monday morning  
21 quarterback-type situation here, where he's saying,  
22 "Okay, well, after the citations were issued, I went and  
23 I found these other reasons that they could have been  
24 issued."

25 But I'm not here to talk about why they could have



1 been issued. I'm here to talk about why the citations  
2 were issued because that's really the fundamental -- you  
3 know, when we talk about this being America, fundamental  
4 notions of due process.

5 You know, citations were issued for a reason. We  
6 should be able to appeal them on the reason they were  
7 issued, not the reason that looking back maybe, well,  
8 they could have issued citations for that.

9 If that had happened, we would have made those  
10 defenses, but we didn't make those defenses. We went to  
11 the, you know, Office of Administrative Hearings, and we  
12 said, you know, "This series of four contracts, we just  
13 feel like that's too attenuated."

14 So on that priority basis, we'd ask that it be  
15 reversed.

16 Second off, you know, we just feel like, you know,  
17 the -- and I know L&I gets a lot of due deference. The  
18 law is really clear on that. All agencies in Washington  
19 get a lot of deference in terms of how their -- how the  
20 law is applied. They got to look at a statute. They got  
21 to look at the regulations.

22 You know, and there's some pretty clear case law  
23 where it's like, okay, you guys -- you guys are the  
24 electrical inspectors. You're the inspectors. I don't  
25 know what the first thing -- I could barely plug in a



1 computer.

2 So when it comes to who we're going to defer to,  
3 maybe we should be giving some deference to electrical  
4 inspectors. Absolutely. Completely in agreement with  
5 that, but that's got to be within the bound of reason.

6 And we think to say that, you know, it's a safety  
7 measure that some company in Georgia can't reach a  
8 nationwide contract with -- with Starbucks and then  
9 contract with a nationwide electrical company who is  
10 going to contract with a regional company and then just  
11 enter contracts that say, "Okay, nationwide electrical  
12 company, you're going to go hire these regional or local  
13 people, and we're going to have insurance, and you're  
14 going to provide us proof of insurance, and there's going  
15 to be bonds" -- you know, to say that you're going to go  
16 all the way up the line to the software company in  
17 Georgia and apply the fines to them, you know, it -- in  
18 our opinion, that's just -- that's just too far.

19 That's not a reasonable application of the law  
20 that's reasonably calculated to ensure that people  
21 entering a Starbucks and the workers of Starbucks are  
22 going to be able to operate their equipment in a safe and  
23 effective manner.

24 Now, fine the heck out of the guy who didn't have a  
25 license. That was foolish. If you're on-site, you got



1 to have a license. Maybe fine the guy who hired him.  
2 The guy who hired him has got to be making sure that he's  
3 got a license.

4 But there are really two reasons -- you know, I just  
5 don't -- we just think it's too far an interpretation to  
6 say that, you know, the software company has to -- I'm  
7 repeating myself at this point.

8 But the -- and the second point that was raised was  
9 that, you know, if you look at the -- in addition to  
10 safety is -- was that, okay, well, we've got to make sure  
11 that there's licenses and bonded and insured. That's why  
12 NCR needs to be -- needs to have an electrical license.

13 Well, first off, bonded and insured or insured at  
14 least is certainly different than licensed. NCR did have  
15 appropriate insurance. Their contractors had appropriate  
16 insurance, but to say that they need to have a license in  
17 order to subcontract down the line to ensure that there's  
18 a bond in case somebody does something wrong -- you know,  
19 the argument was that, okay, Starbucks had a contract  
20 with NCR. NCR needs to be bonded because then if some  
21 poor worker gets, you know, shocked and gets sent to the  
22 ER and has a \$20,000 bill, there needs to be some bonded  
23 insurance in place, and NCR needs to be licensed so they  
24 also have bonds and insurance.

25 Again, our two cents, far too attenuated. Sure,



1 there needs to be bond and insurance. Sure, NCR needs to  
2 maybe look at the contract and look and make sure there  
3 is insurance in place, that there's -- you know, usually  
4 you get a million dollars per complaint is sort of  
5 typical, and I think that's what the policy was here.

6 So -- but so long as, you know, there's reasonable  
7 bonds in place that they -- that NCR took reasonable  
8 steps and that they had -- that they're going to these  
9 nationwide companies and they're saying, "You're going to  
10 have insurance. You're giving us assurances that there's  
11 going to be insurance, you know, maybe we're getting  
12 proof of that insurance," we think that really takes away  
13 that whole risk altogether, so that sort of takes away  
14 the basis of -- of the whole, "Well, there needs to be  
15 insurance."

16 I do need to get one additional thing on the record.  
17 That is that here -- and this is just sort of follow-up  
18 to a previous argument.

19 We went to the Office of Administrative Hearings,  
20 and we took the position that, okay, we think, you know,  
21 this contract from NCR down to LMI and SDS, the national  
22 contractors, all the way down the line, we think the fact  
23 that we're four steps removed contractually speaking from  
24 the guy on-site who wasn't licensed, we feel like that's  
25 an unreasonable application of a statute.





1           And we're not disputing what the contracts between  
2           the local guy and the regional guy and the contract  
3           between the regional guy and the national guy and the  
4           contract between the national guys and NCR say.

5           So there's no dispute what the contract says.  
6           There's no dispute what the law says.

7           So let's go to summary judgment on that. And for  
8           those of you who may not be aware, summary judgment is  
9           just going to the judge or, here, the office of the --  
10          you know, the administrative law judge and saying, "Okay,  
11          we don't have any dispute on those facts. So as a matter  
12          of law, just looking at the contracts and looking at what  
13          the statute says, should these fines have even been  
14          issued? Is that an unreasonable interpretation to say  
15          that, you know, when the electrical contractor needs to  
16          be contracted, that -- that includes NCR?"

17          What happened here is, the Office of Administrative  
18          Hearings said, well -- and we were very clear. If you  
19          look at it, we talk about how the issues can be divided  
20          into buckets on the December 6th transcript, and so we  
21          say, "Okay, on this bucket, there's no dispute. Let's --  
22          let's see if we can get it dismissed on this case," but  
23          we didn't waive everything.

24          You know, there's substantial factual things. We  
25          didn't even get a hearing. And here the administrative



1 law judge said, "You don't get a hearing on anything.  
2 We're dismissing the whole thing on summary judgment,"  
3 and -- but there are significant disputes of material  
4 facts that we've got to raise because, here, the  
5 administrative law judge -- and if you do uphold it, you  
6 say, "Well, I think it was reasonable to look at that  
7 Starbucks contract even though it was not something that  
8 was looked at until after the fact, and we think that  
9 your contract with Starbucks is you agreeing that you  
10 have done electrical work, even though we didn't look at  
11 that contract until after the fines were issued or after  
12 the citation decision was made," it's just -- there are  
13 additional material facts that we -- that we feel are  
14 substantially in dispute.

15 So we would ask for a reversal also based on those  
16 grounds, that we only asked for the judge to decide a  
17 small issue, and he said, "Well, you're waiving as to  
18 every issue."

19 And if you look at the transcripts of that  
20 December 6th hearing, the judge says, you know, Are  
21 there -- are there material facts still contested here?  
22 Are there things we need to have evidence on?

23 And we say absolutely. Now, we don't -- we think  
24 there's no material facts on this small issue, but  
25 there's material facts on a bunch of other stuff, and,



1 frankly, I don't know -- I haven't been able to  
2 understand the administrative judge's law ruling where he  
3 says, "Well, we can't have it both ways. Either there  
4 are disputes of material facts or there's not."

5 We take the position that you can say we have no  
6 arguments on this point but still have arguments on other  
7 points.

8 Here the material fact being disputed is, what was  
9 the intent of the contract between Starbucks and NCR?  
10 You know, we didn't have an opportunity to present -- and  
11 I know we're not hearing new evidence here, but had there  
12 been evidence, for example, where we're able to bring a  
13 Starbucks CEO in -- not a CEO but a Starbucks person in  
14 and an NCR person in and they both talk about, "No. NCR  
15 has been doing work for Starbucks for 20 years. Nobody  
16 ever thought they're going to run electrical wire.  
17 They're a software company. That's crazy to think they  
18 would be running electrical wire, so, no, that's  
19 certainly what we didn't mean by this contract" -- we  
20 never had an opportunity to make that argument.

21 The whole thing got dismissed before we could even  
22 take it for hearing. We were scheduled for a week of  
23 hearing. It's a long time. It's a seriously long  
24 hearing.

25 So just want to raise that point.



1                   CHAIRPERSON JENKINS: Don't want to  
2 interrupt too much, but we're at our 15-minute mark.

3                   MR. FERN: Okay. Well, I think I am  
4 just about done. So thank you for taking the time to  
5 hear me, and I would welcome any questions once  
6 Mr. Barnes is had an opportunity to present.

7                   CHAIRPERSON JENKINS: All right.  
8 Thank you very much. So (inaudible) introduce and spell  
9 your name for the recording and then go ahead and take  
10 the floor.

11                  MR. BARNES: Thank you. My name is  
12 John Barnes, J-o-h-n, B-a-r-n-e-s, and I represent Labor  
13 and Industries.

14                  The facts in this case are not that complex. Fact 1  
15 is that NRC Corp. is not an electrical contract- --  
16 registered electrical contractor in the state. They're  
17 not a telecommunications contractor in this state, and  
18 they're not even a general contractor in this state.

19                  Yet they entered into a contract with Starbucks, the  
20 basis of which was -- the subject of it included  
21 electrical and telecommunication installations.  
22 Specifically they installed Category 5 and Category 6  
23 telecommunication cables, as well as running electrical  
24 out to -- or audio and for mic services at the  
25 drive-through.



1           As part of that, that was installing a conduit,  
2 pulling strings, and junction boxes. So that is what  
3 they -- the contract included.

4           So even if NCR Corp. was not going to be responsible  
5 to be the ones that actually did the wiring, they were  
6 responsible for that contract, which included the  
7 electrical installations. That's why they were cited.

8           Now, the definition of an electrical contractor  
9 includes an entity that offers to undertake, undertakes,  
10 or submits a bid for installing or maintaining wires or  
11 equipment that convey electrical current.

12           NCR certainly undertook and offered a -- made a bid  
13 for this contract. At the very heart of it was the  
14 installation of electrical and telecommunications  
15 equipment, as well as the installation of the hardware  
16 and software that eventually was run to. So that is why  
17 the Department cited them.

18           Now, NCR contends that it is not an electrical  
19 contractor because -- simply because they didn't do the  
20 work. That's the crux of their argument. Somebody else  
21 did it.

22           They contracted -- well, in fact, they subcontracted  
23 to two different companies who neither one of them were  
24 electrical contractors who then contracted further down  
25 the line to -- eventually to the people who did the



1 installation. So, yes, in this particular framework,  
2 there were many violations by different companies  
3 throughout it.

4 Now, the contract itself -- the contractual  
5 relationship between Starbucks and NCR was, NCR agreed to  
6 manage the installation of equipment to provide on-site  
7 installation services to obtain low voltage installation  
8 permits, which they weren't -- weren't able to do anyway  
9 because they're not electrical contractors, and to  
10 install conduit, pull strings, and junction boxes. So  
11 that was the nature of the -- of that contract.

12 There were a number of arguments made. Some of them  
13 that were made dealt with whether or not the statute was  
14 ambiguous. And if it was ambiguous, then they went to  
15 statutory interpretation principles.

16 Of course, the IHA and the Department argue that the  
17 statutes are pretty clear on their face. I'd just remind  
18 you that NCR received 31 violations of -- for 31  
19 violations for electrical -- maintaining the electrical  
20 equipment without having a valid electrical contractor's  
21 license and 53 violations for the telecommunications  
22 systems.

23 Now, the way that the contract actually worked was  
24 that NCR billed Starbucks. Starbucks then -- billed  
25 Starbucks and then NCR paid the sub. So Starbucks just



1 made one general payment, and then NCR was the one who  
2 managed the -- the whole contract and including the  
3 installations. So Starbucks simply paid them. They then  
4 paid their two subcontractors who then would pay whoever  
5 they hired and so forth.

6 Now, if there was any additional work that came  
7 about upon request, they were to -- they would be -- paid  
8 for this by a fee, and there was a fee schedule in the  
9 record.

10 Now, NCR in their contract, they also said that they  
11 will provide on-site cabling installation services in a  
12 professional manner by trained and experienced personnel.  
13 Well, we know at least from the one that Inspector Lyons  
14 got, that was not the case.

15 Now, what seems to be the big hang-up is this  
16 subcontracting and -- because the statute for electrical  
17 work or telecommunication or electrical work does not  
18 include subcontracting.

19 It includes offering to submitting a bid,  
20 advertising, conducting. You know, there's six different  
21 ways that statute can be -- can be met. Subcontracting  
22 is not one of them.

23 And NCR takes that and says, "Oh, therefore, those  
24 violations do not count." However, when you read  
25 Inspector Lyon's deposition, what he's saying is, NCR is



1 actually conducting business -- or electrical business by  
2 themselves subcontracting that portion of the contract  
3 out.

4 So that's how the subcontracting plays in, not that  
5 subcontracting is not included in the -- in the statute,  
6 but by subcontracting, NCR was actually conducting and  
7 acting as an electrical contractor, and pursuant to that  
8 is why those citations were issued.

9 Now -- and it also ignores the fact that there are  
10 six enumerated provisions in this statute that would  
11 define you as an electrical contractor, and NCR ignores  
12 all of them.

13 The only thing they cite is the subcontracting, but  
14 they did offer and they did submit a bid, which is a  
15 violation of the statute right there, to -- by signing  
16 this contract or by entering into this contract which,  
17 for all intents and purposes, were for electrical and  
18 telecommunication work.

19 So I don't think they can simply avoid it by saying,  
20 "Well, okay, yes. We do -- we agree that we will -- that  
21 we fall under this statute because, yes, we offered and  
22 we submitted a bid and -- but, however, there's no  
23 subcontracting, so that would take us all the way out of  
24 the statute." That's just not a reasonable  
25 interpretation of the statute.





1           And there's also -- just because subcontracting is  
2 not mentioned in the statute, you know, doesn't mean  
3 that -- that there's no violation of the statute.

4           Let me just review my notes real quick.

5           And as far as the safety is a concern, the reason  
6 for the electrical code is so that -- is for safety and  
7 for consumer protection and also protects the other  
8 electricians out there.

9           And it doesn't make a whole lot of sense on a safety  
10 issue if a nonelectrical contractor is, you know, able to  
11 perform this work and escape any liability for it.

12           And then I did want to just kind of finish up with  
13 one thing that -- in this -- the actual agreement between  
14 the parties, this is between Starbucks and NCR, and in  
15 their -- which was referred to in their responsibilities  
16 in Exhibit A to -- I believe it's Exhibit 41 -- it says  
17 that NCR will have an on-site representative at store  
18 location during NCR's performance of services. In 6.2,  
19 it says, "You are responsible for obtaining all necessary  
20 permits, licenses, and rights-of-way or all out-of-scope  
21 services."

22           Well, again, one of their requirements was to get  
23 all the necessary permits, electrical permits, which they  
24 couldn't do themselves.

25           And then finally, it says, "You are responsible for



1 installing conduit with pull strings and junction boxes  
2 per applicable code."

3 Now, those certainly are electrical activities that  
4 require either an electrical contractor's license or  
5 that, you know, that should be an electrical --  
6 electrician in order to perform those. None of those  
7 things happened.

8 So then the final argument he made appears to be one  
9 that they only moved for partial summary judgment and not  
10 total summary judgment. Somehow the IHA confused the  
11 two, but if you look at the record, that's not correct.

12 They moved for summary judgment. The Department  
13 moved for summary judgment when they responded, so it was  
14 in response that -- to the summary judgment that the IHA  
15 ended up finding for the Department that these citations  
16 were upheld.

17 So that's all I have. If you have any questions,  
18 I'd be happy to answer.

19 CHAIRPERSON JENKINS: Thank you very  
20 much, from the chair.

21 Any comments or questions from the board members?

22 (Simultaneous speaking.)

23 BOARD MEMBER BURKE: Yeah. Board  
24 Member Dominic Burke, B-u-r-k-e. This one is a real  
25 struggle for me. Our general contractors do this all day



1 every day in the state of Washington, and they have  
2 electrical subcontractors that are meeting the  
3 requirements of the licensing that we have in the state  
4 of Washington.

5 There isn't a general contractor I know that has an  
6 admin license or has an electrical contractor's license,  
7 and they subcontract every day.

8 So just for discussion, I -- I -- I don't -- I guess  
9 maybe I'm not seeing something correctly, but the  
10 contractual obligation for the general contractor to  
11 ensure good installation and have a representative  
12 on-site, it has nothing to do with the electrical  
13 licensing laws.

14 They are the -- they are the QC/QA or maybe in a  
15 GCCM contract and they will subcontract that work. So,  
16 to me, I mean, that -- whoever the contractor was that  
17 was hired and the electricians that did the work that  
18 weren't licensed, I would put my focus there.

19 But if -- if -- if -- if something like this is  
20 upheld, I think we're going down a really slippery slope,  
21 and you better go meet with every general contractor in  
22 the state of Washington and tell them (inaudible). Just  
23 makes no sense.

24 BOARD MEMBER BAKER: Board Member  
25 Baker. It was fun watching your facial expressions,



1 Dominic, during the presentations.

2 Yeah. 100 percent agree. Our general contractors  
3 engage in contracts like this all the time.

4 Mr. Barnes, I think you said that in the contract  
5 they are responsible for the installation of the conduit  
6 and wire. Our general contractors are responsible for  
7 that installation.

8 We ultimately are responsible to adhere to the laws  
9 of the state by getting permits and having licensed  
10 electricians and following all the rules and regulations,  
11 which the subcontractors in this case would have been  
12 responsible for.

13 In addition to that, we have integrators throughout  
14 our state -- I'm not going to mention their names -- that  
15 oftentimes will subcontract under a mechanical  
16 contractor, and then they will subcontract to an  
17 electrical contractor for DVC controls and very similar  
18 to this case.

19 And the electrical contractor is responsible for the  
20 permit. They're responsible for the installation.  
21 They're responsible for inspections.

22 And, yeah, I agree with Dominic. If -- if -- if, by  
23 subcontracting, NCR acted as an electrical contractor,  
24 that is a really dangerous statement to say because every  
25 general contractor, all of our integrators, a lot of our



1 clients contract with electrical contractors.

2 I mean, do you -- where is that line of demarcation?

3 Yeah. I'm struggling with Dominic to understand, you  
4 know, where is the smoking gun here? What did NCR do  
5 wrong because this looks -- this looks like normal  
6 day-to-day business to me.

7 So I'm asking other board members to point it out to  
8 me because I can't see it.

9 CHAIRPERSON JENKINS: Thank you very  
10 much.

11 Secretary Wayne Molesworth?

12 SECRETARY MOLESWORTH: Wayne  
13 Molesworth, M-o-l-e-s-w-o-r-t-h. Question for NCR's  
14 counsel, is NCR a general contractor in the state of  
15 Washington?

16 MR. FERN: No.

17 SECRETARY MOLESWORTH: No. Would it  
18 be acceptable to think, since an electrical inspector  
19 looked at this, that the law actually requires that, in  
20 order to subcontract in the state of Washington, that you  
21 have a general contractor's license at the minimum?

22 MR. FERN: I'm sorry. Could -- could  
23 you repeat the question?

24 SECRETARY MOLESWORTH: Is it  
25 reasonable to -- or is it -- do you understand that in



1 the state of Washington, that you have to have a general  
2 contractor's license in order to subcontract at a  
3 minimum? Electrical contractors can also subcontract for  
4 that work that's (inaudible) their (inaudible)?

5 Is it reasonable to believe that since this was done  
6 by an electrical inspector, E CORE person, that he was  
7 applying the electrical license because he had already  
8 established there wasn't a contractor's license?

9 MR. FERN: I mean, that's certainly  
10 not reflected in the record. That's not -- that was not  
11 the basis of the citation that there was, you know, not a  
12 general contractor's license. So that's -- that's not  
13 why the fine was issued or upheld, at least so far as the  
14 record shows.

15 SECRETARY MOLESWORTH: But are they  
16 aware they needed a general contractor's license at a  
17 minimum to -- to do -- either-or to do --

18 MR. FERN: It's my understanding that  
19 a general contractor needed to be involved, that, you  
20 know, a general contractor needed to be subcontracted  
21 with. So that general contractor needed to be involved.  
22 I'm speaking a little bit out of turn here because this  
23 was not -- but --

24 SECRETARY MOLESWORTH: So I'm just  
25 establishing their relationship, according to what the



1 other board members have mentioned, is that this is not a  
2 scope -- it really isn't because they didn't have any  
3 license in the state of Washington that would allow -- or  
4 other general contractors in the state of Washington have  
5 to have a license in order to subcontract to other  
6 contractors.

7 And so I would ask Mr. Barnes if that's -- if I'm  
8 accurate in that statement from a legal point.

9 MR. BARNES: Well, yes, you are. And  
10 like I mentioned right off the top, that NCR was not even  
11 a general contractor. They --

12 SECRETARY MOLESWORTH: Right.

13 MR. BARNES: That might be the  
14 distinction in this case because they were not -- while  
15 general contractors can generally subcontract, if you're  
16 not even a general contractor, then you're just a  
17 corporation taking it on yourself, and I think --

18 SECRETARY MOLESWORTH: And I think I'm  
19 understanding that the contract specifically was between  
20 Starbucks and NCR. So what NCR was doing was  
21 establishing a contractor relationship with Starbucks  
22 through that contract.

