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ELECTRICAL BOARD MEETING

TRANSCRIPT OF PROCEEDINGS

January 25, 2024



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**DEPARTMENT OF LABOR AND INDUSTRIES
STATE OF WASHINGTON**

**ELECTRICAL BOARD MEETING
TRANSCRIPT OF PROCEEDINGS**

January 25, 2024

9:00 A.M. PST

Pages 1 - 150

**Department of Labor & Industries
7273 Linderson Way SW
Auditorium
Tumwater, Washington 98504**

**CERTIFIED
TRANSCRIPT**

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1 around the room, introduce ourselves, what chair you're
2 sitting in, and any other pertinent information for the
3 Board.

4 So if you don't mind, Dominic, if you'd start that off.

5 BOARD MEMBER BURKE: Dominic Burke, Burke
6 Electric, contractor seat.

7 BOARD MEMBER COX: Kerry Cox with ITC Systems,
8 telecom seat.

9 BOARD MEMBER TUMELSON: James Tumelson, City of
10 Edgewood, chief building and fire official, jurisdictional
11 seat.

12 BOARD MEMBER BAKER: Don Baker. I'm with EC
13 Electric. I have a contractor seat.

14 BOARD MEMBER CUNNINGHAM: Dylan Cunningham,
15 MW Consulting Engineers, engineering seat.

16 BOARD MEMBER NORD: Mike Nord, Communication
17 Workers of America, telecom worker's seat.

18 CHAIRPERSON JENKINS: Jason Jenkins, chair of
19 Owen Electrical, electrician's seat.

20 BOARD MEMBER ISAACSON: Ivan Isaacson,
21 manufacturer's seat, Levington Manufacturing.

22 BOARD MEMBER LEE: Erick Lee, IBEW, representing
23 electricians.

24 BOARD MEMBER ALLEN: Byron Allen, IBEW, lineman
25 seat.



1 BOARD MEMBER KNOTTINGHAM: Chuck Knottingham,
2 IBEW, 01 seat.

3 CHAIRPERSON JENKINS: Thank you very much. And I
4 forgot to mention -- oh, I'm sorry. I deserve that.

5 SECRETARY MOLESWORTH: I might as well leave now;
6 right?

7 Wayne Molesworth. I'm the chief electrical inspector
8 and the secretary of the Board.

9 Nice to meet you.

10 CHAIRPERSON JENKINS: A very important seat.
11 I'll just be quiet now.

12 SECRETARY MOLESWORTH: Don't try digging yourself
13 out of that hole.

14 CHAIRPERSON JENKINS: Yep, that's a hole.

15 All right. So, anyway, something I want to mention to
16 the Board off the get-go. Please speak up. And I'm bad at
17 this. Need to slow down a little bit so we can get this
18 properly recorded.

19 So the next item -- first item on our list here is the
20 safety message. So I have asked our secretary, Wayne
21 Molesworth, if he would please conduct that.

22 SECRETARY MOLESWORTH: Sure. So here, in this
23 room, we've got a couple of different things. Exits are
24 clearly marked on these doors. Those will go straight
25 through to an exit on the other side. There's a room on the



1 other side of this. There's an exit back here.

2 If you go out this front door, you can go left or
3 right, and there's exits on either -- on either side outside
4 the building. We would meet back in the back if we need to
5 accumulate to make sure everybody made it out of the
6 building safely.

7 If you go out the door in the back here and go to your
8 left, out to the rotunda and then hug the right side of the
9 wall, the bathrooms are -- or the left side of the wall, the
10 bathrooms are on that side. So that covers kind of the
11 facilities.

12 The safety topic today works for this side of the
13 mountains; right? You guys are getting a lot of rain.
14 There's a lot of puddles out there. Some areas are
15 flooding. So this doesn't always apply to driving but also
16 to walking and some of you ride bicycles, do other things.
17 Puddles are kind of an interesting situation. You're not
18 really sure how deep they are; right? This goes the same
19 way for jobsites, worksites. As you're walking along, avoid
20 puddles because you might find that puddle is actually a
21 foot-and-a-half deep or somebody may have taken a manhole
22 off, or something to help fix a plugged drain.