23 MR. FERN: I would disagree. I would  
24 argue that they were signing on as a project manager.  
25 That's the term that was continually used by NCR and by



1 Starbucks, both, you know, in the contracts and the  
2 depositions and throughout. So they were signing on as a  
3 project manager to appoint appropriate parties.

4 You know, I would also very respectfully argue I  
5 think that may be -- I think your question may be beyond  
6 the scope of what's at issue here, just looking at the  
7 record and looking at the basis of OAH's decision and  
8 whether that decision should be upheld or overturned.

9 But I think your point is well taken. I would -- I  
10 would contest that in a similar situation in which a  
11 general contractor may not be involved -- you know, for  
12 example, I'm thinking of a situation where -- where --  
13 here's one.

14 So we've got a landlord -- a property manager for a  
15 commercial facility and --

16 CHAIRPERSON JENKINS: One second. Is  
17 this part of the -- Jason Jenkins, chair.

18 Is this part of the packet, this conversation you're  
19 starting?

20 MR. FERN: My example?

21 CHAIRPERSON JENKINS: Yes.

22 MR. FERN: It is not contained within  
23 the packet.

24 CHAIRPERSON JENKINS: Yeah. Let's  
25 stay out of that.





1 MR. FERN: Okay.

2 SECRETARY MOLESWORTH: I'm just  
3 establishing the overall relationship compared to what  
4 the other two board members had actually discussed about  
5 what our general contractors can do in Washington and  
6 that NCR is not a general contractor. So that does not  
7 apply to them.

8 And a project manager, just for the board, there's  
9 nothing in the law that allows somebody to act as a  
10 project manager, per se, without having a contractor's  
11 license. So they would have to have a general  
12 contractor's license at a minimum to be able to act in  
13 that -- in that -- in that way.

14 MR. FERN: But to your points, I mean,  
15 do you think it would be permissible if NCR had hired a  
16 company who hired a general contractor who hired an  
17 electrician?

18 SECRETARY MOLESWORTH: So not with the  
19 contract the way it sits between NCR and Starbucks.

20 MR. FERN: Okay.

21 SECRETARY MOLESWORTH: That's the  
22 problem here in Washington with the law -- the way the  
23 law is set up in Washington.

24 I did want to make one comment, though, as far as  
25 when you talked about -- that the inspector mentioned



1 that he could have cited you in other locations. Right?

2 And you said that -- he said there was other  
3 instances that he could have cited, and you mentioned it  
4 was kind of a Monday morning quarterback, that he could  
5 have done that.

6 They often do that to show leniency. We could have,  
7 but we only kept it to this scope of -- of citations,  
8 right, or this many. It shows leniency, that we're  
9 taking into consideration the scope and the broadness of  
10 that citation.

11 Just wanted to make sure we're clear on that. It  
12 wasn't that he was threatening or anything. He was  
13 demonstrating leniency. Okay.

14 CHAIRPERSON JENKINS: Thank you.

15 Jack Knottingham?

16 BOARD MEMBER KNOTTINGHAM: Board  
17 Member Knottingham, K-n-o-t-t-i-n-g-h-a-m. I have a  
18 question. I really don't know who to address it to, if  
19 it would be Wayne or the AG, but if a contractor license  
20 is required, can we really cite them underneath  
21 electrical if the GEC is required?

22 I'm kind of struggling with that. I understand what  
23 Dominic said, and Don, and I agree with that, but I'm  
24 wondering if citations were issued by the wrong  
25 department.



1                   SECRETARY MOLESWORTH: Do you mind if  
2 I --

3                   MR. BARNES: Go ahead.

4                   SECRETARY MOLESWORTH: So -- so Wayne  
5 Molesworth. So when we look at that instance -- and I  
6 can't tell you right offhand if -- if the electrical  
7 inspector asked NCR if they were a licensed general  
8 contractor or if they didn't, but we can actually cite  
9 them under either code.

10                  And since this was an electrical inspector doing  
11 this investigation, he cited them as a -- as an  
12 electrical contractor.

13                  The defense would have been, no, NCR is a general  
14 contractor, and, therefore, we have the ability to  
15 subcontract. That wasn't the defense. Right?

16                  So it doesn't matter which entity actually cited  
17 them. Either could, and -- and -- but this -- but the  
18 agency actually -- the electrical inspector that was  
19 investigating cited it for not being an electrical  
20 (inaudible).

21                  CHAIRPERSON JENKINS: All right.  
22 Thank you very much.

23                  So Board Member Dominic Burke?

24                  BOARD MEMBER BURKE: Sorry. I was  
25 just going to ask a question.



1           So the electrical inspector could not have cited for  
2 not having a general contractor's license; correct?

3                         SECRETARY MOLESWORTH: He would have  
4 made a referral to the contractor compliance division.

5                         BOARD MEMBER BURKE: That's not the  
6 electrical department's -- in their purview to cite for  
7 no GC license; correct?

8                         SECRETARY MOLESWORTH: Not for a  
9 general, but -- but he is able to cite him as not having  
10 the electrical contractor's license.

11                        BOARD MEMBER BURKE: I agree with  
12 that. But he can't cite for not having a GC license;  
13 correct?

14                        SECRETARY MOLESWORTH: No. Correct.

15                        CHAIRPERSON JENKINS: Chair Jason  
16 Jenkins. My thought on this is, he didn't have a general  
17 contractor license. Therefore, they can't subcontract.  
18 Therefore, the State went (inaudible), if you follow the  
19 progression of electrical contractor's license,  
20 electrician. You have the contractor. You have the  
21 subcontractor. The next step up would have been the --  
22 another electrical contractor or GC.

23                        Since they weren't there, the State said, "Well,  
24 since the licensing is missing, we're going to cite you  
25 on not having a contractor's license."



1           Had they had a GC license (inaudible). So I can see  
2 where the State stands on that, and I get it, and I -- I  
3 don't know if this (inaudible) four steps away from the  
4 actual (inaudible) makes any difference. At some point  
5 there has to be a general contractor or an electrical  
6 contractor subbed out. That's where I stand on that.

7           (Inaudible) place there (inaudible) violation is  
8 still a law.

9           Question, Board Member Kerry Cox?

10                                 BOARD MEMBER COX: Board Member Cox,  
11 C-o-x.

12           So isn't that what the SDS and the LMI did? Were  
13 they not -- NCR is a software company. As a telecom and  
14 06 contractor, we've been that fourth party, that we get  
15 called by somebody like a -- well, a regional company  
16 from -- from the state of Washington that wants to  
17 contract us to install in a bank or wherever it might be,  
18 some card readers, whatever it is, install some network  
19 cable.

20           We're contracted to them, who then contracts out to  
21 a -- I think you referred to it as an aggregator. Their  
22 job is to simply know who all the contractors are in that  
23 particular state, who then works with another company  
24 that might be regional in the Pacific Northwest, who  
25 ultimately works for -- is hired by Oracle out of



1 Colorado to install their software and servers and what  
2 have you, and part of that is installing some cable for  
3 an end point.

4 Is that not the responsibility then -- because  
5 you -- I just understood you to say somewhere along the  
6 line, you've got to have a contractor license in the  
7 state of Washington that can subcontract.

8 And as I understand the record -- and, yeah, it was  
9 a lot -- is that's what NCR did, is they have a  
10 management contract with Starbucks nationwide where they  
11 contract with folks who are licensed in order to do the  
12 subcontracting with the local entity.

13 Like I said, myself and my company have been in that  
14 fourth-party position. You're right. Where does that  
15 stop? It looks like LMI and SMS or whatever it was --  
16 that's where that should -- should have stopped or the  
17 subcontracting began because NCR is simply a project  
18 management company, as I understand the record.

19 CHAIRPERSON JENKINS: Jason Jenkins,  
20 chair.

21 The one thing I would say (inaudible) if you follow  
22 the money, the money went from Starbucks to NCR. NCR at  
23 that point is now the general contractor.

24 They're the ones that should have -- they could have  
25 subcontracted it out all at that point there since



1 they're doing -- they're not the owner of the business.  
2 Starbucks is.

3 Starbucks should have gone to NCR -- or not to  
4 NCR -- but to SM- -- the other companies. If they pay  
5 them directly, the subject is null because at that point  
6 there, they're paying the subcontractor directly. It's  
7 their contractor that they're dealing with.

8 In this case here, they're dealing with NCR, and NCR  
9 is not a contractor. (Inaudible) explanation you gave  
10 before, where you are a contractor, so you are the  
11 burden. You're the starting point. Some customer pays  
12 you. You're the starting point, and you can subcontract  
13 all you want because you're the final say.

14 There is no contractor when you deal with NCR.  
15 They're hiring somebody that has no responsibility if  
16 something goes sideways. They can say, "Well, that's  
17 their problem. That's their fault. We don't carry  
18 insurance for that because they're supposed to."

19 If you have a contractor's license, now you've taken  
20 responsibility for the umbrella portion of it, and there  
21 is no umbrella portion when it comes to NCR.

22 Now, my understanding is, they have insurance and  
23 everything else and they can probably be backed up, but  
24 the general picture to all the rest of the state and  
25 anybody else doing this type of work, if there's no



1 contractor, you take no responsibility.

2 There's no chain. It's you (inaudible) contractor's  
3 license (inaudible). So an umbrella portion would start  
4 at NCR.

5 And like I said, if Starbucks had gone to their  
6 subcontractors who paid them directly and said, "We're  
7 going to hire you" on their discretion, their input, I'd  
8 say, yeah, this is (inaudible) this whole conversation,  
9 but they paid NCR to hire those contractors. So follow  
10 the money in that direction.

11 BOARD MEMBER COX: As I understand the  
12 record, Starbucks corporately paid NCR as -- for software  
13 and systems, project management. NCR then hired someone  
14 who could carry that out.

15 It's not -- when I've gone out on -- on these  
16 fourth-party job sites, I'm hired by a company out of  
17 Washington State to go out and I'm told, "Here is how you  
18 will represent yourself."

19 I'm not going to get paid by the local -- the -- the  
20 company -- if I'm going out and doing a U.S. Bank job,  
21 I'm not getting paid by U.S. Bank. I'm not going to send  
22 an invoice to U.S. Bank. U.S. Bank doesn't see my  
23 contractor's license. It doesn't see my insurance and my  
24 bond and all of that.

25 I'm doing that to this regional company who then is





1 being hired by a national company, that their position is  
2 to go out and know who the contractors are hiring.

3 The money from U.S. Bank goes to a national company  
4 that manages all their software, servers, end points.  
5 It's not a matter of following the money.

6 It's -- I agree with you. You have to have someone  
7 who ultimately can -- whose license in Washington State  
8 to contract -- you know, to subcontract that.

9 As I read the record, NCR is not that company. NCR  
10 is simply receiving the moneys from Starbucks as a  
11 national contract to manage all of their information  
12 technology systems.

13 CHAIRPERSON JENKINS: Board Member  
14 Baker?

15 BOARD MEMBER BAKER: You said a lot of  
16 things there, Jason, that I don't necessarily align with,  
17 and I don't know if -- when we're talking about general  
18 contractors and insurances and responsibilities and  
19 liabilities, I don't know that we have enough knowledge  
20 at this board to address that.

21 We do understand the electrical side, and I do not  
22 believe NCR was acting as an electrical contractor when  
23 putting this contract together. I don't believe they  
24 violated law and that they advertised to do electrical  
25 work.



1 I think they signed a contract -- it's my opinion  
2 that they signed a contract that is going to ensure  
3 that -- what it says in the statements of facts here is  
4 they contracted Starbucks to manage the installation of  
5 electrical telecommunication.

6 At that point we have to ask the question, how were  
7 you guys planning on managing that? Were you going to  
8 self-perform it? Because if they were self-performing,  
9 now you have to have a license. Now you have to get a  
10 permit. Now you have to follow all those things.

11 But their method of managing it was very similar to  
12 our general contractors and our integrators. They went  
13 to a professional industry and said, "Hire an electrical  
14 contractor," which they did. And that electrical  
15 contractor, I think, some had licenses and some of them  
16 didn't. Some of them had permits; some didn't.

17 That, I believe, is a line of demarcation where L&I  
18 should have pointed their focus. They should not have  
19 gone all the way back to NCR and the contract with  
20 Starbucks.

21 Every -- every company in our state does this thing.  
22 They're all doing this. They're all hiring agencies like  
23 NCR to manage these type of networks. Companies like his  
24 are engaged with them all the time. Our company is  
25 engaged with them all the time.



1           So I believe that L&I -- well, I haven't seen  
2 anything that convinces me otherwise that L&I didn't  
3 overstep. So help me understand where they -- where NCR  
4 went wrong here because I do not see it. (Inaudible.)

5                                 (Simultaneous speaking.)

6                                 SECRETARY MOLESWORTH: Wayne  
7 Molesworth. So when we look at aspects of this as the  
8 board, we have to look at the law. Right? This is not  
9 how we've done business, how others do business. This is  
10 how we do by the law in the state of Washington.

11           What -- what we've -- what we're describing is a  
12 general contractor relationship when we talk about, as we  
13 did earlier, that they entered into a contract. They  
14 paid them money for them to hire others to do work.  
15 Right? That's subcontracting by definition.

16           And so in order to subcontract in this state, the  
17 law requires that you either have the proper license for  
18 the category you're in or a general contractor's license  
19 in order to subcontract that work.

20           Now, there could have been different relationships  
21 in these other instances, but in this instance, it was a  
22 definite legal contract between them, whether it was  
23 national, local, or otherwise. And we also found people  
24 that were not licensed at the bottom of this. Right?

25           Now, I would ask counsel, was there anyone in this



1 line that was actually a licensed electrical contractor,  
2 starting at the guy that actually did the work in  
3 Starbucks?

4 MR. BARNES: Yes, there was. There  
5 was an electrical -- there was some -- you need an  
6 electrical contractor to pull the permits, so downstream  
7 from --

8 SECRETARY MOLESWORTH: So now we've  
9 got a problem then because now we've got somebody that's  
10 purchasing a permit for an unlicensed contractor to do  
11 work.

12 So there's -- there's so many problems in this, and  
13 so what we have to do is, we have to make sure that we're  
14 equally enforcing this law for everybody. Unfortunately,  
15 NCR is a big company, but they've still violated the law  
16 as it's written.

17 And so we have to make sure that our general  
18 contractors in this state are being applied the same way  
19 as we apply this to national companies. We do have a lot  
20 of national companies that come into this state and do  
21 similar things, and we require them to be contractors,  
22 and a lot of them are.

23 But the problem here is that we're trying to make an  
24 exception when it's clear to me that we have a clear  
25 contractual relationship between Starbucks and NCR --



1 or -- yeah, NCR, and that NCR then hired others to go  
2 downline and do this work, and so that's considered  
3 subcontracting.

4 They should probably change business practice, and  
5 that's why this state issues citations, is to change  
6 behavior. Right? This is not a penalty. This is, "You  
7 need to change your behavior and this is why in this  
8 state."

9 This is not -- this is not -- I'm not talking about  
10 the rest of the nation. This is the state of Washington.  
11 Right? We have specific laws that pertain to this.

12 So I'm going to stop there because I'm a little --  
13 editorializing a little bit, but I think we need to keep  
14 in mind that we apply this to all contractors evenly, and  
15 anybody that's subcontracting in this state, that's from  
16 this state, has a general contractor's license, period.

17 BOARD MEMBER BAKER: Thank you. Board  
18 Member Baker.

19 So -- so, Wayne, that's -- that's where I guess I  
20 struggle, and going back to Jack's question, if they have  
21 to have a contract -- a general contractor's license, why  
22 is L&I the one issuing citations here?

23 SECRETARY MOLESWORTH: So Molesworth  
24 again. So we have a contractor compliance section in  
25 L&I, and we have an electrical section in L&I. Sometimes



1 they can -- they can overlap.

2 In this instance, we have an electrical inspector  
3 employee doing the investigation, and he can cite them  
4 because they didn't have a general contractor's license.

5 So he can also cite them for not having an  
6 electrical license because they could have subcontracted  
7 if they would have had an electrical license. They could  
8 have subcontracted if they had a contractor's license --  
9 or general contractor's license.

10 But since our staff was doing that inspection, they  
11 cited them for -- for electrical instead of giving them a  
12 referral to contractor compliance.

13 So either entity inside L&I has that authority to  
14 issue that citation for subcontractor, so --

15 BOARD MEMBER BURKE: Board Member  
16 Burke.

17 So if I'm understanding your question, where you're  
18 going, I mean, it seems like it was improper citation  
19 under electrical, and it should have been referred and  
20 possibly a citation for general contractor, but -- but  
21 that didn't happen. There's no citation for no general  
22 contractor license.

23 SECRETARY MOLESWORTH: But it's not.  
24 Either entity can issue a citation for not legally  
25 subcontracting. We could issue it under electrical



1 because it was an electrical installation.

2 They could issue it -- if they had come on-site,  
3 they could have issued it for not having a general  
4 contractor's license.

5 So either entity can -- can cite for illegal  
6 subcontracting, right, and being -- having to be an  
7 electrical contractor or a general contractor in order to  
8 have that relationship.

9 BOARD MEMBER BAKER: Board Member  
10 Baker.

11 Then, I guess, what law -- what RCW was broken in  
12 the electrical department? Can you point me to --

13 SECRETARY MOLESWORTH: Right. Do you  
14 have that, John?

15 MR. BARNES: Yes, I do. There was  
16 two. They were cited under RCW 19.28.041 for not having  
17 the electrical contractor license, and under 19.28.420,  
18 and that's the telecommunication -- not having a  
19 telecommunications contractor license.

20 CHAIRPERSON JENKINS: Board Member  
21 Erick Lee?

22 BOARD MEMBER LEE: Yeah. Board Member  
23 Lee, L-e-e.

24 Wayne, I think there's a question for you, and I  
25 think you might have touched on it earlier. So the



1 electrical inspector saw the -- issued the citations,  
2 went down the route through the L&I department, and the  
3 defense could have -- could have been at that point,  
4 "Well, hey, we have a general contracting license"?  
5 That's -- but the electrical inspector didn't pursue it,  
6 and the NCR didn't bring it up in defense.

7 SECRETARY MOLESWORTH: It could have  
8 been. I don't know for a fact that the electrical  
9 inspector didn't ask him if they were a general  
10 contractor.

11 BOARD MEMBER LEE: Thank you.

12 SECRETARY MOLESWORTH: And I don't  
13 think -- Counsel, you can tell me if they -- you've told  
14 us that they're not a general contractor.

15 MR. FERN: That's my understanding.

16 SECRETARY MOLESWORTH: But you can't  
17 tell me if the inspector actually asked that -- asked  
18 that question.

19 MR. FERN: There's nothing in the  
20 record to show that he did. It's my understanding that  
21 he didn't.

22 I mean, these citations were made, you know, as  
23 Mr. Barnes said, not under general contracting statute  
24 but under -- for failure to have an electrician license,  
25 not for failure to have a general contracting license.





1                   CHAIRPERSON JENKINS: Any board member  
2 questions?

3                   BOARD MEMBER BAKER: Board Member  
4 Baker.

5           I -- I can't support those citations. I thank you  
6 for the conversation and being able to understand where  
7 it was coming from. I understand that, but I can't  
8 support those. It's just contrary to how we do business  
9 in the state and how we contract.

10           I believe it should have gone through the --  
11 literally should have had a general contractor's license.  
12 I would have liked to have seen this go to the other  
13 department within L&I.

14           From the electrical side, it just is contrary to my  
15 40 years of experience in the industry and how we  
16 function in this state and how we contract. If these are  
17 upheld, I've got a dozen jobs right now that are in  
18 violation.

19                   SECRETARY MOLESWORTH: So I --  
20 Secretary Molesworth. I disagree with that just because  
21 you're a general contractor, and you don't have anything  
22 that's illegal.

23                   BOARD MEMBER BAKER: We are an  
24 electrical contractor.

25                   SECRETARY MOLESWORTH: What's that?



1 Oh, you're an electrical contractor.

2 BOARD MEMBER BAKER: Yes. But to my  
3 point -- to my point, Wayne, is, we are subcontracted by  
4 people like NCR that are not contractors, and they would  
5 be in violation, and these are well-known integrators in  
6 the state of Washington, very well known.

7 SECRETARY MOLESWORTH: Right. By the  
8 law and by this particular contract, they've gone into a  
9 contract as an electrical contractor by law -- by the  
10 definition of the law.

11 So we're not interpreting this law. It's pretty  
12 clear that -- that they've entered into a legal binding  
13 contract. It's specific to electrical installations in  
14 the contract. They've decided to subcontract, which they  
15 can't do, so they would have had to have been an  
16 electrical contractor because they weren't able to  
17 subcontract.

18 BOARD MEMBER BAKER: I understand.

19 SECRETARY MOLESWORTH: Period.

20 BOARD MEMBER BAKER: I understand.

21 CHAIRPERSON JENKINS: Board Member  
22 Cox?

23 BOARD MEMBER COX: Board Member Cox.

24 Question for Secretary Molesworth: If it had been  
25 referred to the general contractor division with L&I, how



1 many citations would have been issued for failure to have  
2 a general contractor's license?

3 SECRETARY MOLESWORTH: Probably --

4 MR. BLOHOWIAK: I'm just going to --  
5 that's -- that's way outside of the -- the record.

6 Like, you're asking the secretary to hypothesize  
7 about what may or may not have happened in this. It's  
8 just not in the record.

9 And then also I just want to remind the board  
10 members that your job here today is to decide whether  
11 there's substantial evidence to support the findings of  
12 fact and conclusions of law in the OAH's order.

13 And so as you're looking to make your decision, you  
14 need to also be considering the record you reviewed and  
15 what evidence you're going to point to, to reverse,  
16 modify, or uphold each of those findings of fact and  
17 conclusions of law.

18 So I just wanted to remind the board to -- the board  
19 does not have any equitable authority to decide whether  
20 or not something is just or inappropriate.

21 The board is confined to the statutes and laws  
22 written and the evidence in the record, and so you need  
23 to -- as you're looking to make a decision today, just  
24 remind you to consider the record you reviewed confined  
25 to findings of fact and conclusions of law and whether



1 there is substantial evidence to support -- support them  
2 or support your conclusions to modify or reverse.

3 CHAIRPERSON JENKINS: Thank you.

4 Any other questions, comments, concerns, board  
5 members? Yes?

6 BOARD MEMBER GRAY: Thank you,  
7 Mr. Chair. Board Member Gray, G-r-a-y.

8 I struggled just like I heard everybody else, and I  
9 read through all of this, and when I read the words in a  
10 contract, I -- to me, it would be a reach to believe that  
11 that contract with NCR and Starbucks intended to identify  
12 NCR as the contractor that was actually going to install  
13 the electrical equipment and do all that because they --  
14 they've been doing this all over the country.

15 So I just never read that as, "We expect you to go  
16 be the contractor to go install these things."

17 I read it as, "We expect you to go manage whatever  
18 it is that will support your work, which is to provide  
19 software for our company here, and you go do that. We're  
20 paying you to go get that done."

21 So, I mean, I'm -- I'm right in the same boat, I  
22 think, as Board Members Baker and Burke and Cox on this.  
23 I just -- I think if -- not disagreeing that a citation  
24 probably should have been assigned, but I'm not sure it  
25 was assigned to the right place based on what I



1 understood when I read through the transcripts and the  
2 other information.

3 Thank you, Mr. Chair.

4 CHAIRPERSON JENKINS: Thank you.

5 Any other questions, comments, concerns, board  
6 members?

7 BOARD MEMBER LEE: I do. For the --  
8 Board Member Lee, L-e-e.

9 For the folks that are in the same boat and  
10 struggling with this, on the -- in the record on Page 14,  
11 it says, "The electrical statute defines an electrical  
12 contractor as any entity that offers to undertake,  
13 undertakes, submits a bid for, or does the work."

14 If they say they're going to manage it, does that  
15 get them away from this definition? They're not  
16 submitting the bid for -- that's not the way that it's  
17 seen or is that the way -- I mean, can you legally argue  
18 away from that definition?

19 That's the part I'm struggling with. Can you  
20 convince me of that?

21 UNIDENTIFIED SPEAKER: Not without  
22 bringing in new information.

23 CHAIRPERSON JENKINS: Board member --  
24 sorry. Chair Jenkins.

25 In the actual document, they actually have a pricing



1 sheet showing what it's going to cost to install  
2 individual devices. So whether or not they're doing it  
3 or not, that would tell me that they have the LHL  
4 contractor license to submit their bidding to do this  
5 work at this price.

6 There are individual components in here.  
7 (Inaudible) for that and some of it is electrical work.  
8 Therefore, they're saying, "I'm a general contractor.  
9 I'm going to have an electrical contractor do this work,  
10 but I'm making this bid to cover all the different  
11 components."

12 There's an actual question sheet for each of these  
13 in each individual step of this process. So whether or  
14 not they intended to do it internally or external, I  
15 don't think it matters.

16 If they didn't want to do it internally and don't  
17 have a license for it -- they also didn't have a general  
18 contractor's license to even submit that type of bid, but  
19 that's (inaudible) events, so --

20 BOARD MEMBER BAKER: Board Member  
21 Baker.

22 Don't want to keep beating a dead horse. Don't want  
23 to be that guy at the table, but I don't know. Maybe  
24 they should have had a general contractor's license. I'm  
25 not here to decide that.



1 But I can tell you that our general contractors will  
2 sit down with our clients, and they have a spreadsheet  
3 and they show them our pricing matrices. We provide  
4 those to them, and they sit down. They show them exactly  
5 what it's going to cost and they show the electrical.

6 And, yes, they do commit to the installation of the  
7 electrical system. Doesn't mean they're going to do it,  
8 but they're committing to it. They're taking  
9 responsibility for it.

10 CHAIRPERSON JENKINS: I would propose  
11 to take a short break, for a couple reasons. First of  
12 all, I notice some members here have requested to be able  
13 to check out of their hotel room in order to (inaudible).

14 I would suggest maybe a 15-minute break and discuss  
15 the legal steps here, what we can and can't do.

16 Any questions?

17 So we'll take a recess until 10:30.

18 (Pause in the proceedings.)

19 CHAIRPERSON JENKINS: All right. It  
20 is now 10:33 on April twenty-

21 UNIDENTIFIED SPEAKER: Seventh.

22 CHAIRPERSON JENKINS: -- seventh.

23 Thank you. And we're bringing the Washington State  
24 Electrical Board meeting back to order.

25 All right. So after discussing our options here and



1 I see our discussion has been tailing off and so our  
2 options are, one, we can affirm the order from the AHJ to  
3 reverse the order from the AHJ.

4 The other option we have, if we feel there is some  
5 type of -- more information needed, we can remand it back  
6 to the OAH to supplement the proceedings, get more  
7 information on the electrical contractor versus general  
8 contractor information.

9 So those are our options for moving forward. Yes?

10 UNIDENTIFIED SPEAKER: Thank you,  
11 Mr. Chair. Does that mean we could ask for more evidence  
12 to be entered into the record so that we could evaluate  
13 that? Is that what that says?

14 UNIDENTIFIED SPEAKER: Yeah.

15 UNIDENTIFIED SPEAKER: Thank you.

16 CHAIRPERSON JENKINS: Hearing no more  
17 questions/comments from the board, the chair would  
18 entertain a motion.

19 BOARD MEMBER BAKER: Board Member  
20 Baker. I'll make a motion that we reverse the order.

21 CHAIRPERSON JENKINS: And we have a  
22 motion. Do we have a second?

23 BOARD MEMBER BURKE: Board Member  
24 Burke. Second.

25 CHAIRPERSON JENKINS: So we have a





1 motion and a second. Any discussion? Hearing none,  
2 all --

3 UNIDENTIFIED SPEAKER: The discussion  
4 I would have is, based on what evidence are we reversing  
5 it? Can I ask that question?

6 CHAIRPERSON JENKINS: So we have  
7 discussion.

8 MR. BLOHOWIAK: Yes. Yeah. I mean,  
9 you can. It's a little out of order.

10 UNIDENTIFIED SPEAKER: So I would ask,  
11 based on what evidence would we reverse this -- this  
12 decision that's inside of our evidence package at this  
13 point?

14 CHAIRPERSON JENKINS: Well,  
15 (inaudible) more information on this. We're all seeing  
16 the same thing.

17 Our violation that we're talking about is  
18 (inaudible) right out of the book. And this says  
19 19.28.41, No. 1 is unlawful for any person, firm,  
20 partnership, corporation, or any other entity to advise,  
21 offer to do work, submit a bid, engage in conduct, and  
22 carry the business of installing or maintain wires or  
23 equipment to convey electrical current or having --  
24 undergoing (inaudible) and so forth.

25 So that's the section that they're applying this to.



1 Any other discussion? Hearing none, all in favor of  
2 reversing the AHJ's order, all signify by raising your  
3 hand, please.

4 We have, one, two, three, four, five, six in favor.  
5 Opposed? One, two, three.

6 Motion passes to -- to reverse the AHJ's orders.  
7 (Inaudible.)

8 One second. So, once again, the motion passes to  
9 reverse the AHJ's proposed order, and we need to now  
10 review the actual order to discuss the individual items  
11 we're reversing.

12 MR. BLOHOWIAK: So there were -- this  
13 is Ben Blohowiak.

14 There are two violations here, 19.28.041 and  
15 19.28.420. One is for electrical installations. The  
16 other one is for telecommunications installations.

17 The language in each statute is identical, other  
18 than the reference to electrical and telecommunications  
19 installations.

20 And as Jason said, but I'll just reiterate, it is  
21 unlawful for any person, firm, partnership, corporation,  
22 or other entity to advertise, offer to do work, submit a  
23 bid, engage in, conduct, or carry on the business of  
24 installing or maintaining telecommunications or  
25 electrical systems without having a valid



1 telecommunications or electrical installation contractor  
2 license.

3 It is now -- I'd ask the board to point to specific  
4 evidence in the record to -- to establish that those  
5 violations have not occurred. We'll need to cite to  
6 specific parts of the record, and once we've identified  
7 those portions of the record, I will ask counsel for the  
8 appealing party -- for the failing party to draft a  
9 proposed order.

10 UNIDENTIFIED SPEAKER: (Inaudible.)

11 MR. BLOHOWIAK: Yeah. So we're  
12 looking at Section 6.2 and Section 6.3 of the proposed  
13 order issued by the Office of Administrative Hearings.

14 CHAIRPERSON JENKINS: So (inaudible)  
15 need to be changed to, "NCR Corporation did not violate  
16 RCW 28.41 by offering to perform, submit, bid, or engage  
17 in business installing" (inaudible) so on and so forth,  
18 and 6.3, where NCR did not violate RCW 28.420.

19 UNIDENTIFIED SPEAKER: The evidence in  
20 the documents that I would point to, I believe, would be  
21 statement of facts under 4A. It states, "NCR contracted  
22 with Starbucks to manage the installation of electrical  
23 and telecommunication equipment."

24 UNIDENTIFIED SPEAKER: Do you have a  
25 specific page in the record you're looking at?



1 UNIDENTIFIED SPEAKER: Oh, Lord.

2 UNIDENTIFIED SPEAKER: I'm sorry. We  
3 just have to make sure that we're very clear what  
4 evidence we're relying on.

5 UNIDENTIFIED SPEAKER: It's a fair  
6 question.

7 UNIDENTIFIED SPEAKER: Page 3.

8 CHAIRPERSON JENKINS: Chair Jenkins.  
9 You're talking about Page 3 of the electrical board  
10 packet?

11 UNIDENTIFIED SPEAKER: It's the  
12 electrical board brief.

13 CHAIRPERSON JENKINS: Board brief.  
14 The packet. Do you have a page number?

15 UNIDENTIFIED SPEAKER: Page 3 of the  
16 brief.

17 CHAIRPERSON JENKINS: Okay.  
18 (Inaudible) board brief. Thank you. Can you repeat what  
19 you were asking or saying?

20 UNIDENTIFIED SPEAKER: It's -- it's  
21 the statement of facts under bullet point 4A. It states,  
22 "NCR contracted with Starbucks to manage the  
23 installations of electrical and telecommunication  
24 equipment."

25 CHAIRPERSON JENKINS: Okay. So if I

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1 get you right, you're saying manage versus offer, advise,  
2 submit, bid, engage, conduct? You're saying that's  
3 outside that -- the scope of the law? So using the word  
4 "manage" versus the others?

5 UNIDENTIFIED SPEAKER: Correct.

6 CHAIRPERSON JENKINS: Okay. So did  
7 counsel get that information?

8 MR. BARNES: No. I --

9 CHAIRPERSON JENKINS: So if I  
10 understand this correctly, he's referring to the brief  
11 where -- on Page 3 where NCR contracted with Starbucks to  
12 manage the installation of the telecommunication  
13 equipment versus the code -- or the law requirements that  
14 do not violate that simply because it -- managing is not  
15 advertised to do work, submit bid, engage in conduct --  
16 and conduct business, so on and so forth (inaudible)  
17 19.20.41.

18 MR. FERN: Alex Fern, NCR. Yeah. I  
19 have that. I'm not sure what page of the appeal packet  
20 I'm looking at.

21 UNIDENTIFIED SPEAKER: Yeah. So --  
22 and I'm sorry, Chair Chris Jenkins. What Board Member  
23 Baker is referring to is the Department's brief filed in  
24 this case.

25 UNIDENTIFIED SPEAKER: Okay.



1 UNIDENTIFIED SPEAKER: But I think --  
2 and, Board Member Baker, please correct me if I'm wrong,  
3 but it's the language that's used -- I think it's in --  
4 also in the agreement between NCR and Starbucks that  
5 they're going to manage these installations.

6 So, Counsel, the citation you're probably looking  
7 for is to references to management inside the -- the  
8 evidentiary record (inaudible) Office of Administrative  
9 Hearings.

10 CHAIRPERSON JENKINS: That sounds  
11 reasonable.

12 UNIDENTIFIED SPEAKER: Is that your  
13 understanding?

14 UNIDENTIFIED SPEAKER: Correct. Based  
15 on that description, I'm confident I can draft an  
16 appropriate proposed order.

17 MR. BARNES: I do have a question on  
18 that. Is Member Baker referring to my trial brief rather  
19 than the proposed order?

20 CHAIRPERSON JENKINS: Currently, yes,  
21 that is what I'm referring to at this moment.

22 MR. BARNES: I don't think a brief is  
23 evidentiary.

24 UNIDENTIFIED SPEAKER: And,  
25 Mr. Barnes, that's why I was asking Mr. Baker -- because



1 he's not a trained attorney. If -- if it's that language  
2 of project management was what he was relying on, I think  
3 he was looking at your brief as a bit of a shortcut, but  
4 your brief references project management in the actual  
5 evidentiary record.

6 So that's why I've indicated counsel and clarified  
7 with the board member that that's his understanding and  
8 that was his -- that was the evidence he was looking at,  
9 was this language of project management versus the submit  
10 a bid, engage in, conduct, or carry out the business of  
11 electrical or telecommunications installation.

12 MR. BARNES: I just have a point of  
13 order because I don't want this coming right back down  
14 here again, but I think that it would necessarily have to  
15 be something in the order that they found to be incorrect  
16 rather than something that I wrote or somebody wrote in a  
17 brief, which is not evidence.

18 And I'm afraid if we go up on appeal on this, that  
19 it will just get sent down for further findings.

20 MR. FERN: Alex Fern, for NCR. I may  
21 be able to provide -- I just want to state my  
22 understanding just -- it's my understanding that, based  
23 on the contract between NCR and Starbucks, NCR is  
24 offering to manage the project.

25 It's not a violation of RCW 19.28.041 to perform,



1 submit a bid, engage in the business of installing or  
2 maintaining electrical equipment. And that's the board's  
3 decision that would be reflected in the proposed order  
4 pulled from the contract itself rather than the brief.

5 UNIDENTIFIED SPEAKER: This is Board  
6 Member Baker's motion. I would at least counsel  
7 (inaudible) understanding correct?

8 UNIDENTIFIED SPEAKER: I understand  
9 you're trying to clean it up. I'm pulling something out  
10 of a brief. We need to find it in the actual document.  
11 Yeah. That's exactly what I'm trying to do. Your  
12 definition of a shortcut is very accurate, so --

13 CHAIRPERSON JENKINS: Board Member  
14 Knottingham?

15 UNIDENTIFIED SPEAKER: Yes.

16 BOARD MEMBER KNOTTINGHAM: Board  
17 Member Knottingham, K-n-o-t-t-i-n-g-h-a-m.

18 In the electrical board packet document, I think  
19 it's referenced on Page 1554, project management. That's  
20 Exhibit A for services that NCR restore (inaudible)  
21 provide.

22 CHAIRPERSON JENKINS: Board Member  
23 Chair Jenkins.

24 The page number once again?

25 BOARD MEMBER KNOTTINGHAM: 1554. And





1 then above it, it says (inaudible) Exhibit 2,  
2 Page 000023.

3 CHAIRPERSON JENKINS: So make sure I  
4 say this correctly. Evidence that you're pointing to  
5 that removes the violation is shown -- also shown on  
6 Page 1554 where they bring up project management.  
7 (Inaudible) the project shall (inaudible) project  
8 management and support tasks. That is what you're  
9 referring to for support for the change?

10 UNIDENTIFIED SPEAKER: Correct.

11 CHAIRPERSON JENKINS: Thank you. So  
12 given that, (inaudible). That would apply to both the  
13 violation of the 19.28.041 and violation of 19.28.420.

14 BOARD MEMBER BAKER: Board Member  
15 Baker.

16 That's correct.

17 CHAIRPERSON JENKINS: Okay. Jason,  
18 Chair.

19 Thank you very much. The board has made a decision.  
20 Mr. Alex Fern, if you -- please do not leave today until  
21 you let us know whether you'll need additional time or  
22 reached an agreement.

23 Please be advised that, if you do not reach an  
24 agreement today, then that will be automatically set for  
25 presentment at the next regularly scheduled board



1 meeting.

2 If an agreed order has not been received by this  
3 date, parties will be expected to file their proposed  
4 orders, appear, and advise why their proposed orders are  
5 there -- the proposed order best reflects the board's  
6 decision. Hopefully this will not be necessary.

7 If you're able to reach an agreement as to the form  
8 of the order by the next meeting, please forward the  
9 secretary of the board's office, and they will make sure  
10 it gets signed and copies provided to the parties.

11 Thank you very much.

12 MR. BARNES: Thank you.

13 MR. FERN: When you say "agreements,"  
14 you mean agreement (inaudible) Office of the Attorney  
15 General?

16 CHAIRPERSON JENKINS: Yes. That is  
17 correct.

18 MR. FERN: Just want to get that  
19 confirmed.

20 CHAIRPERSON JENKINS: And make sure  
21 the order best reflects what the board's decision was  
22 today.

23 MR. FERN: Thank you.

24 CHAIRPERSON JENKINS: Thank you very  
25 much.



1 VIP PRODUCTION NORTHWEST

2 CHAIRPERSON JENKINS: All right. So  
3 moving on to the next item of the agenda, (inaudible)  
4 time for a break.

5 Moving on to VIP Production Northwest, is there a  
6 representative for the appellants for VIP Production?

7 UNIDENTIFIED SPEAKER: Yeah.

8 CHAIRPERSON JENKINS: If you can  
9 please take a seat.

10 And (inaudible) representation of the parties.

11 UNIDENTIFIED SPEAKER: Yes.

12 (Inaudible.)

13 CHAIRPERSON JENKINS: All right.  
14 the matter for today is an appeal of a matter of the  
15 VIP Production Northwest, Incorporated, Docket  
16 Nos. 12-2019-LI-01240 and 12-2019-LI-1 -- 01241.

17 This hearing is being held -- being held pursuant  
18 due to the proper notice of all interested parties at  
19 Spokane, Washington, on April 27th at approximately  
20 10:52 a.m.

21 This is an appeal of the initial order offer --  
22 initial order issued by the Office of Administrative  
23 Hearings on June 22nd, 2022. It is my understanding  
24 that the decision is affirmed. Citation notices  
25 EALRD00557, EBUJU00629, EBUJU00630, and EBUJU0063 [sic]

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1 issued by the Department of Labor and Industries on  
2 August 9th and 16th, 2019. It is further my  
3 understanding that the appellant has timely appealed the  
4 decision to electrical board.

5 Did you hear my remarks to the previous procedure?

6 MR. REIT: Yes.

7 MS. ZURLINI: Yes.

8 CHAIRPERSON JENKINS: So we do not  
9 need to go over those?

10 MS. ZURLINI: No.

11 CHAIRPERSON JENKINS: Okay. So any  
12 questions before we begin?

13 MR. REIT: No.

14 MS. ZURLINI: No.

15 CHAIRPERSON JENKINS: All right. So  
16 VIP Production's representative, please speak and spell  
17 your name for me.

18 MR. REIT: I brought my own name tag  
19 just to be sure you can read it. My name is Troy,  
20 T-r-o-y. Last name is Reit. It's spelled R-e-i-t.

21 CHAIRPERSON JENKINS: You are the --  
22 (inaudible) party. You have the burden of proof to  
23 establish the proposed decision is incorrect. Therefore,  
24 we'll hear from you first, and you have 15 minutes. You  
25 may proceed.



1 MR. REIT: Thank you.

2 Members of the board, for society to work, every  
3 citizen has to know and understand the rules. The only  
4 reason we can drive -- safely drive (inaudible) cars on  
5 the same road with hundreds of other people is we all  
6 know the rules, such as which side of the street to drive  
7 on and what is expected at a red light.

8 If one police district decides to issue tickets for  
9 stopping at a red light while the rest of the country  
10 continues to expect motorists to stop at the red lights,  
11 it would be confusing for motorists and chaos would  
12 ensue.

13 This is the situation we have in Washington State  
14 right now. There is significant confusion about how to  
15 interpret the electrical laws as they apply to the  
16 portable temporary systems the entertainment industry  
17 uses for small festivals, and it seems like the Spokane  
18 L&I office is like the police department that is issuing  
19 tickets for stopping at red lights.

20 Everywhere else in the state -- and we do hundreds  
21 of shows all over -- we don't need a permit for the small  
22 shows with just a few lights, like the ones in question  
23 today. And only one permit is required for a bare wire  
24 hookup, and that's usually pulled by the electrician  
25 tying us in to power.



1 I had an experienced inspector outside of Spokane  
2 County call me to ask who would be pulling the permit for  
3 a show in his jurisdiction, and he verified that my  
4 company didn't need one because the client had hired an  
5 electrician.