23 As far as vehicles are concerned, make sure this time
24 of the year, your windshield wipers are working properly,
25 that you slow down when there's water on the road.



1 Hydroplaning this time of the year is very -- is
2 a -- happens quite often. With the amount of waters on
3 there, people don't slow down, and now you are slipping and
4 sliding just on water. So slow down, don't use cruise
5 control in the rain, and those things will hopefully get you
6 home safe and sound after a hard day of work.

7 CHAIRPERSON JENKINS: Thank you very much.
8 Appreciate that.

9 Moving on to our next item on our list here is approval
10 of transcripts from October 26, 2023. The Chair would
11 entertain a motion.

12 (UNIDENTIFIED MEMBER): Motion.

13 CHAIRPERSON JENKINS: We have a motion. Is there
14 a second?

15 THE COURT REPORTER: I'm sorry. Could whoever
16 has a motion speak up or say their name, or does that -- is
17 that important in the record?

18 CHAIRPERSON JENKINS: That is fine.

19 BOARD MEMBER NORD: Board Member Nord. Motion.

20 CHAIRPERSON JENKINS: Do we have a second?

21 BOARD MEMBER COX: Board Member Cox. Second.

22 CHAIRPERSON JENKINS: We have a motion. We have
23 a second.

24 Any discussion?

25 One thing I'd like to bring up. It's more of a minor



1 thing. But inside the last meeting, they were using the
2 word "maids" versus "mains." So the meter mains, they were
3 calling "meter maids." So if they could do a, I guess,
4 search and remove and replace the word "maids" to "mains,"
5 meter mains, I think that would be one thing I could see.

6 All in favor of the motion, all signify by saying
7 "aye." (Chorus of ayes.)

8 Any opposed?

9 Hearing none, motion passes.

10 So the next item on our list here today is appeals. We
11 have MasTec Network Solutions. I'm assuming we have someone
12 representing them here today.

13 And do we have someone from the Department here today?
14 Thank you.

15 So the matter before us today is an appeal in the
16 matter of the MasTec Network Solutions, Incorporated, docket
17 number 12-2021-LI-01739. The hearing is held pursuant and
18 due to proper notice to all interested parties in Tumwater,
19 Washington on January 25th, 2024, at approximately 9:06 a.m.

20 This is the appeal from an initial order issued from
21 the Office of Administrative Hearings on August 7th, 2023,
22 and it's my understanding that the decision that's
23 dismissed, citation numbers EREIF01172, EREIF01173,
24 EREIF01174, EREIF1 -- 0175 -- sorry, I'll say it again,
25 EREIF01175 - correction - also, EREIF01176, EREIF01177, and



1 EREIF01178, issued by the Department of Labor & Industries
2 on September 30th, 2022. It is my further understanding
3 that the Department has timely appealed the decision from
4 the Electrical Board.

5 And who am I speaking with today for the Department?

6 KAITLIN LOOMIS: This is AAG Kaitlin Loomis.

7 CHAIRPERSON JENKINS: And we have someone here
8 from the appellants?

9 TOM KRIDER: Yes. Tom Krider, K-R-I-D-E-R.

10 CHAIRPERSON JENKINS: Thank you.

11 The Electrical Board is -- so, as far as procedure
12 goes, the Electrical Board is a legal body authorizing by --
13 authorized by the legislature, not only to advise the
14 Department in regarding the electrical program but to hear
15 appeals when the Department issues citations or takes some
16 adverse action regarding electrical licensing,
17 certification, and compliance. The Electrical Board is a
18 completely separate unit, separate entity from the
19 Department, and will such -- will independently review the
20 actions taken by the Department.