6 However, within the Spokane County and specifically  
7 at the show we did in Airway Heights, Inspector Busskohl  
8 required the City to have a permit for their generator  
9 and spider box. VIP had to have a permit for our lights.  
10 The audio company needed a permit, and every band that  
11 played on stage needed a permit to plug in their power  
12 strips.

13 The inspectors are coming to very different  
14 conclusions when interpreting the exact same laws. When  
15 I try to pull a permit outside of the Spokane office's  
16 jurisdiction, the inspectors look at me like I'm crazy.

17 The inspectors also seem to be confused about the  
18 equipment we use. They're referred to a computer as a  
19 dimmer and think that DMX cable can't be classified as  
20 telecommunications cable even though the D in DMX stands  
21 for digital.

22 And the ANSI standard clearly states that DMX  
23 communicates with packets of information. RCW 19.28.400,  
24 Paragraph 13A, states that data cable is  
25 telecommunications cable.



1           And we can install -- and I use that term loosely  
2           because that would -- I would consider that more for  
3           buildings -- up to ten telecommunications outlets without  
4           needing a permit.

5           The inspectors are looking at the wrong law because  
6           they don't know anything about the entertainment cables  
7           we use. For example, the speaker wire behind me would be  
8           a local dig- -- communication cable, local digit control  
9           circuit, but DMX is more like the Ethernet cable that you  
10          use in your computers.

11          It's not just the inspectors. We did the exact same  
12          show in Airway Heights both in 2018 and 2019 with the  
13          same equipment in the same location and with the same  
14          power source.

15          We were cited by the same inspector for the same  
16          infraction for both shows, and challenged them both. We  
17          have two hearings, and two different judges came to  
18          opposite conclusions when presented with the same  
19          evidence.

20          I tend to be a little idealogical. In the hearing  
21          for the 2018 show, I was looking for a decision to set a  
22          precedence so that we could all know whether or not I  
23          really needed a permit for these small shows. Apparently  
24          it doesn't work that way.

25          I'm not an attorney, just in case you were



1 wondering. I'm the CEO of the company. Here's the  
2 problem: I need to know what I am expected to do with  
3 two completely different interpretations being applied,  
4 depending on where we set up our shows.

5 I am sincerely hoping that this body is able to  
6 provide that kind of clarification, not only for me but  
7 also for the local L&I office that seems to be using a  
8 different interpretation than the rest of the state.

9 The mission of the Department of Labor and  
10 Industries is to keep Washington safe and working. How  
11 does it make the event safer to require the city, the  
12 lighting company, the audio company, and every band that  
13 performs on stage to require a permit -- to purchase a  
14 permit?

15 If it's about safety and those permits are really  
16 that critical, why didn't either inspector involved in  
17 these citations also issue citations to the audio  
18 provider and the bands?

19 In Medical Lake, the audio system was present and  
20 plugged in when Inspector Alred was there, yet he never  
21 even talked to that company. I asked the owner. The  
22 same festival happened again last fall like it was done  
23 every year other than during COVID, but no inspector  
24 showed up. No permits were purchased, and no citations  
25 were issued.





1           How is it about safety when we need a permit to plug  
2           in a few listed LED lighting fixtures into a single GFCI  
3           protected outlet per the manufacturer's instruction? For  
4           an agency that is funded by permits and citations, that  
5           looks a little suspicious.

6           Don't get me wrong. My company is all about safety  
7           in the entertainment industry. We regularly utilize  
8           large amounts of power, hang things over people's heads,  
9           and install permanent systems.

10          I personally have directed many (inaudible)  
11          understanding of what the law requires and recently wrote  
12          a blog encouraging our clients to get permits when  
13          required as a matter of safety.

14          I'm not asking you to release the entertainment  
15          industry to its own devices. You can find my specific  
16          arguments in my brief regarding the citations and  
17          Ms. Zurlini's responses to my appeal, so I won't spend  
18          much time on them here.

19          However, the crux of the matter can be summed up in  
20          this one question: Did the inspectors in the Spokane  
21          office get a little overzealous in their interpretation  
22          of the rules, or is this trend going to continue to the  
23          point that the whole state is going to be held to a  
24          different standard of enforcement where, according to  
25          Inspector Busskohl and the Spokane office, every power



1 strip outside of a residence requires a permit before you  
2 plug it in?

3 I'm sure the right answer or maybe the safe answer  
4 lies somewhere in between, that no one knows where that  
5 line actually is. Are the local inspectors correct?  
6 That would mean that the rest of the state is wrong.

7 By the way, this complex setup in this room is more  
8 complex than the system that we use to plug in a few  
9 lights, and it uses power strips. So I didn't see a  
10 permit posted in this room. This is definitely not a  
11 residence, so by their interpretation, this installation  
12 would have required a permit.

13 The only law they can cite to support their  
14 citations is a Currents newsletter article, and when the  
15 author of the article, then Chief Inspector Thornton,  
16 found out about the -- about Inspector Buszkohl's  
17 statements about power strips, he said -- and I quote --  
18 Oh, he shouldn't have said that, end quote.

19 Seems fairly clear to me who was mistaken. The  
20 other two citations regarding failing to request  
21 inspection and material misrepresentation are easily  
22 explained. Without clear direction, I hastily procured a  
23 permit for Airway Heights to attempt to comply while  
24 awaiting a verdict regarding the 2018 show.

25 In my haste, I accidentally put accurate information



1 into the website form, like I have done for every permit  
2 as the 06 admin for my company. To purchase a permit for  
3 temporary lighting at a location I don't own, you have to  
4 commit perjury -- and it says it right there on the  
5 website. "I certify under penalty of perjury that this  
6 information is true and correct" -- by claiming to be the  
7 real property owner.

8 The legal definition of misrepresentation requires  
9 intent to deceive, which did not exist. That one is  
10 pretty clear. The L&I office schedule doesn't track well  
11 with the entertainment industry, which works mostly  
12 weekends. So without the advanced notice, we couldn't  
13 call for inspection until the date after all the  
14 equipment had been removed.

15 I'm sure Ms. Zurlini will assert that I'm the one  
16 that's confused, and maybe I am, when it comes to this  
17 double standard of rule interpretation, but I've clearly  
18 demonstrated that the inspectors are confused about the  
19 application of the law and, even by their own admission,  
20 don't understand the equipment we use.

21 It would be unjust to hold my company accountable  
22 for the inspectors' confusion and double standard. I am  
23 asking this body to reverse these citations and affirm  
24 that the inspectors overstepped the intent of the law.

25 If you affirm these citations, it leaves my company



1 with an undue burden of having to navigate the double  
2 standard. We don't know when to stop at the red light.

3 And indulge me for just a moment longer. This  
4 doesn't actually pertain to this case, but beyond these  
5 citations, I'm also asking that you work with the chief  
6 inspector in your legal advisory role to provide some  
7 clarity regarding the application of the law to these  
8 temporary entertainment systems. The Spokane County  
9 inspectors and my industry needs these answers.

10 Thank you.

11 CHAIRPERSON JENKINS: Thank you very  
12 much.

13 AAG Ms. Zurlini.

14 MS. ZURLINI: Yes.

15 CHAIRPERSON JENKINS: Can you spell  
16 your name for the recording, and at that point, you may  
17 go forward.

18 MS. ZURLINI: Thank you. My name is  
19 Angela Zurlini. I'm the assistant attorney general who  
20 represents the Department in this case. My first name is  
21 A-n-g-e-l-a. My last name is Zurlini, which is  
22 Z-u-r-l-i-n-i.

23 CHAIRPERSON JENKINS: Thank you.

24 MS. ZURLINI: Thanks. So I'm going to  
25 start off by saying, there isn't any confusion. Maybe



1 the confusion rests with VIP and its interpretation of  
2 the law, but I would objectively say there is no  
3 confusion.

4 This isn't about power strips. It's not about the  
5 electrical Currents argument -- or article, and it's also  
6 not about overzealous inspectors. We have Department  
7 inspectors who go out every single day, looking for  
8 electrical violations, and that's what we found with VIP.

9 To simplify and reduce this whole case to power  
10 strips and the electrical Currents newsletter is  
11 reductive, and that's not what we're here today to  
12 discuss.

13 So VIP -- it focuses on light fixtures and dimmers  
14 and DMX cables and the confusion about what is meant by  
15 the word "distribution," so I thought we would start  
16 there.

17 All the pictures I'm showing you are in the board  
18 record, and if you at any point need me to cite to where  
19 it's at, just let me know.

20 Distribution of power. So this is the Medical  
21 Lake -- right? Medical Lake? Yes -- the Blue Waters  
22 Bluegrass Festival, which I'm just going to call the  
23 festival because that's a mouthful.

24 So at the Medical Lake festival, you have -- and  
25 these are pictures taken by the inspector. You have the



1 permanent utility -- or fixture right there, bringing  
2 power in from the utility, and I know you guys obviously  
3 know about this more than I do.

4 Okay. So power coming in, being distributed to a  
5 circuit panel with circuits that were on, going down to  
6 distributing power to the GFCIs, okay, going through what  
7 Mr. Reit testified about as being their Socapex cable  
8 where you can see on this side, all the cables that are  
9 coming out. And this is in the testimony as well.

10 All of these cables coming out of these GFCIs are  
11 then bundled together in the Socapex, which then is  
12 threaded across the festival grounds where then it is  
13 broken apart.

14 All the cables obviously break loose, and that's how  
15 they're powering -- distributing power from that primary  
16 source all the way across the festival grounds to the  
17 stage to provide electricity to all of the different  
18 devices that Mr. Reit has referred to.

19 And there are numerous pictures of the same. At the  
20 Airway Heights location, the same -- now this -- here,  
21 instead of it being a permanent utility fixture, it was  
22 two generators that the City brought and same deal,  
23 bringing power to -- from the generators to the stage.  
24 So we've got the same pictures.

25 I want to -- and I'm sure you read this in the



1 transcript, but Mr. Reit, he did confirm that the  
2 configuration used at the Medical Lake location is the  
3 same configuration that it used at the Airway Heights  
4 location. So we're talking about the same configuration.

5 On Pages 145 and 146 of the board transcript,  
6 Mr. Reit says in Medical Lake -- keeping in mind, again,  
7 same configuration, both locations -- "In Medical Lake we  
8 used a cable called a Socapex cable. A Socapex cable is  
9 multiple cables combined into one. So stagehands are  
10 lazy. We try to do everything as quickly and efficiently  
11 as possibly -- oh, as we possibly can. So if we can pull  
12 one cable, even though it's really heavy, instead of  
13 pulling six, we're going to do that -- we're going to do  
14 it that way.

15 "VIP typically uses that in place of running  
16 multiple extension cords because" -- or excuse me --  
17 "which can often cause more of a tripping hazard because  
18 a bigger cable is easier to see and multiple cables are  
19 not."

20 That's distribution of power. Okay. If you read in  
21 VIP's brief submitted to this tribunal -- let's see  
22 here -- he says, "The general consensus between  
23 entertainment professionals and inspectors is a permit is  
24 required when there is a high amperage" -- let's go  
25 back -- "a high amperage connection to an electrical



1 service that is then broken" -- sorry. I'm going through  
2 these kind of fast -- "broken into multiple lower  
3 amperage branch circuits. The dictionary definition of  
4 distribution fits this idea, taking a large portion and  
5 breaking it into smaller pieces for multiple recipients."

6 I would argue VIP absolutely knows what distribution  
7 means. You can't describe something and then claim  
8 confusion over what you just described. So I believe it  
9 does know what distribution means.

10 Respectfully, VIP is -- wants you to focus on the  
11 dimmers and the light fixtures and the DMX, which we'll  
12 get to in a moment, and confusion over whether or not the  
13 law applies to those devices.

14 Respectfully, there shouldn't be any confusion over  
15 the distribution -- how the electrical laws are applied  
16 to the distribution of power from that main utility or  
17 the generator through that Socapex cable breaking apart  
18 at the stage.

19 Okay. That should be clear, and that is the  
20 violation. When it comes to both of the -- all of these  
21 citations, that's the violation. The dimmers and the  
22 light fixtures and the DMX, like I said, we'll talk about  
23 here, but those are additional violations, but on the  
24 grounds alone of the distribution of power, I would ask  
25 that the board affirm the proposed decision -- or I think





1 it's an initial order on appeal.

2 Moving briefly to those other devices -- let's see  
3 here -- we'll start with the light fixtures and the DMX  
4 cables. So -- and, again, these are all -- this is all  
5 in your board packet.

6 So in VIP's brief to you, they say basically the  
7 light fixtures have proprietary interconnecting cables  
8 built into them that cannot be used by other devices.  
9 The power passes through each fixture to the next, but,  
10 quote, pass through, end quote, doesn't fit the vague  
11 definition of distribution in the April 2017 Currents  
12 newsletter.

13 So if you go to that Currents newsletter, when it  
14 speaks about the interconnecting cable, it says, "A  
15 permit and inspection is required for any type of  
16 temporary distribution, a power distribution system. A  
17 distribution system means interconnecting wires or other  
18 equipment that is installed to distribute power."

19 That is what that is. And in support of that, their  
20 Exhibit A, this is the diagram that VIP offered at the  
21 time of hearing, and this is what shows you the  
22 interconnecting cables. Again, you can't describe  
23 something and then claim confusion over what you just  
24 described.

25 So to use that phrase, the power passes through each



1 fixture, in plain speak, that's distribution.

2 Moving now to the DMX cable -- so I'm going to  
3 confuse myself. Okay. So the DMX cable, VIP argues that  
4 the judge and inspectors are in error, calling DMX cable  
5 a lighting control cable or a low voltage control cable.  
6 Again, this is from VIP's exhibits. This is from -- this  
7 is the -- I guess the DMX cable that they identify on  
8 their Exhibit A.

9 Controlling lighting equipment and accessories. It  
10 says it right there, "Controlling lighting and  
11 accessories." So maybe the DMX cable can do a bunch of  
12 different things, but at minimum we know it can control  
13 the lighting equipment.

14 So when VIP asks for the board to find that it is  
15 exempt, that DMX cable is exempt under a  
16 telecommunications law, which, in support of our  
17 position, the Department argues that  
18 Subsection 19.28.400, Subsection 13C, under this, it  
19 says, "Telecommunications systems do not include lighting  
20 or control systems -- lighting or control systems."

21 VIP argues that this listing of different pieces or  
22 different devices refers -- and everyone knows it just  
23 refers to analog, and that what he's talking about or  
24 what it's talking about is digital.

25 Yet the law doesn't distinguish between analog and



1 digital. It just says lighting -- or lighting control  
2 systems do not constitute telecommunications.

3 So in support of VIP, they offer 13A, which talks  
4 about telecommunication systems include and then talks  
5 about some things, but it also says with or within -- or  
6 within or between buildings including voice, data, video,  
7 and audio. That's not what we're talking about here.  
8 We're talking about festival and event grounds.

9 And then finally, when it comes to perjury, and at  
10 the time of hearing, Mr. Reit and I just agreed to  
11 disagree on that, but what I would point out is, if you  
12 look at board packet Page 249, this is an example of a  
13 permit that VIP properly took out with VIP identified as  
14 the purchaser.

15 They identified themselves as the site owner  
16 because, if you look at the Electrical Currents, it talks  
17 about, if you own your own equipment, then you use  
18 your -- you are the site, I guess. So this is an example  
19 of how they got it right.

20 When it comes to the -- the citation for the  
21 material misrepresentation, first of all, intent is not a  
22 factor. What Mr. Reit testified to was, he was in a  
23 hurry. The inspectors had already been out, had already  
24 seen the site.

25 They had already put the lights up. They had not



1 obtained an electrical work permit, and in a hurry, this  
2 is the permit he pulled. So the idea that he had to  
3 perjure himself, I'm not exactly sure what that means,  
4 but what I can tell you is that VIP knew how to pull a  
5 proper permit. They've been doing it for 30 years.  
6 Right?

7 So he testify -- I'm sorry. Mr. Reit testified that  
8 he was in a hurry and he acted in haste, and that's why  
9 he put the City of Airway Heights down instead of VIP,  
10 which, under the law, he was required to identify.

11 Let's see here. So I guess, in conclusion, VIP was  
12 properly cited at both locations, at both the Medical  
13 Lake and Airway Heights locations. They did not obtain  
14 an electrical work permit as required by the law. Again,  
15 going back to the distribution of power, I mean, if you  
16 just focus on that alone, the citations should be  
17 affirmed.

18 So at both locations, VIP did not obtain an  
19 electrical work permit prior to starting that electrical  
20 work, did not obtain an inspection at the Airway Heights  
21 installation, and made a material or false statement on a  
22 permit.

23 In its appeal, VIP assigns error to conclusions of  
24 law 5.1, 5.15, and 5.16. The remaining findings of fact  
25 and conclusions of law are unchallenged.



1           As discussed in the Department's briefing, the  
2 errors assigned to conclusions of law 5.11, 5.15, and  
3 5.16 do not change the fact the violations occurred. VIP  
4 did not meet its burden to prove that the June 22nd,  
5 2022, initial order is incorrect, and for that reason, I  
6 would ask that this board affirm that initial order.  
7 Thank you.

8                               CHAIRPERSON JENKINS: All right.  
9 Thank you very much. This is chair -- Board Member  
10 Jason.

11           Any questions from the board? Yes, Board Member  
12 Cox?

13                               BOARD MEMBER COX: Board Member Cox,  
14 C-o-x.

15           For the appellant, on the Socapex cable, is there an  
16 electrical plug on one end of that cable that would plug  
17 into an individual 120-volt electrical outlet, and on the  
18 other end of the cable, you would have -- on the opposite  
19 end of that connection, would you have 120-volt  
20 electrical receptacle or -- yeah, on the end of the cable  
21 on that Socapex cable?

22                               MR. REIT: Yes.

23                               BOARD MEMBER COX: Does that make  
24 sense?

25                               MR. REIT: Yep.



1 BOARD MEMBER COX: Okay.

2 MR. REIT: (Inaudible) think of it as  
3 a glorified extension cable.

4 BOARD MEMBER COX: Okay.

5 MR. REIT: There's six of them bound  
6 together.

7 BOARD MEMBER COX: Six into one?

8 MR. REIT: Right.

9 BOARD MEMBER COX: Okay. So if I have  
10 the first connector on the end that plugs into the GFCI,  
11 and I have -- and that would correspond to the receptacle  
12 at the other end of the cord as No. 1, and No. 2 would  
13 plug into the second GFCI, and you'd have the No. 2 -- so  
14 I'm understanding it, it's just -- it's six extension  
15 cables in one enclosure?

16 MR. REIT: Correct.

17 BOARD MEMBER COX: So as not to cause  
18 a trip hazard?

19 MR. REIT: Correct.

20 BOARD MEMBER COX: Thank you.

21 CHAIRPERSON JENKINS: Any other  
22 questions or comments from the board? Jason, Chair.

23 BOARD MEMBER CUNNINGHAM: Board Member  
24 Cunningham, C-u-n-n-i-n-g-h-a-m.

25 I didn't find a specific -- and maybe you can point



1 me to it -- a specific reference to a WAC article that  
2 pertains to temporary -- like a portable show, portable  
3 installation, temporary installations, and seems like all  
4 this equipment -- and I actually have experience in this  
5 industry -- is all modular connections.

6 And typically the only place that I've seen in the  
7 inspection performed is where the -- where an  
8 electrician, who is a licensed electrician, is making  
9 connections from a distribution rack where there's  
10 amplifiers and lots of (inaudible) protection to, you  
11 know, house mains.

12 And so what I'm understanding by this case, every  
13 stagehand that runs, you know -- that brings big boxes  
14 off the truck, they unload thousands and thousands of  
15 feet of cable, they're all supposed to be qualified trade  
16 labor in the state?

17 MS. ZURLINI: I would argue that's not  
18 in the record. That's not a question that we addressed.

19 BOARD MEMBER CUNNINGHAM: Okay. And  
20 so a permit has to be pulled for every -- what about when  
21 you're bringing in trusses preloaded with lighting  
22 fixtures? Is that -- those are -- those are constructed  
23 somewhere else out of state.

24 MS. ZURLINI: Again, not part of this  
25 record. The only thing that's part of this record is



1 basically what Mr. Reit and I have discussed.

2 BOARD MEMBER CUNNINGHAM: Okay. So  
3 installing -- installing cables from a listed piece of  
4 equipment to other listed devices is interpreted as  
5 distribution and requires a permit?

6 MS. ZURLINI: Also maybe -- and  
7 because I don't speak electrical, that is also not a  
8 topic that we discussed. What we discussed was the  
9 source of the power and then basically the distribution  
10 of power from there, how it was distributed, then across  
11 the event space and where it ended was at the stage.

12 So any --

13 BOARD MEMBER CUNNINGHAM: Is this  
14 being -- is this being enforced consistently across the  
15 entire state?

16 MS. ZURLINI: There wasn't any  
17 evidence to say that it was or wasn't or isn't. So I  
18 would say, in general, Mr. Reit, when he's speaking in  
19 broad generalities, this is what the industry thinks or  
20 this is where the confusion lies, there's no evidence to  
21 support any of that.

22 I mean, that is his opinion, which, you know, he is  
23 able to share, but there's no factual basis for confusion  
24 in his trade.

25 CHAIRPERSON JENKINS: Any other





1 questions from board members? Yes?

2 BOARD MEMBER COX: Board Member Cox  
3 again.

4 And I don't know if this might be for Chief  
5 Molesworth. If the appellant would have installed six  
6 separate extension cords that would have plugged into the  
7 individual GFCIs at the panel and ran those individually  
8 to the stage and plugged his equipment in, would that  
9 have been considered distribution?

10 SECRETARY MOLESWORTH: Well, that's  
11 kind of irrelevant in this case because it wasn't.  
12 Right? So I don't want to get into a discussion of  
13 what-if. It's irrelevant because that wasn't what  
14 happened in this particular instance.

15 BOARD MEMBER COX: Okay. Because the  
16 position I'm taking on this is that the Socapex cable is  
17 simply a connector to plug extension cord, and so if -- a  
18 bundle under one sheet. It's not distributing power.

19 SECRETARY MOLESWORTH: Well, it still  
20 distributes power, but it's a different wiring method  
21 than probably what you're -- what you're thinking of for  
22 a distribution of power. It's one more different type of  
23 wiring method they can use to distribute power.

24 CHAIRPERSON JENKINS: Chair Jason  
25 Jenkins.



1           One thing that kind of got my attention was the --  
2 we looked on the Exhibit A on the one she brought up that  
3 has the (inaudible) diagram and the light fixtures.

4                           UNIDENTIFIED SPEAKER: Chairman  
5 Jenkins, could -- excuse me. Could you give me a page  
6 number, please?

7                           CHAIRPERSON JENKINS: Page number for  
8 this is Page 211.

9                           UNIDENTIFIED SPEAKER: Thank you.

10                          CHAIRPERSON JENKINS: (Inaudible.)

11           And if I understand it correctly, the residential  
12 plug-in appliances are completely exempt from permit,  
13 completely exempt. So there's no questions about those.  
14 This is not a residential application.

15           So had this been a one outlet plug-in, one fixture,  
16 I'd say, yeah, no permit required. It's done.  
17 (Inaudible.)

18           But going from one outlet to the fixture to fixture  
19 to fixture to fixture on top of that, if you scroll  
20 through a couple more pages, get to Page 312, right now,  
21 there's a picture of one of the DMX controlled light  
22 fixtures.

23           You'll see that the light fixture itself has a  
24 connector on the back. It goes up as a short stud  
25 connector, and it goes to a connection, and then it



1 connects back into another one. So there's literally two  
2 cables there, the bare minimum that connect two fixtures  
3 together.

4 To connect any distance between the fixtures, you  
5 have to have an adapter. You have an extension cord,  
6 basically how far you want to go, back to a connector,  
7 back into the light fixture.

8 And if (inaudible) process, it's the same thing.  
9 They put an adapter in. They put an extension cable.  
10 They put an adapter back in the light fixture.

11 This is not a single plug-in device. This is a  
12 multiple device. And then the argument about, well, this  
13 is a listed device. Well, it's listed to have one or ten  
14 devices. Choose the way you want to set up. So it's not  
15 a single listed device.

16 If you look on Page, moving down further, 327, they  
17 have the devices themselves. So individual bought,  
18 purchased the -- it's not a single device. It's a  
19 system.

20 So they're putting in a lighting system, and so  
21 that, to me, is distributing from fixture to fixture to  
22 fixture. It would fall under the distributor options, in  
23 my opinion.

24 The cable itself going from the cable back to a  
25 three -- six extension cords out of one cord, back to



1 three cords, I don't know. I don't know if you want to  
2 call it distribution because they're not buying the  
3 individual circuits. We're just pulling all the cables  
4 into one.

5 Bigger picture on this -- and I know it might be  
6 more opinion than anything else, should there be a permit  
7 pulled? I agree 100 percent permit should be pulled on  
8 every one of these.

9 You're talking about public access, walking over  
10 these cables and these cables (inaudible) to be exposed.  
11 If you look at the -- almost all the pictures show these  
12 bundles of cables wrapped up around different areas.  
13 They have these cables going across a walking space.

14 Should they be permitted? I 100 percent agree they  
15 all should be. They all should be looked at. And where  
16 the defining point is distribution, well, it's  
17 distribution going light fixture to light fixture,  
18 special conductors and cables, disconnecting, connecting.

19 I don't think it should be unpermitted based upon it  
20 is a distribution of lighting. And I looked up this  
21 documentation that's a forty -- I'm really familiar with  
22 the computer cables -- computer cables being a 46  
23 technology, which is the same basic technology they use  
24 for their -- super basic computer cables except it's  
25 being used for lighting control.



1           If it's being used for lighting control, I would  
2           agree with Ms. Zurlini. (Inaudible) option that exempts  
3           lighting control. That cable cannot be used as an  
4           exemption because honestly I think -- and I guess  
5           Mr. Molesworth can correct me on this, but I believe that  
6           whole extension system was based upon the computer  
7           location, (inaudible) computer required full permit to  
8           put jacks to your computer to your phone system to those  
9           little patch ports that are exempt. This is a very  
10          specialized application. So I'm in agreeance with the  
11          State's position.

12          Any other questions from the board? Comments?

13                         BOARD MEMBER COX: Board Member Cox.

14          I'm not sure who this question needs to go to. It  
15          might be to Chief Molesworth. But are not plug -- I'm  
16          talking about the DMX. The data connections, is not plug  
17          and cord or cord and plug connections exempt from  
18          permitting or is that only exempt from licensing?

19                         SECRETARY MOLESWORTH: So it depends  
20          on what kind of cord and plug you got.

21                         BOARD MEMBER COX: Okay.

22                         SECRETARY MOLESWORTH: In this case,  
23          it wouldn't be exempt because it's a different type of --  
24          it's not a -- it's not the appliance cord. It's not the  
25          extension cord. It's -- you know, this is a -- a cable



1 that's used to interconnect if we're talking about the  
2 same --

3 BOARD MEMBER COX: DMX, yeah. It's --  
4 it's a male-female connector, click. It locks in.

5 SECRETARY MOLESWORTH: Yeah.

6 BOARD MEMBER COX: So that would not  
7 be -- okay. I guess I'm not understanding why that  
8 wouldn't be.

9 SECRETARY MOLESWORTH: Not for this  
10 type of equipment, not for this type of application.

11 BOARD MEMBER COX: Is there an RCW or  
12 WAC that addresses the difference between one application  
13 and another on whether it's a cord or plug connected  
14 system --

15 SECRETARY MOLESWORTH: There would be.  
16 I can't give you that right off the top of my head, but  
17 there is some definition and some explanation around  
18 that.

19 CHAIRPERSON JENKINS: Any more  
20 discussion from the board? Yes?

21 BOARD MEMBER KNOTTINGHAM: Board  
22 Member Knottingham.

23 If you look at (inaudible). If you look at Page 227  
24 in the board packet -- and I believe this was submitted  
25 by VIP -- it talks about ESDA standards and the American



1 National Standards and entertainment technology  
2 references. Again, this is 512.

3 You go on to the next page under scope, standard  
4 describes (inaudible) digital -- data transmission  
5 between controllers. Controlled equipment is described  
6 in Clause 194.

7 So I think clearly it's electronic. It's -- it's  
8 data that -- I mean, clearly it's defined as controlled,  
9 which is exempted. Permits are required. That's my  
10 understanding.

11 CHAIRPERSON JENKINS: Thank you.  
12 Chair Jason, once again.

13 Any other questions, concerns? If not, chair would  
14 entertain a motion.

15 BOARD MEMBER KNOTTINGHAM: Board  
16 Member Knottingham.

17 I make a motion that we affirm the citations.

18 CHAIRPERSON JENKINS: We have a  
19 motion. Do we have a second?

20 BOARD MEMBER NORD: Board Member Nord.  
21 Second.

22 CHAIRPERSON JENKINS: We have a  
23 motion. We have a second. Any discussion?

24 Hearing none, all in favor of affirming the OAH  
25 decision, signify by raising your hand. Four, five, six.



1           Opposed? Two.

2           Motion passes. So -- yes?

3                           BOARD MEMBER BAKER: Board Member  
4 Baker.

5           I'd just like to make a comment. Mr. Reit asked  
6 the -- actually hoped that this board will provide some  
7 clarification. I believe he has -- I've dealt with the  
8 same frustration across the state with different  
9 jurisdictions not interpreting the codes and specifically  
10 with low (inaudible) tests in the past where I would get  
11 one inspector come out and not know what he's inspecting.  
12 Another jurisdiction would tell me they don't need a  
13 permit.

14           And I do believe that Mr. Reit and anybody else  
15 that's a stakeholder in the industry deserves to have  
16 some clarification and possibly some training across the  
17 state so we're consistent in how we're dealing with our  
18 stakeholders.

19                           CHAIRPERSON JENKINS: So I'm hearing  
20 that -- Chair Jason.

21           I'm hearing the suggestion to the division to get  
22 more training and information out concerning  
23 installations (inaudible) in this capacity?

24                           BOARD MEMBER BAKER: Yes. I'm curious  
25 what an inspector would look at when he looked at that





1 site. I believe our stakeholders need to know what the  
2 inspectors are going to be looking at when they come out  
3 to the site as well.

4 CHAIRPERSON JENKINS: Thank you very  
5 much. All right. Well, thank you very much. Board has  
6 made its decision.

7 Ms. Zurlini -- Ms. AAG Zurlini, have you prepared a  
8 proposed order?

9 MS. ZURLINI: I have.

10 CHAIRPERSON JENKINS: All right. I  
11 would like the parties to adjourn to the lobby to see if  
12 the terms of the order can be agreed upon. Please do not  
13 leave today if you -- until you have let us know if  
14 you'll need additional time or have reached an agreement.

15 Please be advised that if you do not reach an  
16 agreement today, then that will be -- automatically be  
17 sent for presentment at the regularly next -- the regular  
18 scheduled -- next regularly scheduled board meeting.

19 If an agreed order has not been received by that  
20 date, the parties will be expected to file their proposed  
21 orders, appeal, and advise what proposed order best  
22 reflects the board's decision. Hopefully that's not  
23 necessary.

24 If You're able to reach an agreement as to the form  
25 of the order be- -- or before the next meeting, please



1 forward it to the secretary of the board office, and they  
2 will ensure signed copies are provided to the parties.

3 Any questions?

4 MS. ZURLINI: No.

5 CHAIRPERSON JENKINS: All right.

6 Thank you very much.

7 Do the board members -- take a break? Are we good?

8 UNIDENTIFIED SPEAKER: Break.

9 CHAIRPERSON JENKINS: Break. All  
10 right. So let's do that. Let's take a ten-minute  
11 break-ish, and let's get back here at 20 till  
12 (inaudible). Back here at 11:40.

13

14 CAVALIER CORPORATION

15 CHAIRPERSON JENKINS: All right. So  
16 the next item on our list here is the appeal from  
17 Cavalier Corporation on (inaudible) representation we  
18 have later. I'm sorry?

19 UNIDENTIFIED SPEAKER: That's correct.

20 CHAIRPERSON JENKINS: Yeah.

21 (Inaudible) corporation.

22 And we have Ms. Zurlini. I'm assuming you're the  
23 representation for the department?

24 MS. ZURLINI: I am.

25 CHAIRPERSON JENKINS: Okay. The



1 matter before us today is an appeal of the matter of the  
2 Cavalier Corporation, Docket Nos. 05-2020-LI-01434 and  
3 05-2020-LI-01435. The hearing is being held pursuant to  
4 due and proper notice to all interested parties in  
5 Spokane, Washington, on April 27, 2023, at approximately  
6 11:47.

7 This appeal initial -- this is an appeal with  
8 initial order issued by the Office of Administrative  
9 Hearings on July 27th, 2022. It is my understanding that  
10 the decision was affirmed. Citation notices EALRD00738,  
11 EALRD00739, and EALRD00740 issued by the Department of  
12 Labor and Industries on January 30th, 2020.

13 It is further my understanding that the appellant  
14 has timely appealed that decision to the electrical  
15 board.

16 Did you hear my procedures from before?

17 MR. RIDDLE: Yes, sir, I did.

18 CHAIRPERSON JENKINS: Okay. Any  
19 questions before we begin?

20 MR. RIDDLE: No. No.

21 CHAIRPERSON JENKINS: Okay. As the  
22 appealing party, you have the burden of proof to  
23 establish that the proposed decision is incorrect.  
24 Therefore, we'll hear from you first.

25 So if you could please spell your name for the



1 recording, and then we can move forward.

2 MR. RIDDLE: My name is Warren Riddle.  
3 It's spelled W-a-r-r-e-n. Riddle is R-i-d-d-l-e, kind of  
4 like a joke. I'm accompanied by fellow officer in the  
5 corporation, my lovely wife of 57 years. And I guess  
6 I'll mention she's an officer in the corporation also.

7 Do you want me to proceed?

8 CHAIRPERSON JENKINS: Yes. Please  
9 proceed.

10 MR. RIDDLE: We're not really ready to  
11 be here, and at -- we were promised a transcript from OAH  
12 in electronic form, and we never received it. We've  
13 written OAH about it, and they were not responsive to us.

14 Also, when I sent my closing arguments, written  
15 arguments, I did not get a certified mail receipt from  
16 them. I just assumed that -- that the -- I just assumed  
17 that the office of OAH is in disarray after the COVID  
18 thing or something of that nature.

19 I really don't have knowledge of that except what  
20 I've already verbalized. I didn't get a transcript, and  
21 I did not get a receipt from the (inaudible).

22 This case kind of reminds me of an analogy or  
23 (inaudible) -- I'm going to make this short, so I hope  
24 I'm not off the subject -- where some John Doe -- this is  
25 an analogy. Some John Doe is running a security firm,

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1 and the cop down the street from him doesn't like -- he  
2 sets up a -- he -- the cop sets up a camera, speed  
3 camera, and at the end of the year, he brings -- presents  
4 200 tickets to this guy in this analogy.

5 Okay. If -- we haven't received -- Cavalier  
6 Corporation or me, as the administrator of Cavalier  
7 Corporation -- Cavalier, I will mention, is a general  
8 contractor and also an electrical contractor, an 01  
9 electrical contractor. Not by choice. We've been told  
10 we need to do this. We've been told by the Department  
11 these radon systems need permits.

12 Okay. So we take out permits for them. Okay. And  
13 I sympathize when the earlier testimony -- one of the  
14 gentlemen said, you know, "The law is not applied  
15 evenly," this and that.

16 But, you know, in my opinion, when I install a  
17 passive radon system that has no fan and has no  
18 electrical components and it has no electrical leads  
19 going into it, I still buy a permit because some of the  
20 inspectors want to know where all these radon systems  
21 are.

22 Okay. So going on here, I draw your attention to  
23 the WACs because this has become an issue, and I'd like  
24 to hear a response from my opponent over here. In the  
25 WAC 296-46B-915(12)(d), the prescription -- I'll pause --



1 is the prescription for penalties of fees.

2 My version of the WAC says that a fee for  
3 administrator not properly overseeing on a B permit is  
4 \$100. This was discussed in the OAH. I don't know why.  
5 To me, it's fraudulent if the AG wants to -- to break the  
6 law and chooses to break the law.

7 We feel this is -- is similar or the same as the  
8 doctrine that (inaudible) has. I don't think that the  
9 attorney general and the Department can come in here and  
10 say, "We're choosing to break the law here. Gosh, you  
11 know, we're going to hold your feet to the fire."

12 I don't think you can get the Superior Court to  
13 agree with you guys on that.

14 So I want you guys to -- and I'll wrap this up here  
15 in just a moment -- to consider, when John Doe calls my  
16 office -- and keep in mind also, it's a statutory thing.  
17 In Spokane County, every new house with a residence or  
18 even a business with a residence, every new residential  
19 house gets a radon pipe, and you can't get past it.

20 Often people will be calling our office and saying  
21 this, "Gee, I have high radon readings. Can I activate  
22 my passive radon system?"

23 The passive radon system, as I mentioned earlier, is  
24 ABS piping, you know, a pit, a roof jack, some things of  
25 this nature.



1           So we go to the house there, and there's a duplex  
2           receptacle there right next to it because it's statutory  
3           in the National Electric Code. We say to people and it  
4           says to us, if we're planning on having electrical  
5           devices in the attic, we put a duplex there. It's  
6           reflected in the Washington energy code that deals with  
7           radon. It shows a diagram with a (inaudible), a plug-in,  
8           a receptacle for future plug in of a radon fan so the  
9           homeowner can go up there and put his radon fan in.

10           In other words, he gets on Amazon. He goes up there  
11           into his attic, severs the pipe, bolts the fan in place  
12           with the (inaudible) antivibration rubber cufflinks and  
13           so forth. He plugs in. He's done.

14           Okay. So we're out here. We're taking out permits.  
15           Whose name do I put on -- if it's a permit for a passage  
16           system? Do I put on the guy who glued the pipes  
17           together? The guy who did the roof jack? The guy that  
18           Diamondcord the hole through the floor -- the cement  
19           slab?

20           So if we had some permits out there -- we, Cavalier,  
21           that have various names on them of whoever is there --  
22           okay. My question to you would be, is, say I'm in a  
23           commercial building and I'm activating a fan. Do I need  
24           an 01 electrician to put this plug-in in? Can John Doe  
25           put this plug in?



1           The question is, is there a violation or not? It  
2 isn't that, hey, you're -- I'm sorry. Give me a second.

3           The issue -- I guess I'm repeating myself. The  
4 issue -- the issue is whether a nonlicensed person, a  
5 noncertified, nonqualified person can plug a fan in, you  
6 know, and I guess you guys agree with me because this is  
7 really interesting. This is a thing for Superior Court  
8 to look at how you guys handle electrical.

9           So I do want to mention that no one apparently has  
10 looked at a large number of my signs and all the  
11 complaints. There's not been an inspector out that says,  
12 "Hey, John Doe is up in the attic here. He's not a  
13 certified person."

14           And I do not -- I'll admit right now. I do not use  
15 an electrical -- a certified electrical person for the  
16 guy who drills the hole through the floor, the guy that  
17 develops the pit, the guy that does the plumbing, the guy  
18 that does the roof jack, so forth.

19           So that's the issue. And you don't have -- my  
20 position would be that OAH didn't introduce any evidence  
21 other than they didn't like the way I filled out permits.  
22 And I'll say to you guys, if you don't like the way I  
23 fill out permits, then in this box here, seems like the  
24 programmer essentially has it referred to a table as a  
25 table of every qualified person that is currently





1 qualified in the state of Washington, and if it doesn't,  
2 then you don't accept the permit. This is like stalking.

3 And that's it. I'll conclude.

4 CHAIRPERSON JENKINS: Okay. Thank you  
5 very much. Ms. Zurlini?

6 MS. ZURLINI: Thank you. So I'm going  
7 to start just briefly with the penalty schedule. The  
8 office of the attorney general does not set the penalty  
9 in any of these cases, nor does the Department. It's --  
10 the penalty schedule in the WAC is what determines what  
11 penalty is assigned to the citation being appealed, just  
12 so we're all on the same page there.

13 In terms of -- Mr. Riddle has done a nice job  
14 speaking in generalities and what happened within his  
15 industry, the types of jobs that he does, but what we're  
16 here today to talk about are 29 specific noncompliance  
17 locations where 29 Class B permits are implicated. So  
18 we're not speaking about in general. We're speaking  
19 about these 29 locations.

20 The material facts in this case, they're not  
21 disputed. There are 29 compliance locations and 29  
22 Class B permits at issue. Cavalier admitted it validated  
23 26 of those Class B permits, using Mr. Riddle's  
24 administrator license or his trainee license.

25 You can't use an administrator license in the place



1 of a certified installer license. You can't use a  
2 trainee license number in the place of a certified  
3 installer. And Cavalier and Mr. Riddle did agree that  
4 that, in fact, is what Cavalier did.

5 Cavalier also -- two of the Class B permits, it  
6 identified certified installers whose numbers were not  
7 recognized by the Department. They're not numbers that  
8 are consistent with any of the licenses for certified  
9 electricians.

10 And then finally, the final -- the 29th Class B  
11 permit was just wholly -- it wasn't validated. It was  
12 posted but not validated, and that is in the record.

13 And on this Class B permit, a certified installer  
14 wasn't even identified. So, again, we're talking about  
15 these, which you all have 29 Class B permits for the 29  
16 locations, and for each of these, there are three  
17 violations for each.

18 So Mr. Riddle obviously is the administrator for  
19 Cavalier, and he speaks about who's responsible for  
20 making sure these are accurately filled out, and that's  
21 his responsibility, to ensure Cavalier fills these  
22 Class B permits out accurately, and that's across the  
23 entire industry.

24 That's an administrator's job, one of them, is to  
25 ensure Class B -- all permits are, in this case,



1 validated appropriately.

2 So the law is clear. Mr. Riddle, as a certified  
3 installer -- actually, excuse me -- Cavalier employed  
4 Mr. Riddle, one, as the administrator and the president,  
5 so he is an employee of Cavalier.

6 So Cavalier, across these citations or Class B  
7 permits, employed an uncertified installer, either  
8 Mr. Riddle or the two folks that we don't know who they  
9 are because the number doesn't really apply to any one  
10 particular individual. And then, of course, the last  
11 one, no certified installer was named.

12 Also not in dispute, Mr. Riddle does not possess a  
13 certificate of competency. He's not a certified  
14 electrician. Therefore, the citation that was issued to  
15 him, also not in dispute. He was identified as the  
16 person performing the work, and he's not certified to do  
17 so.

18 And, again, those facts are not in dispute, and I  
19 would point out -- so Cavalier and Mr. Riddle, they did  
20 not dispute findings of fact No. 4.1 through 4.17. And  
21 they did not dispute findings of fact 4.19 through 4.24.  
22 Those remain unchallenged.