21 When the Department issues penalties, the hearing is
22 assigned to the Office of Administrative Hearings to conduct
23 the hearing pursuant to the necessary procedures act. The
24 ALJ who conducts that hearing then issues a proposal,
25 decision, and order. If either party appeals, the decision



1 is subject to review by the Electrical Board.

2 Keep in mind that while our review is de novo, in other
3 words, we sit in the same position as the administrative law
4 judge and review all the -- entire record regardless of
5 whether a certain piece of evidence is referenced by the
6 ALJ, we are bound by the evidence in the record, and no new
7 evidence can be submitted in this hearing.

8 Each party will be given approximately 15 minutes to
9 argue the merits of their case. Any board members may ask
10 questions during the time and may extend the discussion of
11 the Board. At the conclusion of the hearing, the Board will
12 make a -- will determine if the findings and conclusions
13 reached by the ALJ support the facts and rules pertaining to
14 the electrical installations.

15 Are there any questions before we begin? Okay.

16 As the Department, you are the appealing party. You
17 have the burden of proof to establish that the initial order
18 is incorrect; therefore, we will hear from you first.

19 KAITLIN LOOMIS: Good morning. I'm Assistant
20 Attorney General Kaitlin Loomis, and I represent the
21 Department of Labor & Industries, and I will admit I am a
22 little bit nervous this morning, so hopefully won't talk too
23 fast. I'll keep that in mind.

24 The OAH was incorrect when it dismissed the citations
25 against MasTec Network Solutions, MasTec Services Company,



1 and Anthony Brubach. The OAH incorrectly found that these
2 companies were functional employers and that a Department of
3 Revenue statute required that they be set up how they are.

4 During my argument today, I'll discuss why the
5 Department citation should be affirmed, why MasTec's
6 arguments failed, and why this Board should affirm the
7 citations and the penalties amounts the Department issued in
8 their citations.

9 First, Solutions. And this is MasTec Network
10 Solutions. It's just easier, I think, to reference them as
11 "Solutions," "Services," and "Anthony Brubach." But
12 Solutions violated WAC 296.46B.901(3), because no two
13 entities are permitted to perform electrical work under the
14 same permit, and in this case, Solutions, a duly licensed
15 electrical contractor, purchased all of the permits that
16 MasTec Services company performed electrical work under.
17 This is not permitted under the WAC.

18 Next, under RCW 19.28.061, MasTec Solutions failed to
19 have their designated administrator as a supervisory
20 employee -- full-time supervisory employee or a member of
21 the firm. That's because Anthony Brubach is the designated
22 administrator for Solutions, but he's an employee of
23 services.

24 Next, Anthony Brubach, as the designated administrator
25 for Solutions, has the duty to make sure that Solutions



1 complies with the electrical laws. Anthony Brubach failed
2 to do this when he was, first, an employee of services and
3 not an employee or member of the firm of Solutions. Brubach
4 also failed to do this as MasTec Solutions failed to follow
5 WAC 296.46B.901(3) and permitted services to perform
6 electrical work under the permits that it purchased. And
7 services is an unlicensed company. Services does not have
8 any electrical license, is not an electrical contractor, yet
9 it reports all of the employees who performed electrical
10 work under Solutions's permit.

11 Services violated RCW 19.28.010, 19.28.041, WAC
12 296-46B-901(5), because it performed electrical work
13 unlicensed. That's a violation of the electrical laws. It
14 performed work -- electrical work without getting permits,
15 and it performed work and didn't get permits in City
16 jurisdictions.

17 Next, MasTec's arguments failed because the Department
18 of Revenue statute they cite, which grants them a permissive
19 tax deduction, does not require them to be set up how they
20 are. This statute is permissive because MasTec, if it wants
21 to be a licensed electrical contractor, has to follow the
22 electrical laws first. If MasTec was able to be eligible
23 for this tax deduction after abiding by the electrical laws,
24 then that's great. But that's not the case in this
25 situation, and MasTec's issues need to be taken to the



1 legislature to rewrite the laws.