23 Mr. Riddle and Cavalier did not dispute conclusions  
24 of law 5.1 through 5.18. 5.19 was a request from the  
25 administrative law judge to lower the penalties -- asks



1 you to lower the penalties associated with these  
2 infractions, and that's just something that you don't  
3 have the authority to lower those. Again, we're looking  
4 at a penalty schedule that is adopted in WAC.

5 With regards to -- and addressing this -- I know  
6 that Mr. Riddle has not necessarily talked about this,  
7 but it is in his briefing, so I'm going to address it.

8 In Mr. Riddle and Cavalier's appeal, they do assign  
9 one error, and that's to finding of fact 4.18. And that  
10 speaks to -- oh, it talks about the line voltage in that  
11 finding of fact. The judge says that Mr. Riddle and  
12 Cavalier failed to mark the line voltage box on the  
13 Class B permits.

14 Mr. Riddle agrees that the Class B permits do  
15 include line voltage, but in regards to -- actually was  
16 in their appeal -- they say that the -- oh, "No such box  
17 exists." So basically we didn't check the box because no  
18 such box exists.

19 But if you look at -- let's see here -- Page 126 of  
20 the record, the judge at some point -- as you probably  
21 read, we hit a point where the judge just asked if  
22 Mr. Riddle would stipulate to the existence of the line  
23 voltage box, and he did.

24 He also stipulated that the line voltage boxes were  
25 not checked, and for that alone, that alone, on all 29,



1 the OAH's decision should be affirmed. All of the  
2 different citations that were -- well, I guess the --  
3 anyway, on that alone, you can find in favor of the  
4 Department by affirming the OAH decision.

5 But going back to 4.1, you should give no deference  
6 or weight to that because he contradicts himself, or  
7 Riddle -- Mr. Riddle and Cavalier contradict themselves.

8 So then the discussion in the briefing about  
9 plug-ins, and he -- Mr. Riddle discussed it here a moment  
10 ago -- passive systems, and in, again, their briefing,  
11 they go through, you know, the Department's knowledge of  
12 the radon fans and Cavalier's system and the Department's  
13 website and all of these, you know, different errors  
14 assigned.

15 I would note that the record does not provide any  
16 information about the technology that was used at any of  
17 these 29 locations. Just because he talks about passive  
18 versus -- I don't know what the opposite of passive is --  
19 but whatever technology would be different than passive,  
20 there's no evidence in the record as to what was used,  
21 what the conversations were at any of these locations.

22 All we have and is sufficient are the 29 Class B  
23 permits, identifying uncertified installers and one that  
24 was just simply not validated.

25 So based on that, the Department asks you to affirm



1 OAH's decision, and that's it.

2 CHAIRPERSON JENKINS: Thank you very  
3 much. Jason, chair.

4 Any comments from the board members? Questions?

5 I will bring up one comment that if you look on --  
6 let's see -- multiple locations, but there's a permit  
7 number labeled B00123770. One of the permits on the list  
8 of violations actually is outside the window of the  
9 prospective two-year scope or whatever the scope was from  
10 '19 to '20.

11 MS. ZURLINI: I'm sorry. Can you give  
12 that permit number to me again?

13 CHAIRPERSON JENKINS: Yeah. I've  
14 looked at the B001237710. (Inaudible) date issues with  
15 that. That one is actually outside the -- if you look at  
16 the OAH's scope of one of the violations there, the  
17 window they're looking at, one of those falls outside the  
18 window. It's been mistakenly used on different dates,  
19 and you go to the permit number, it's really different  
20 from the -- all the rest of them.

21 MS. ZURLINI: Okay.

22 CHAIRPERSON JENKINS: (Inaudible.)

23 MS. ZURLINI: Can you just give me one  
24 moment to catch up to you?

25 CHAIRPERSON JENKINS: Yep. Go ahead.



1 UNIDENTIFIED SPEAKER: Mr. Chair?

2 CHAIRPERSON JENKINS: Yes?

3 UNIDENTIFIED SPEAKER: The B

4 permits -- the number is fixed, right, the ones you're  
5 looking at? So depending on what group of permits he was  
6 using, it may have been used during that time period, but  
7 the numbers may look drastically different.

8 CHAIRPERSON JENKINS: Thank you very  
9 much. Jason, chair, again.

10 This -- if you look at the dates, at the violation  
11 date range, that actually -- the error is somewhere  
12 because the one says '18. This one says '19.

13 So they're -- I believe that one was mistakenly  
14 pulled with the other ones. I could be wrong. I'm  
15 trying to pull it up now, take you to a page.

16 MS. ZURLINI: So this is the permit  
17 that was validated on April 2nd, 2018?

18 CHAIRPERSON JENKINS: Yes. Which I  
19 think they started the window March of '19. There it is.  
20 Am I correct with that? That seems written out -- and  
21 suddenly I lost my tab. It disappeared on me. Give me  
22 one second, please.

23 MS. ZURLINI: So if the violation --  
24 and I'm just trying to catch up with you. So if the  
25 violation, which on the Department's matrix, the



1 violation date or the range is the date of validation.

2 So if the violation date otherwise known as the  
3 validation date, if it's 10/28/2019 -- so we would be  
4 able to go back as far as 10/28 of 2017. And that would  
5 capture the Class B permit you're talking about.

6 CHAIRPERSON JENKINS: It would, but  
7 there's -- I think it would be the OAH (inaudible) date  
8 start range to the end range. Am I correct in that?

9 MS. ZURLINI: Oh, so you're looking at  
10 the order?

11 CHAIRPERSON JENKINS: Well, there is  
12 October 2019, January 2020. There it is on Page 23 of  
13 our electrical packet.

14 MS. ZURLINI: I don't have the whole  
15 packet here. There's just -- are you looking at the  
16 actual order?

17 CHAIRPERSON JENKINS: Page 4 of the  
18 order.

19 MS. ZURLINI: Thank you.

20 CHAIRPERSON JENKINS: Electrical  
21 packet Page 23, October 2019 to January 30th, 2020. I  
22 believe that's when the inspector did their window of the  
23 violations, and this one violation falls outside that  
24 window. So I would say, given that, I would want to  
25 (inaudible) at least one of the violations off the list.

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1 MS. ZURLINI: So you're looking at  
2 4.10?

3 CHAIRPERSON JENKINS: Yes, I am.

4 MS. ZURLINI: Okay.

5 CHAIRPERSON JENKINS: Yes?

6 SECRETARY MOLESWORTH: Molesworth.

7 So I'm curious about the window. I need that  
8 defined a little bit.

9 Are we talking about a statute of limitations window  
10 or are we talking about something that the inspector said  
11 I -- these permits within this period of time?

12 CHAIRPERSON JENKINS: When I went  
13 through this, it looked like the OAH was saying that, if  
14 you keep going back further and further, more violations  
15 not being counted. So they took a window of this Point A  
16 to Point B and they violated I think it said two-year  
17 window effectively.

18 SECRETARY MOLESWORTH: Okay.

19 CHAIRPERSON JENKINS: And it says we  
20 were counting these violations (inaudible) --

21 SECRETARY MOLESWORTH: So --

22 CHAIRPERSON JENKINS: That fell  
23 outside that window.

24 SECRETARY MOLESWORTH: So my comment  
25 would be, that's still an illegal permit and that it



1 doesn't fall outside of the -- any statute of limitations  
2 because our statute starts at the time that we've  
3 identified something being wrong, and we have two years  
4 to issue.

5 CHAIRPERSON JENKINS: Yes. I was  
6 just --

7 SECRETARY MOLESWORTH: I just wanted  
8 to make sure.

9 CHAIRPERSON JENKINS: -- being more  
10 generous in the reality that these windows (inaudible)  
11 applying for -- yes, it's a violation. Don't get me  
12 wrong. But it just falls outside the one that he was  
13 calling a violation, outside that normal window of where  
14 all of us (inaudible).

15 SECRETARY MOLESWORTH: Gotcha.

16 CHAIRPERSON JENKINS: (Inaudible) from  
17 one violation.

18 MS. ZURLINI: Well, and I think if  
19 I'm -- when I read 4.10, I think that you're looking at  
20 October 2019 to January 30, 2020?

21 CHAIRPERSON JENKINS: I might be  
22 looking at that -- I might be quoting wrong.

23 MS. ZURLINI: Okay. Well, so I'm  
24 looking at the initial -- or the proposed decision and  
25 order 4.10, which I think is the one you were talking



1 about. And is that what you were talking about?

2 CHAIRPERSON JENKINS: I believe it  
3 was -- let me restate what I was saying. Roll back up to  
4 the Page 3, jurisdiction -- occurring from March 6th,  
5 '18, until January 2020, I believe that one fell outside  
6 that realm.

7 Anyway --

8 MS. ZURLINI: So I'm not sure why the  
9 judge said that. What I will tell you is that, looking  
10 at 4.10, it looks like Inspector Alred's investigation  
11 started on October 1st, 2019, and went through  
12 January 30th of 2020, and that was the period that he  
13 performed his inspection.

14 That is, I guess I would argue, a typo. The record  
15 supports the inclusion of all 29.

16 CHAIRPERSON JENKINS: Okay.

17 MS. ZURLINI: So I --

18 CHAIRPERSON JENKINS: (Inaudible.)

19 MS. ZURLINI: Yeah. Thank you.

20 CHAIRPERSON JENKINS: Any other  
21 questions or comments from the board? (Inaudible.)

22 Yes, Board Member --

23 BOARD MEMBER COX: Board Member Cox.

24 Probably a question for Chief Molesworth. So if a  
25 B permit is filled out and it's not needed and it's not



1 retracted, if that's the best way of -- I think Inspector  
2 Alred said taken back -- if it's not retracted, it's  
3 still a valid permit and the information that's included  
4 in that permit is what the Department uses for the  
5 citation?

6 SECRETARY MOLESWORTH: Right.

7 BOARD MEMBER COX: And I know we've  
8 had this conversation in the last couple of appeals about  
9 hypotheticals. Had the contractor found that no work was  
10 necessary and he -- and he retracted the permit, whatever  
11 process that is for B permit, this wouldn't be an issue.  
12 Is -- or do we -- can we go there?

13 SECRETARY MOLESWORTH: It's not an  
14 issue, I don't think --

15 BOARD MEMBER COX: Okay then.

16 SECRETARY MOLESWORTH: -- here today.

17 (Simultaneous speaking.)

18 BOARD MEMBER COX: All right.

19 SECRETARY MOLESWORTH: I would be  
20 speculating.

21 BOARD MEMBER COX: Okay. That's --  
22 all right. Because what I see going on, from what I hear  
23 the testimony and the record, is that the appellant was  
24 told, pull a permit for every radon system you put in,  
25 and he's trying to obey the law, and he goes out there



1 and maybe there's already a receptacle near where they  
2 need to plug this thing in or it's a passive system.

3 And as I'm reading in here, the testimony, because  
4 the B permits aren't that expensive, they don't bother  
5 retracting the permit, thus leaving the situation.

6 And then we do -- the inspector does an  
7 investigation and finds all these still active permits.

8 Somebody correct my thinking if I'm going down the  
9 wrong path, but that's what I'm seeing happening here.

10 MS. ZURLINI: Is it appropriate? Can  
11 I jump into that or not?

12 CHAIRPERSON JENKINS: (Inaudible) is  
13 that a question?

14 BOARD MEMBER COX: I would -- I'll --  
15 yes, I'll pose it as such, and I'd be happy to have you  
16 address that, please.

17 MS. ZURLINI: Oh, sure. So in  
18 response, adhering -- Mr. Riddle and Cavalier had the  
19 opportunity to present evidence for each of those 29  
20 locations and what specifically happened. And in the  
21 absence of that information, your question can't be  
22 answered because we just can't assume what did or did not  
23 happen.

24 BOARD MEMBER COX: Okay.

25 MS. ZURLINI: So they had the



1 opportunity to tell us, and they did not do that.

2 BOARD MEMBER COX: Okay. Very good.  
3 Thank you, Counsel.

4 MS. ZURLINI: Thank you.

5 CHAIRPERSON JENKINS: Chair Jenkins  
6 one more time.

7 One thing I noted here is all these permits between  
8 the time frames there show that Mr. Riddle was the  
9 installer for those, and even during that time frame he's  
10 a trainee, which we also found out -- we know that  
11 trainees are not supposed to be on -- the permit is  
12 supposed to be the GW that's signing off on it.

13 But the trainee card was expired at the time also,  
14 so it wasn't even a trainee. It was expired trainee card  
15 all during that time.

16 On top of that, there was no GW signed off on it,  
17 and so there's multiple errors on (inaudible).

18 Any questions or comments from the board?

19 Hearing none, the chair would entertain a motion.

20 Board comments? Yes, Board Member Gray?

21 BOARD MEMBER GRAY: This is Chair  
22 Gray -- Board Member Gray, G-r-a-y.

23 Move to affirm.

24 CHAIRPERSON JENKINS: We have a  
25 motion. Do we have a second?



1 BOARD MEMBER NORD: Board Member Nord.

2 Second.

3 CHAIRPERSON JENKINS: We have a

4 second. Any discussion?

5 Hearing none, all in favor of the board affirming  
6 the ALJ's decisions, raise your hand. Six, seven.

7 All opposed? I see none.

8 Motion is affirmed as it stands.

9 All right. So thank you. The board has made a  
10 decision.

11 Ms. Zurlini, have you prepared a proposed order?

12 MS. ZURLINI: I did.

13 CHAIRPERSON JENKINS: All right. So  
14 would you please have the parties (inaudible) the order  
15 can be agreed upon. Please do not leave today until you  
16 have let us know if you need additional time or have  
17 reached an agreement.

18 Please be advised, if you do not reach an agreement  
19 today, that will be automatically set for presentment at  
20 the next regularly scheduled board meeting.

21 If an agreed order cannot be received by that date,  
22 the parties will be expected to file a proposed order,  
23 appear and advise the proposed order (inaudible) the  
24 board 's decision. Hopefully it will not be necessary.

25 If you're able to reach an agreement as to the form



1 of the order before the next meeting, please forward to  
2 the secretary of the board and (inaudible) signed and  
3 provided (inaudible).

4 Thank you very much for your time.

5 MS. ZURLINI: Thank you.

6 CHAIRPERSON JENKINS: All right. It  
7 is now 12:15. I think it's probably a good time for a  
8 lunch break before we go into our next item, which is I  
9 believe the Department's (inaudible). Yeah, the reports.  
10 Thank you.

11 So at that point there, we'll adjourn for the --  
12 everyone okay with one hour? One hour. So be back here  
13 at, say, 1:15 and we'll start our reports.

14 CHAIRPERSON JENKINS: Testing.  
15 Testing. Can you hear me?

16 All right. All right. So it is now one -- almost  
17 1:20 on April 27th, and now bringing the Washington State  
18 Electrical Board meeting back to order.

19 All right. We are up to our Item No. 4, the  
20 Departmental/Legislative Update with Mr. Larry Vance.

21 Technical Specialist Larry Vance, the floor is  
22 yours.

23 DEPARTMENTAL/LEGISLATIVE UPDATE

24 MR. VANCE: Thank you, Chairman  
25 Jenkins. My name, for the record, is Larry Vance,





1 L-a-r-r-y, V-a-n-c-e.

2 First off, I'd like to speak a little bit about the  
3 electrical exams. Get the report open. You all received  
4 these reports in the -- in the board packet. Pardon me  
5 while I'm scrolling here. My computer is telling me my  
6 battery is low.

7 I sent you the old report. This is very  
8 interesting. I sent you the old report. This is a  
9 report that I don't think any board member here has ever  
10 seen. It is the first time pass rate for each exam  
11 section.

12 Thank you very much, Brian.

13 So it's -- this is -- this is a report that we used  
14 to use, and I apologize that I didn't send you the  
15 correct report, but we can certainly talk about this  
16 report.

17 And under the 01 electrician general exam, there's  
18 two sections, one being the 01 general NEC and theory  
19 exam section, and the other one being the laws and rules  
20 section.

21 And it's interesting how each one of those -- and  
22 it's roughly 65 percent of people pass one of those  
23 sessions, and this is information that we found. And the  
24 board requested, well, how do we know how many actually  
25 passed the first time -- actually passed the first time?



1           So that's why we have the report that I've generally  
2           send -- generally included, and all this tells us is, is  
3           that about 65 percent of the time, somebody passes one  
4           section of the exam, which is good.

5           But what it -- what history tells us in the actual  
6           first time pass rate is, it's actually somewhere around  
7           51 percent of people pass both sections, so we'll see  
8           that change, I speculate, with more and more involvement  
9           in education and apprenticeship programs with those  
10          learning the 01 trade.

11          Rulemaking update. The last board meeting and board  
12          meetings prior to that, we -- we talked about rules to --  
13          rules to implement Substitute Senate Bill 6126, which was  
14          passed in 2018, and that bill is what implemented  
15          apprenticeship requirements. It also brought in an  
16          allowance for the Department to make rules -- temporary  
17          rules. That is the rulemaking that we just completed and  
18          the rule that goes into effect on July 1, 2023.

19          Well, that's great. That's -- we got that -- all  
20          that work done. It was a lot of work, many months of  
21          work, public hearings, public input, 53 public comments.

22          Meanwhile, moving through the legislature is a bill  
23          that ended up being Gross Substitute Senate Bill 5320.  
24          And what 5320 did is, it took the good cause rules  
25          that -- that are just going to be in place now for two



1 days. It's a rule that's going to be in place for two  
2 days, and I'll get to that.

3 What it did with that -- what it did with 6126 is,  
4 it did some housekeeping in 6126, and it provided  
5 permanent pathways for -- for military construction tying  
6 electricians out-of-state state-certified electricians,  
7 out-of-state electricians with 16,000 hours with  
8 4,000 hours of commercial industrial experience. It --  
9 it cleaned up a -- a limbo period that was created by no  
10 one's intention.

11 In order to qualify for the exam, you had to  
12 complete an apprenticeship. In order to work, you had to  
13 be a certified electrician or apprentice. So what it did  
14 is, it kind of put -- it put completing apprentices in  
15 limbo and the law corrected that.

16 Now you just have to complete the education and work  
17 experience requirements of an apprenticeship to qualify.  
18 So you can stay an apprentice. You get through the exam  
19 process, and -- and move on. So the law will also do  
20 that.

21 Well, when the law did all of this, it is now in  
22 conflict with the temporary provisions that are in the  
23 rule that just was completed. So what we -- what the  
24 Department has done is, they've turned around and they've  
25 filed an expedited rule.



1           Expedited rule is a little different -- different  
2 animal. It -- there's not public hearings. There's --  
3 it's expedited. And the only thing that the expedited  
4 rule does is, it implements the exact provisions of the  
5 law. So there is no other -- there is no other editorial  
6 changes or anything made to the rule.

7           So that rule is going to go into effect July 1 --  
8 July 3 -- on July 3 -- July 3rd. So we've got a rule --  
9 a good cause rule that goes into effect on July 1, which  
10 is Saturday, and on -- on Monday the -- the expedited  
11 rule goes into effect.

12           So the reason that happened was -- is that you  
13 can't -- you can't amend a law that's not in effect yet.  
14 So we had to have it in effect for a day or two, and the  
15 filing dates were such that that's how it worked out,  
16 but -- so the Department will never take an action on  
17 the -- on the -- with the rule that they spent so long  
18 with developing, but that's just the way things go.

19           So let's see. So we've covered the expedited  
20 rulemaking. We've covered the previous rulemaking, 5320,  
21 Substitute Senate Bill 6126.

22           The only other I -- change I have for you is -- is  
23 just a little -- little -- just a quick comment about --  
24 you'll see in the Electrical Currents newsletter has been  
25 published this month, but there was a law that passed



1 almost three years ago that -- that directed government  
2 agencies to end any practice of sharing Social Security  
3 numbers with nongovernmental agencies.

4 Well, we happen to use Social Security numbers to  
5 index exam dates with our -- with our testing firm, PSI.  
6 And it's -- it's done through a secured file transfer.  
7 It's done very -- very securely, but in order to -- in  
8 order to make this transition, what we've done is that we  
9 now have something called an exam unique identifier. So  
10 we're no longer going to be -- we're no longer going to  
11 be trading Social Security numbers outside the agency.

12 So if you see questions about that, that's what's  
13 going on. It's -- there's still a requirement -- a state  
14 and federal requirement for child support enforcement to  
15 collect Social Security numbers for anybody that we're  
16 issuing a license or certificate to. So that doesn't go  
17 away. It's just the fact that we can't send PSI out --  
18 an exam approval file with a Social Security number  
19 linked to it, so -- very, very simple stuff.

20 Any questions on any of that? Yes, Bob?

21 BOARD MEMBER GRAY: Thank you, Larry.  
22 So you mentioned that now, for example, active military  
23 personnel can get credit for work hours towards being  
24 able to take the examination.

25 How about civilians that work on military



1 installations? Do we still have a gap there where those  
2 folks' work hours do not give them credit towards  
3 eventually getting a license?

4 MR. VANCE: The Department is still  
5 going to -- the electrical program is still going to  
6 evaluate anyone's out-of-state experience, out-of-country  
7 experience. We're going to continue to evaluate that and  
8 provide credit in their electrical licensing record.

9 So if I'm a military person -- let's say I'm a --  
10 let's say I'm working as a -- if I'm working for a  
11 defense contractor in another country, is it a  
12 possibility that I could gain experience if there was a  
13 certified electrician there and I was working with that  
14 certified electrician.

15 There is a possibility, but there's some -- there's  
16 a few thresholds that we would have to see in order to  
17 give them credit in that regard. We actually have people  
18 from -- we provided hours to that are in the research  
19 stations in Antarctica, for instance, so --

20 BOARD MEMBER GRAY: Civilians?

21 MR. VANCE: Civilians, yes. So the  
22 provision that went in for military, there was always a  
23 provision in 6126 for military to be credited with hours  
24 that they could use toward completing an apprenticeship.

25 5320 went further. What it said was, is if you're



1 a -- if you've got 8,000 hours of construction battalion  
2 experience as a construction battalion electrician, you  
3 can qualify for the exam without completing  
4 apprenticeship. So what it did is, it gave -- it opened  
5 a door for those true military electricians.

6 BOARD MEMBER GRAY: Yeah. Again,  
7 those are military.

8 MR. VANCE: Yes.

9 BOARD MEMBER GRAY: Active military.

10 MR. VANCE: Yes.

11 BOARD MEMBER GRAY: The people that I  
12 think are still in a gap are those civilian maintenance  
13 electricians that support a military installation, like  
14 the joint base in Tacoma.

15 MR. VANCE: Mm-hm.

16 BOARD MEMBER GRAY: Those -- those  
17 maintenance electricians that work on that base and do  
18 electrical work don't have a way to get credit for the  
19 hours they spend there towards getting a Washington State  
20 license for maintenance, for example. Is that still the  
21 case?

22 MR. VANCE: I --

23 BOARD MEMBER GRAY: I know I brought  
24 this up to you several years ago, but --

25 MR. VANCE: So what those electricians



1 are doing is that we -- as a state regulatory agency, we  
2 have to look at federal facilities as an island. And  
3 anything that goes on there, we don't -- we don't  
4 regulate whatsoever. We would treat those hours  
5 practically as out of country.

6 Is there -- is there a possibility that someone that  
7 had a training certificate working under the supervision  
8 of a state-certified electrician while working on that  
9 federal installation -- and when we talk about federal  
10 installations, I mean, it's Joint Base Lewis McChord,  
11 Hanford.

12 I mean, these are all, you know -- there are people  
13 that are getting credit for working on federal facilities  
14 that are operating within the regulatory licensing  
15 structure of Washington.

16 So to answer your question, is there a path for  
17 them? I see a path for them. I don't see any path for  
18 them that's anything based around a grandfathering or a,  
19 you know -- or anything to that effect, but I do see,  
20 through the regulatory, you know, steps, are you working  
21 under the supervision of a certified electrician? Are  
22 you doing all those things?

23 From what I understand, at least at Joint Base Lewis  
24 McChord, from their construction folks, that they require  
25 their contractors on -- working on the site to follow the





1 State's licensing guidelines.

2 So it -- there isn't a special provision in the law  
3 for it, but, again, it's just, if you hit the marks,  
4 there's not a reason that we should or should not -- if  
5 you're in a completely different industry, like shipyard,  
6 for instance, I mean, working on ships, different story  
7 because it's Coast Guard standards. It's not National  
8 Electric Code.

9 It's quite different, but lot of the same parts, but  
10 not -- it's -- it's not the electrical construction trade  
11 regulated under the electrical licensing laws, so -- yep.  
12 Yes.

13 BOARD MEMBER KNOTTINGHAM: Board  
14 Member Knottingham.

15 Isn't it true that they have to have experience  
16 doing new construction, not just maintenance, to get  
17 credit?

18 MR. VANCE: They could get -- they  
19 could get the credit in the maintenance -- in the  
20 maintenance specialties where they would get credit.  
21 They -- they would be in their lane, so to speak.

22 BOARD MEMBER KNOTTINGHAM: So they  
23 could get up to 4,000 hours as an 07, but in order to get  
24 an 01 and qualify for an 01, you would have to have  
25 4,000 hours of new construction?



1                   MR. VANCE: Correct. And they  
2 could -- they could -- they could complete that through  
3 an apprenticeship, right, if they wanted to, but the  
4 thing that the law did provide, the original law, 61 --  
5 in Gross Substitute Bill 6126 -- or no. It's Substitute  
6 Senate Bill 6126.

7                   I'll leave the front part out from now on, but what  
8 it did provide is, it -- it provided anyone with a  
9 specialty certificate to be credited with 4,000 hours  
10 toward completion of an apprenticeship. It doesn't mean  
11 advanced standing. It doesn't mean anything else.

12                   What it means is, is there somewhere -- somewhere in  
13 that whole apprenticeship experience, you can use those  
14 hours toward completion. Could be in the middle some.  
15 Could be at the end some. Could be however the --  
16 that's -- that's completely up to the candidate and the  
17 apprenticeship to figure out how they want that, but  
18 yeah. Yes.

19                   Any other questions?

20                   CHAIRPERSON JENKINS: Chair Jenkins.

21                   Last meeting we had, you had a -- quite a long list  
22 of bills and (inaudible). Do you happen to have those  
23 (inaudible)? I had my notes out.

24                   MR. VANCE: They're all dead.

25                   CHAIRPERSON JENKINS: Okay.



1 MR. VANCE: They're all dead.

2 CHAIRPERSON JENKINS: Okay.

3 MR. VANCE: Yes. One piece of -- one  
4 piece of legislation that does affect the electrical  
5 program, it's on -- it's -- the bill number is 5187, and  
6 on Page 312 and I believe it's on line -- it's on  
7 Subsection 3, there is a carve-out out of the electrical  
8 licensing fund for \$6.7 million, and it is for the  
9 expressed purposes of wages for electrical inspectors,  
10 lead electrical inspectors, supervisors, technical  
11 specialists, in other words, everybody in the inspection  
12 chain.

13 And it's -- it's a biennial carve-out, so it only  
14 lasts two years. So half of that \$6.7 million will be  
15 distributed each year, but what that does is, it provides  
16 a -- how they describe it is, it provides for recruitment  
17 and retention of electrical inspectors. So while it's  
18 not permanent, it is a -- it's a very substantial step.

19 CHAIRPERSON JENKINS: Thank you.

20 MR. VANCE: The governor has not yet  
21 signed the bill. It -- it passed the legislature within  
22 the last five days of session, so the governor has  
23 20 days to sign it. So it's a no new taxes budget.

24 From -- it's my understanding, it's not  
25 controversial. I don't see any reason that -- I don't



1 have any -- if I was looking at a glass ball, I'd think  
2 that -- that -- I don't see any controversy with the  
3 budget, so --

4 CHAIRPERSON JENKINS: Thank you very  
5 much.

6 MR. VANCE: Thank you.

7 CHAIRPERSON JENKINS: Question here?

8 BOARD MEMBER BAKER: Board Member  
9 Baker.

10 So the compensation for the staff, the \$6.7 million,  
11 where is that money coming from?

12 MR. VANCE: It comes out of the  
13 electrical licensing fund, out of the electrical -- the  
14 bloated electrical fund. So appropriation of spending.

15 BOARD MEMBER BAKER: It's out of our  
16 current \$16 million fund?

17 MR. VANCE: Yes.

18 BOARD MEMBER BAKER: Okay.

19 MR. VANCE: Yes.

20 BOARD MEMBER BAKER: So we're still  
21 funding it?

22 MR. VANCE: Yes.

23 BOARD MEMBER BAKER: Okay. And how  
24 does it get allocated? How do you determine the  
25 allocation?



1 MR. VANCE: It's going to be  
2 collectively bargained.

3 BOARD MEMBER BAKER: Okay.

4 MR. VANCE: Yes.

5 BOARD MEMBER BAKER: Thank you.

6 MR. VANCE: Yeah. Yep. So --

7 CHAIRPERSON JENKINS: Any more  
8 questions?

9 MR. VANCE: More to come on that,  
10 so -- yeah.

11 CHAIRPERSON JENKINS: Any more  
12 questions from the board for Technical Specialist Larry  
13 Vance?

14 MR. VANCE: Thank you very much.

15 CHAIRPERSON JENKINS: All right.  
16 Thank you. All right.

17 Moving on to our next item, looks like we are at the  
18 secretary's report with Wayne Molesworth. (Inaudible.)

19

20 SECRETARY'S REPORT

21 SECRETARY MOLESWORTH: We'll work on  
22 that.

23 Mr. Chair, board, thank you for allowing me to read  
24 the secretary's report into the record. We'll start with  
25 the budget. The electrical fund balance on March 31st,

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1 2023, was \$16,522,840, which is about seven times the  
2 average monthly operating expenditures.

3 The average monthly operating expenditures for third  
4 quarter of fiscal year 2023 was \$2,486,725 compared to  
5 \$2,222,765 for the same period of last year.

6 This is an increase of about 12 percent. Average  
7 monthly revenue for the first quarter of fiscal year 2023  
8 was \$2,670,388 compared to \$2,642,862 for the same period  
9 last year, an increase of about 1 percent.

10 March 2023, customer service, we had -- 42,814  
11 permits were sold last quarter. 98.6 percent, or 42,199,  
12 were processed online, which is the same from last  
13 quarter. 99.8 percent of contractor permits are sold  
14 online, which is consistent with the previous quarter.  
15 Can't get much better.

16 Homeowners' online sales for this quarter is  
17 83.8 percent, which is a 1.5 percent decrease from the  
18 previous quarter. Online inspection requests is  
19 76.8 percent, which is a .3 percent decrease from last  
20 quarter. During this quarter, customers made  
21 90.6 percent of all electrical license renewals online,  
22 which is a .9 percent decrease from last quarter.

23 Key performance measures, percent of inspections  
24 performed within 24 hours of request, goal is 86 percent.  
25 In 2022, it was 76 percent. In this period, it's



1 78 percent, so an increase of 2 percent.

2 Percentage of inspections performed within 48 hours  
3 of request, 89 percent last year. This year it's  
4 90 percent. So we're back up in the 90s, which was a  
5 consideration from -- during COVID, where we weren't able  
6 to do that.

7 Total inspections performed, 61,770 last year, and  
8 this year it was 62,970. Virtual electrical inspections  
9 performed, last year at this time, 6,870; this period  
10 this year, 10,344.

11 Number of focus citations and warnings, contractor  
12 licensing, worker certification, no permit, failing to  
13 supervise trainees, anticipated total number is 4,136.  
14 The field last year did 516, E CORE and I did 1,255, for a  
15 total of 1,771. Field -- this last year was 263 for this  
16 period, E CORE audit was 1,085, and the total of 1,348.

17 Inspection stops per inspector per day was 11.4 last  
18 year, and this same period this year at 10.9.

19 Serious electrical corrections that would result in  
20 disconnection, 8,775 last year at this time. This year  
21 is 8,573.

22 Turnaround time for average plan set review, goal is  
23 1.6 weeks. This is encouraging. Last year was two days.  
24 We're down to one day, the same time frame.

25 Plan pages reviewed all electronically, 1,084 last



1 year at this time. This is part of the reason for the  
2 one day. We only had 400 pages come through in plan  
3 review this quarter.

4 Percent of warnings by focused violation type,  
5 licensing was 9 percent; certification, 23 percent;  
6 permits, 63 percent; trainee supervision, 5 percent; all  
7 focus citation warnings were 4.2 percent.

8 We're currently looking at our warnings and  
9 determining if -- how we are applying warnings is  
10 actually making a difference. Electrical licensing  
11 citations, amusement rides, and appeal section, as of  
12 4/10/23, there were a total of 783 items to be processed.  
13 The oldest item is dated 3/2 -- I'm sorry -- March 2nd,  
14 2023.

15 The majority of our workload is closer to  
16 March 17th, 2023. 606 of these are affidavits. We are  
17 seeing an increase in the number of affidavits being  
18 submitted almost likely due to the July 1, 2023, law  
19 change having to do with apprenticeship.

20 Electrical trainees are submitting (inaudible) the  
21 01 general category to ensure they are recorded prior to  
22 this date. In addition to processing documents,  
23 licensing staff are responsible for answering all phone  
24 calls, electrical program phone calls, for the time frame  
25 between January 1, 2023, to March 31st, 2023. They





1 answered a total of 6,230 calls, not including calls  
2 coming into their direct lines.

3 This is an average of 2,076 calls per month, 519 per  
4 week, 103 per day, and 12 per hour. This does not  
5 include outbound calls being made to customers. Current  
6 staffing allows for two representatives to be available  
7 at a time to answer calls.

8 Licensing team is also asked -- or tasked with  
9 updating standard work and training staff due to law  
10 changes that take place July 1, 2023. We have a team who  
11 has been working diligently to map these changes,  
12 including the implementation of the changes to standard  
13 work and a training plan.

14 Changes are being communicated with staff, and  
15 training will be implemented as we move closer to the  
16 7/1/2023 update -- or date. This has to do with the  
17 apprenticeship implementation.

18 Recently the tax service representative positions  
19 and citations and amusement rides were reallocated to  
20 programs specialist positions, which aligns with the  
21 appeal position. This provides a growth and development  
22 opportunity within the program, including a promotional  
23 opportunity.

24 This reallocation was needed not only to ensure the  
25 type of work performed in these positions as properly



1 documented, but also to ensure the level of knowledge  
2 required for these positions is acknowledged.

3 We have a dedicated manager for these citations,  
4 amusement rides and appeals positions. Jen Dietrich has  
5 taken on this role. She will be working with this group  
6 as we hire to fill positions, streamline workflow, and  
7 cross-train employees in these positions. The interview  
8 process is underway to fill two vacancies in that area.

9 In this area of the tax service representatives that  
10 were reallocated, we reallocated them also so that we  
11 could cross-train them with the person that does the  
12 board work, and so that if we have people that leave, if  
13 we have people on vacation, we can cover those areas.  
14 Whereas, before, we only had one individual to do the  
15 work. Jen has been doing a wonderful job creating  
16 standard work for that position and moving it forward.

17 Okay. Testing labs, no new testing labs to report.  
18 Larry has already spoken to 5320, so I'm going to bypass  
19 that.

20 And that leads us to other program updates. So I --  
21 I should have probably done this earlier today when they  
22 were all here, but if you remember seeing a group of guys  
23 in the back corner over here, some of them are still  
24 here. You guys can raise your hand if you're a  
25 supervisor, technical specialist, inspectors.



1           We had a group of them here so that -- we think it's  
2           important that they see the activity on this board, what  
3           goes on behind the scenes, and actually for a lot of  
4           them, it's succession planning so that they can prepare  
5           to know what all the different parts of this program  
6           include. That's been a (inaudible).

7           I -- also we've got a new project going that I want  
8           to bring to your attention called the Fresh Look  
9           Reconsideration Project. This is just for your  
10          awareness.

11          We just started this project. It's a project to  
12          take a look at when we deny worker hours to go towards  
13          examinations. We're put something in place or working to  
14          put something in place that allows a second look at hours  
15          that we actually deny.

16          And what we found in preparation for this in our  
17          data was that the reporting data was data that was pulled  
18          together for denial, so the more hours you denied, the  
19          better it looked. Right? Does that sound right to  
20          anybody? Didn't to me.

21          And so we changed that, and what was happening in  
22          some cases was, we were getting audits that would have  
23          out-of-state people applying to -- for examination. We  
24          would find the 8,000 hours they needed, but they  
25          submitted 32,000 hours. We would consider the rest of



1 those hours denied. Right? We don't need to do that.  
2 They just don't apply.

3 So we're taking the 8,000 we found, and the denials  
4 are not applied because there's nothing there. Now, if  
5 we couldn't reach the 8,000, then we would talk about all  
6 the hours that we actually denied because we weren't able  
7 to meet that -- that point. Right?

8 So it's brought a lot of different things to our  
9 attention as to how we were doing things, how we were  
10 measuring things, and -- and hopefully this won't be an  
11 issue because we get very few of these.

12 We do reconsider -- I reconsider at the present  
13 time, but they're looking for actually another avenue as  
14 well, so that we can give everybody a voice and give them  
15 the opportunity to have somebody else here.

16 So that's what the First Look Reconsideration, or  
17 the FLR, project is all about, in case you heard about it  
18 out there. Okay.

19 I would like to take this time to introduce you  
20 guys -- and some of you have already met him, but back in  
21 the corner here is Brian Hornback. Brian is who I  
22 directly report to.

23 He is the assistant director of field services and  
24 public safety, and so I'd like to just turn it over to  
25 Brian for a couple minutes to introduce himself, talk a



1 little bit.

2 And go, Brian.

3 MR. HORNBACK: So since this is my  
4 first board meeting, I'll try and follow the protocol.

5 And I'm Brian Hornback, deputy assistant director  
6 for field services public safety. Name is spelled  
7 B-r-i-n -- B-r-i-a-n. Last name is H-o-r-n-b-a-c-k.

8 For those of you who are interested, I'll leave some  
9 contact cards with Wayne so you get my business phone  
10 number if anybody wants to give me a holler for anything.

11 So I really don't want to spend a whole lot of your  
12 time just with the hi/hello thing. More importantly,  
13 it's about first off, thank you. I sat here today --  
14 this is my first board meeting obviously -- and listened  
15 to the process you go through with appeals and recognize  
16 the hard work that that takes to really try and get it  
17 right for somebody.

18 So appreciate the board, appreciate the partnership,  
19 the advice and counsel that you guys provide to Wayne as  
20 we go through everything from the legislative session  
21 that -- you know, that Larry and Randy and Lauren did  
22 such a great job with this year.

23 But that doesn't help -- doesn't happen without a  
24 good partnership, so really just want to say thank you  
25 for -- for that.



1           And I always want to be available to help, you know,  
2           the goal of advancing the profession and making sure that  
3           the consumers are protected, that the profession is -- is  
4           cared for as well, and that's -- that's a subject that's  
5           near and dear to me and Steve Reinmuth, my boss, who is a  
6           predecessor to John Barnes a lot of years ago.

7           The electrical program was the first -- first  
8           program he represented as an AG, so he still has a soft  
9           spot for it. Again, just want to be -- we want to be  
10          good partners and thank you for that.

11          Real quick, touch on the Fresh Look Reconsideration  
12          project that Wayne talked about. I think it's important  
13          to acknowledge, we've got huge confidence in the  
14          electrical program and Wayne's leadership and in the  
15          decisions made, but also recognizing that you're talking  
16          about somebody's livelihood.

17          So, you know, it's not about, did we get it right or  
18          not. It's about, you know, how close to perfect can we  
19          get, and sometimes it's not a matter of we made an  
20          improper decision. It's a matter of somebody didn't give  
21          us the information we needed, so let's give them a second  
22          bite at that apple and another opportunity to provide  
23          that information to us to make sure we got it right.

24          So like I said, great confidence that the decisions  
25          being made by our staff are really good with the



1 information being provided, but did we always have it  
2 right? Let's make sure we've got an opportunity for  
3 that.

4 So don't have a whole lot else and don't want to  
5 spend a whole bunch of your time, but if there's a  
6 question or anything that you would like to ask from the  
7 leadership team, please feel free. And if not, I'll step  
8 off this stage, so to speak, and let you have your  
9 meeting back.

10 UNIDENTIFIED SPEAKER: Thank you,  
11 Brian.

12 MR. HORNBACK: You bet. Thank you.

13 SECRETARY MOLESWORTH: Brian is a  
14 great guy to work for, so he helps us out. And things  
15 that I bring to him, he promotes to the best of his  
16 ability within the parameters that we have to work in, so  
17 it's -- it's a good partnership for our program and the  
18 leadership that we have. So we've not always been so  
19 lucky. Right? So -- at times.

20 So just to wrap it up, are there any questions from  
21 the board members?

22 CHAIRPERSON JENKINS: Board Member Don  
23 Baker?

24 BOARD MEMBER BAKER: Board Member  
25 Baker.



1 I would be remiss if I didn't touch on our  
2 \$6.5 million funds that are going towards our inspectors.  
3 So maybe you could expand on that a little bit, on how  
4 you see that, directly or indirectly, helping that  
5 retention and recruitment that we've been talking about  
6 to the point of nauseam with this group. Right?

7 SECRETARY MOLESWORTH: Right. Right.

8 BOARD MEMBER BAKER: And I guess we  
9 all shouldn't be surprised that maybe next quarter we're  
10 going to see that that balance drop by \$6 million; right?

11 SECRETARY MOLESWORTH: Well, not  
12 instantly, right, because it --

13 BOARD MEMBER BAKER: (Inaudible.)

14 (Simultaneous speaking.)

15 SECRETARY MOLESWORTH: -- per paid  
16 period, so it will allocate it as we go through the  
17 process.

18 BOARD MEMBER BAKER: Yeah. And part  
19 of that question includes, where are you currently -- how  
20 many outstanding, you know, job openings do we have?  
21 What are you seeing for -- yeah.

22 SECRETARY MOLESWORTH: So right now  
23 we're sitting at about 13 percent vacancy. I'm trying to  
24 think of the exact number we have for open positions, and  
25 I think you're probably sitting at about 16 to 18 open





1 positions for that.

2 As far as the 6.5, HR and our budget program will  
3 actually -- number one, HR will bargain it, but they will  
4 work together to find out how do they apply that to each  
5 classification, keeping the same spread between  
6 inspectors, leads, and supervisors so that they can come  
7 up with a good number. There's a series of different  
8 things that we have to be aware of as we go forward with  
9 it.

10 How will this affect the budget, as far as future  
11 buyouts? You know, when you take a big raise, it's not  
12 always about the big raise. It's how do we apply it to  
13 the rest of the benefit package and that type of thing.

14 So I've been asked several times, what's my job in  
15 this? My job is to make sure that we have a healthy  
16 budget after some of these decisions and identify those  
17 things that may be a hindrance to keeping a healthy  
18 program fund.

19 My goal -- and I've talked just briefly with Brian  
20 and Steve about this, but my goal is to make sure that  
21 when we come up with minimum operating expenses, 22  
22 positions it looks like overall. And that's with  
23 supervisors, leads, and individuals.

24 So I was off.

25 CHAIRPERSON JENKINS: Twenty-two



1 vacancies in the department?

2 SECRETARY MOLESWORTH: Yes.

3 CHAIRPERSON JENKINS: Okay.

4 SECRETARY MOLESWORTH: And so -- so  
5 when we -- when we look at this, we have to really be,  
6 you know, very careful not to overspend, and the goal for  
7 me is to get to where we know exactly what our fund has  
8 to maintain from the board's perspective.

9 Right now it's three months of operating expenses,  
10 which is around 7 point something million. When we get  
11 this raise, that's going to absolutely have to increase.  
12 Correct?

13 And so now if we keep that at -- you know, let's --  
14 let's estimate it's going to be about, you know, 8 --  
15 9 -- 9 million. Let's estimate. Now we've got to keep  
16 9 million in that fund all the time.

17 The goal is to balance that with fee increases and  
18 vacancies that we have to make sure that our fund isn't  
19 growing at such a rapid rate. This last year we put  
20 \$8 million in the bank in one biennium; right? So that  
21 more than covers the 6.5, but that's not all that's  
22 there. Right? There's a lot of peripheral things that  
23 come into play with the budget.

24 And so we just have to get that all calculated,  
25 understand what our expectations are for the board, and



1 then have a plan for only increasing fees when we need  
2 to, to maintain the budget instead of having it exceed  
3 because what happens when we exceed it as much as we are  
4 now -- this is kind of a two-sided coin here.

5 Now we don't have to worry about getting raided.  
6 Right? Doesn't mean (inaudible) when we lost the  
7 8 million to the leg, that they just took it, and so now,  
8 if we maintain it properly, we won't have to worry about  
9 that, but we'll still maintain the growth in the fund.  
10 It's healthy and keeps it at a stable rate.

11 So there's still a lot of work to do. It's not  
12 really all that easy. (Inaudible.)

13 Did I answer --

14 BOARD MEMBER BAKER: Yeah. I have  
15 another question or comment on that conversation. I have  
16 a different question.

17 So 22 current vacancies, which (inaudible) fair  
18 question (inaudible) answer, but how many inspectors do  
19 you expect to lose to retirement this year?

20 SECRETARY MOLESWORTH: So I don't know  
21 that right offhand. It's a hard number to come up with.  
22 We have -- you know, we have several that are in that  
23 category. You know, I could have went last year, but you  
24 just don't know.

25 Anticipated -- you know, I could say that, if I was



1 to anticipate what we're going to do, you know, this next  
2 year, we might see 10 percent of staff as a whole that  
3 might retire.

4 I think that with this, if it's -- if it comes out  
5 to be as good as we think, because we're still just kind  
6 of estimating, I think it might even delay some of that.  
7 I think that people might decide, well, it's worth  
8 hanging out and then we put into play more of a process  
9 where we're out there recruiting, changing our hiring  
10 processes a little bit so we can hire sooner and quicker.

11 It's been suggested that we look at having a  
12 part-time recruiter, face-to-face recruiter, that can  
13 come and talk to trade organizations and promote our jobs  
14 that way, which I think is an excellent idea.

15 So hopefully, when we have vacancies, it won't be  
16 quite so long to fill them. You know, we're estimating  
17 we're going to be at the top of the scale instead of the  
18 next to the last of the scale because right now we're  
19 set -- we're next to the last as far as wages in the  
20 state, you know, with all the municipalities.

21 So this will bring us right up to where we're within  
22 one or two of the top or more. We just don't know.  
23 There's a lot of different things going on.

24 BOARD MEMBER BAKER: So different  
25 question, Question No. 2, and then I'll be done. So



1 you've been reporting, I think for a year or two, on plan  
2 review and the goal (inaudible) week and a half, two  
3 weeks, and you're always like a day or two days  
4 (inaudible), how in the world are you doing that? And in  
5 the private sector, if we were doing that, we'd be  
6 looking at moving personnel to different places and --

7 SECRETARY MOLESWORTH: Yeah.

8 BOARD MEMBER BAKER: How is that  
9 possible, you can do plan review in a day?

10 SECRETARY MOLESWORTH: It's -- it's  
11 the size of the plan review, number one; right? It's,  
12 what are the size of the jobs? How fast can they do  
13 them? If we're getting a lot of smaller jobs, right now  
14 it's probably pretty easy to move those through.

15 Mostly we can -- we give the credit to electronic  
16 plan review. Used to be we moved plans back and forth.  
17 Right? And we wait and we wait and that all counts as  
18 part of the time, and now everything is electronic. They  
19 have a much better communication.

20 And, you know, I give all the credit to Joel  
21 Vankovich (phonetic), who is the supervisor there. He --  
22 he really has done a great job of implementing it,  
23 getting everybody on board, doing the outreach with  
24 everybody, and saying, you know, "Here, let's do it quick  
25 and give you what you need."



1           There are jobs that take longer. You know, this is  
2           an average, of course, but it just depends on the type of  
3           jobs I see coming through, but, you know, average when a  
4           plan comes in and they can get it done in a day, that  
5           just tells me they're a little bit smaller. And he's  
6           kind of told me that occasionally, you know. They're not  
7           getting the huge jobs anymore.

8                           BOARD MEMBER BAKER: So should you  
9           change the goal?

10                          SECRETARY MOLESWORTH: I don't -- I  
11           don't really -- you know, I want to be careful of that.  
12           Because of the size of the jobs --

13                          BOARD MEMBER BAKER: (Inaudible.)  
14   (Simultaneous speaking.)

15                          SECRETARY MOLESWORTH: Now we've  
16           got -- now we've got nowhere to make that goal, right, if  
17           we decrease it too much. I think what we do need -- what  
18           we do need to do, though, is, we need to take a look at  
19           history and see over the past two or three years, what  
20           have been the size of these plan reviews, what have we  
21           averaged, you know, once we started the electronic plan  
22           review, and get a good idea of the different types of  
23           jobs that are there and then adjust -- adjust from there,  
24           knowing that, if we have a sudden inrush of, you know,  
25           the State is going to fund, you know, rebuilding 40



1 schools across the state, that we understand that that  
2 goal might not be met at that time.

3 BOARD MEMBER BAKER: Yeah.

4 SECRETARY MOLESWORTH: But, you know,  
5 goals are that thing where we shoot for and -- and we did  
6 change the goal for E CORE. We raised it because they  
7 were -- they were down around -- their goal was 14,000 --  
8 or 1,400, and they were up around 3,000, and so we  
9 changed that.

10 We talked with E CORE guys and said, "Hey, let's give  
11 ourselves something to shoot for here." This is not  
12 applicable anymore. It's been there for two or three  
13 years going that way, and, you know, they changed it.

14 They're just happy as can be with changing it, and  
15 they're still meeting and exceeding that goal, so I think  
16 we have to look at goals too, as a way to keep morale up  
17 with -- with staff and not give them stuff that that's  
18 not attainable and make sure that it's attainable and  
19 that they can meet those things and be proud when they  
20 meet them because it's not real easy, but -- but it's  
21 also, you know, not -- not as hard as we could make it.

22 BOARD MEMBER BAKER: Well, knowing  
23 that it's the average, right, you're going to have  
24 some -- high schools or hospitals are going to take  
25 longer. You have a bunch of small ones, it's going to



1 bring the average down, so that makes sense.

2 SECRETARY MOLESWORTH: They might do  
3 four of these in a day for the smaller, so --

4 BOARD MEMBER BAKER: Yeah. Thank you.

5 SECRETARY MOLESWORTH: Yep. You're  
6 welcome.

7 BOARD MEMBER CUNNINGHAM: Board Member  
8 Cunningham.

9 This -- this subject is very close obviously to my  
10 professional practice. We've seen it over about a  
11 five-year period. First it was the electronic -- I  
12 believe transmit plans electronically. That should delay  
13 the time -- turnaround time quite a bit, but actually the  
14 payment, the ability to exchange payment to get that all  
15 sped up within the last two years, and so it's fantastic.

16 We have a little -- some of the engineers in our  
17 office have a friendly competition to see how short they  
18 can get the plan review time down. I think part of it  
19 is, they don't have a lot of volume right now.

20 Lot of really large projects that might have  
21 hundreds of sheets are happening inside the cities. So  
22 they're not even going through plan review at the state  
23 level. I think it's great.

24 SECRETARY MOLESWORTH: Thanks. I  
25 appreciate that.





1           You actually said something that reminded me of  
2 something I want the board to know, that we're actually  
3 looking at some municipalities that may or may not be  
4 meeting all the requirements of equal to or better than,  
5 and what we're finding is, we found a few of them that  
6 aren't doing plan review but sending their plan review to  
7 the State, and that's not the intent.

8           Our workload should not include their permits,  
9 right, in their plan review. So we're talking to those  
10 municipalities about making sure that they have all the  
11 elements of a program in order to qualify to have their  
12 own jurisdiction, so going down that road.

13                           CHAIRPERSON JENKINS: Chair Jenkins.

14           Does anybody have any questions for Secretary Wayne  
15 Molesworth?

16                           BOARD MEMBER COX: Board Member Cox.

17           To your point you just made, those municipalities  
18 that do pass them on for plan review to the State, what  
19 do you do with those? Do you run them?

20                           SECRETARY MOLESWORTH: Well, we have  
21 in the past because they haven't really been looking at  
22 the -- at the -- you know, at the -- where they're at,  
23 but we're also told that they've been sending them back  
24 and the everyday inspectors in these municipalities do  
25 them.



1 BOARD MEMBER COX: Okay.

2 SECRETARY MOLESWORTH: They don't have  
3 a separate plan review. We don't care if they have a  
4 separate plan review as long as their inspectors are  
5 actually doing a plan review.

6 BOARD MEMBER COX: Okay.

7 SECRETARY MOLESWORTH: But we had to  
8 have some that sneak through and then -- but when I was  
9 talking to a few of the different guys, they said that,  
10 "No. We -- normally we would send them right back to  
11 them and say, 'Nope, on you.'"

12 BOARD MEMBER COX: Thank you.

13

14 CERTIFICATION/CEU QUARTERLY REPORT

15 CHAIRPERSON JENKINS: All right.

16 Chair Jenkins.

17 I notice that our next list here is certificated --  
18 certificated -- Larry, are you -- anything else you want  
19 to bring up?

20 MR. VANCE: I already covered that.

21 CHAIRPERSON JENKINS: That's what I  
22 figured, but thought I'd try and (inaudible).

23 MR. VANCE: Nope. Thank you very  
24 much.

25 CHAIRPERSON JENKINS: Yeah. It's one



1 of those days.

2 We did have a request. Did you want to --

3 BOARD MEMBER GRAY: Sure. Yeah.

4 Thank you, Mr. Chair. Board Member Gray, G-r-a-y.

5 And I just wanted to make everyone aware that there  
6 is an effort to reformat the National Electrical Code.  
7 It's a project that's going to go on for probably two  
8 cycles with a goal to have it published with the new  
9 format in 2029 edition.

10 And one of the concerns I have is that there is not  
11 a vehicle for getting a lot of public input into opinions  
12 on -- on this effort because there won't be public inputs  
13 to it. It will all be done internal with the code making  
14 panels in the quarterly committee.

15 It actually -- it is a campaign that's led by the  
16 NEC correlating committee. So I want to kind of get on  
17 the record so we get the word out that if any of the  
18 stakeholders do have an opinion or comment on what's  
19 going on, that they are aware of it.

20 I'm sure there will be a lot more information in the  
21 future, but right now the task groups are being formed,  
22 and we're actually starting the work of -- of reforming  
23 that document.

24 But the argument is that it has not had a full-scale  
25 reformatting since 1937, and one of the goals is to break



1 out some of the articles into more articles, so it will  
2 expand the subjects and topics to more articles.

3 For example, the one I'm most familiar with is, I  
4 sat on code making panel 5, which is grounding and  
5 bonding, and two of the task groups that are working on  
6 that would collect medium voltage grounding and bonding  
7 and put it in a separate article proposed as Article 350  
8 or -- yeah. 350 would be a new article covering medium  
9 voltage grounding and bonding.

10 There's another task group that's working on limited  
11 voltage of grounding and bonding. So it's to kind of  
12 separate some of those topics out of the existing  
13 articles.

14 So, anyway, I just asked the chair if I could just  
15 take a moment just to bring that to people's attention.  
16 And if you are interested, there's -- or want to comment  
17 to (inaudible), you be aware that that's going on. Thank  
18 you.

19

20 PUBLIC COMMENT REGARDING ITEMS NOT ON THE AGENDA

21 CHAIRPERSON JENKINS: All right. So  
22 Chair Jason Jenkins.

23 Do we have anybody here for public comments? No one  
24 signed in, but does anyone want to speak on public  
25 comment?



1 All right. Given that, last thing I was going to  
2 bring up is TAC. Is --

3 UNIDENTIFIED SPEAKER: Go ahead and  
4 come back to me.

5 CHAIRPERSON JENKINS: TAC is something  
6 that the board appoints or is it something that the -- I  
7 think (inaudible)?

8 UNIDENTIFIED SPEAKER: Yeah. So the  
9 board has members that can apply to the TAC, and we have  
10 seats available for them. And the Department has two  
11 seats, as well as supervisor and inspector seat, but  
12 those would be coming up.

13 Larry, do you remember the due date?

14 MR. VANCE: May 20th.

15 UNIDENTIFIED SPEAKER: May 20th. So  
16 apply by then. We'll -- the program actually reviews  
17 those applications and -- and chooses the TAC.

18 CHAIRPERSON JENKINS: So it's not  
19 appointed by the board then?

20 UNIDENTIFIED SPEAKER: No.

21 CHAIRPERSON JENKINS: Okay. Just  
22 making sure. Had people ask about that and I wasn't  
23 sure.

24 So if you're interested in doing so, you have until  
25 April 20th [sic] to apply to the TAC committee. So thank



1 you.

2 UNIDENTIFIED SPEAKER: Yeah. I just  
3 have one other thing I wanted to touch base with you  
4 guys. This last go-around with the board packets and the  
5 appeal packets, you got electronic, right, box. That was  
6 a brainchild of Jen and her staff, and -- and the -- the  
7 important part of that is that -- is that we did a review  
8 of the cost of printing one hundred and --

9 UNIDENTIFIED SPEAKER: Fifty.

10 UNIDENTIFIED SPEAKER: -- fifty  
11 thousand dollars to print board packets for you. Crazy.  
12 We can't afford that. And so -- so it takes a lot of  
13 time. That's just -- that's just the printing cost of  
14 the paper. That wasn't our staff time.

15 And so it's -- it's very expensive. We want to help  
16 you guys in any way we can. Any suggestions on how to  
17 format it better, you know, make sure and let us know.

18 I just want to let you know that from a board -- or  
19 from a program perspective, it's -- it's a cost that  
20 we're going to have a hard time maintaining and  
21 absorbing, especially with staffing and the staffing time  
22 that goes into it.

23 So I've had some good input from some of you that  
24 have told me they appreciate it. There's ways to make  
25 notes and everything in it, but if you need any help, I



1 know Jen had helped a few of you get started, which is  
2 great. She's always available.

3 Don't call me because I'm terrible at everything.  
4 So -- but any comments about the electronic board packets  
5 or changes we need to make (inaudible) because that's  
6 probably where we -- yeah.

7 BOARD MEMBER COX: Board Member Cox  
8 commenting.

9 I appreciate embedding the credentials so we don't  
10 have to log in. Makes it really easy to just click right  
11 on it and get to it, and I don't have to remember what my  
12 password is, so thank you.

13 CHAIRPERSON JENKINS: Chair Jenkins.

14 Any other questions, comments, concerns  
15 with (inaudible) very beginning. Don't forget we have a  
16 special meeting on June 1st and 2nd probably. Please let  
17 me know if you cannot attend that. I much appreciate it.  
18 We really like to make sure we retain a quorum for that.  
19 Much appreciated.

20 And we still have our regular scheduled board  
21 meeting on July 27th. So don't forget those two, and,  
22 once again, I really, really appreciate you guys -- and  
23 that's scheduled in Pasco with more details to come, so  
24 (inaudible).

25 UNIDENTIFIED SPEAKER: (Inaudible.)



1 (Inaudible background  
2 speaking.)

3 CHAIRPERSON JENKINS: Oh, so, hey,  
4 heads up, Vancouver for the next regularly scheduled --

5 UNIDENTIFIED SPEAKER: Pasco is very  
6 warm in July, so that's good.

7 UNIDENTIFIED SPEAKER: Where is the  
8 June 1st meeting being held?

9 CHAIRPERSON JENKINS: That is in  
10 Olympia.

11 UNIDENTIFIED SPEAKER: At the Olympia  
12 Hotel.

13 CHAIRPERSON JENKINS: (Inaudible.)

14 UNIDENTIFIED SPEAKER: Olympia Hotel  
15 at Capitol Lake.

16 CHAIRPERSON JENKINS: Olympia Hotel at  
17 Capitol Lake.

18 UNIDENTIFIED SPEAKER: And that is  
19 scheduled to -- the first meeting, if it goes two days,  
20 the first meeting will end at what time?

21 CHAIRPERSON JENKINS: About 5:00.

22 UNIDENTIFIED SPEAKER: We only have  
23 the room until 5:00.

24 UNIDENTIFIED SPEAKER: I have a hard  
25 stop at 3:00.





1                   CHAIRPERSON JENKINS: Well, we will  
2 play it by ear. Thank you.

3                   BOARD MEMBER COX: Board Member Cox.  
4           And what is the evidentiary hearing regarding again,  
5 please?

6                   CHAIRPERSON JENKINS: It is about the  
7 Anacortes --

8                   UNIDENTIFIED SPEAKER: Anacortes --  
9 sorry.

10                  MR. BLOHOWIAK: This is Ben Blohowiak,  
11 for the record.

12                  It's about the Anacortes (inaudible) ferries, and so  
13 there was a packet -- and this started at the electrical  
14 board, moved to Superior Court, got sent back to the  
15 board from Superior Court, and so we have an original  
16 hearing.

17                  Jen, when I talked to her -- she's been great since  
18 she's become part of the program -- has been -- we have  
19 put together the packet. I believe that was sent out to  
20 the members for you to start reviewing.

21                  UNIDENTIFIED SPEAKER: Tomorrow.

22                  MR. BLOHOWIAK: Tomorrow.

23                  UNIDENTIFIED SPEAKER: That's why I  
24 haven't seen it.

25                  MR. BLOHOWIAK: Yeah. You'll get the



1 packet, but we also -- we have an administrative law  
2 judge that we've asked to come oversee that hearing, so  
3 any -- because there will be live witness testimony.  
4 There could be objections, you know, (inaudible) hearsay,  
5 you know, all those sort of things.

6 So there will be an administrative law judge there  
7 to make rulings on the evidence, but you, as the members,  
8 will make the final decision on the merits on whatever  
9 record is created by the parties (inaudible)  
10 administrative law judge.

11 BOARD MEMBER COX: Thank you.

12 SECRETARY MOLESWORTH: And this is  
13 based on the original reason for the appeal, not on the  
14 merits (inaudible) wasn't part of it; right?

15 MR. BLOHOWIAK: Yes. And who are you,  
16 for the record?

17 SECRETARY MOLESWORTH: Oh, I'm sorry.  
18 Wayne Molesworth, for the record.

19 CHAIRPERSON JENKINS: All right. Any  
20 other questions? Chair Jenkins.

21 Any other questions, comments, concerns for the  
22 board itself? All right. Given that, the board -- the  
23 chair would entertain a motion to end the meeting.

24 BOARD MEMBER NORD: Board Member Nord.  
25 Motion.



1 CHAIRPERSON JENKINS: We have a  
2 motion.

3 BOARD MEMBER KNOTTINGHAM: Second.

4 CHAIRPERSON JENKINS: We have a motion  
5 from Jack Knottingham and the (inaudible) signify by  
6 saying aye.

7 BOARD MEMBERS: Aye.

8 CHAIRPERSON JENKINS: Opposed?  
9 Passes.

10 (End of the recording.)

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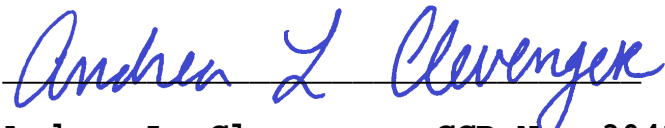
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C E R T I F I C A T E

I, ANDREA L. CLEVINGER, a Certified Stenographic Court Reporter, of the State of Washington, do hereby certify that the foregoing proceedings were recorded and that I was not present at the proceedings; that I was requested to transcribe the recorded proceedings; that the recording was transcribed stenographically and reduced to typewriting under my direction.

I further certify that the foregoing transcript of the recorded proceedings, consisting of Pages 1 through 171, is, to the best of my ability, a full, true, and accurate transcript of all discernible and audible remarks.

Dated and signed this 15th day of May, 2023.



Andrea L. Clevenger, CCR No. 3041  
(Certified Stenographic Court Reporter)



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