2 Specifically, I've already cited this WAC, but it does
3 not permit two or more entities to perform electrical work
4 under one permit, and that's exactly what Solutions and
5 Services are doing in this case.

6 MasTec's arguments further failed because while they
7 argue that Solutions is the functional employer of the
8 employees reported under services, that has no effect under
9 the electrical laws. The OAH was incorrect specifically in
10 Finding of Fact 4.18 in which the OAH described, wholesale
11 bought, these arguments, the Department of Revenue requires
12 this corporate structuring. There is no requirement. It's
13 merely the requirements that a company needs to meet in
14 order be eligible for a tax deduction. And the reason this
15 matters is because the Department wants to promote
16 transparency to the public about who is performing their
17 electrical work.

18 By being able to know which company is performing the
19 electrical work and is duly licensed, has the experience to
20 meet the licensing requirements under the electrical laws,
21 WAC 296-46B-901(3) ensures that the public has transparency,
22 and this corporate structuring between Solutions and
23 services does not -- it obscures that transparency.

24 In conclusion, the main issue this Board needs to
25 consider is, does this Board think that two entities with



1 two different unified business identifying numbers and two
2 different licenses, different employees, count as one entity
3 under the electrical laws? And the answer is no. They are
4 separate entities, and this Board should not permit this
5 corporate structuring to stand just so that they can remain
6 eligible for a tax deduction.

7 Thank you.

8 CHAIRPERSON JENKINS: Thank you very much.

9 Mr. Krider.

10 TOM KRIDER: All right. Thank you. Again, my
11 name is Tom Krider, and I represent MasTec Services Company,
12 MasTec Network Solutions, and Mr. Anthony Brubach, who is
13 actually here with us today in the room.

14 The Board has before it a lengthy record and a lot of
15 briefing that was submitted to the ALJ. I won't attempt to
16 regurgitate and reiterate a whole bunch of what's in those.
17 The most important of those documents that the Board has
18 received is the ALJ's finding. The ALJ looked at this
19 record, looked at everything included in it, and determined
20 summarily, never even had to have a hearing, and concretely
21 and correctly that there's nothing wrong with the way that
22 this was done and that these citations needed to be
23 dismissed. The Electrical Board should find the same when
24 it looks through the same record.

25 It's also kind of uncertain why the Department insisted



1 upon pursuing an additional appeal after the ALJ so
2 resoundingly rejected their arguments. It's difficult to
3 understand because enforcing these citations would have a
4 potential hard impact on many companies in the State of
5 Washington, including electrical contractors and the
6 electricians. The reasons for that is the Department of
7 Labor & Industries, in looking at this, has not been able to
8 get around its head the notion that an employee, an
9 electrician, can have co-employers. And that's really what
10 the crux of this is here today. The electricians were
11 co-employed between services and Solutions, and they were
12 co-employed for reasons that I'll get to momentarily.

13 Now, the concept that's being used by MasTec here is
14 the concept of what's known as a "common pay master." Now,
15 nobody's probably ever heard of a common pay master probably
16 before, so let me explain a little bit what that is, and
17 I'll give you an example of a more illustrative use of it
18 that you're more familiar with.

19 A common pay master is simply an entity that handles
20 the payroll services for other companies. And the most
21 common use of this that you guys are all familiar with is a
22 temporary labor supply company. Temporary labor supply
23 company hires employees, including electricians, and when a
24 contractor or another business needs temporary help, they
25 call up the temporary labor supply company, the temporary



1 labor supply company sends the laborer out or the individual
2 out, and that person then works functionally underneath the
3 entity that called, and they do that in exchange for a fee.
4 And by not -- by paying the fee rather than attempting to
5 post ads, interview folks, and onboard people and then
6 turnaround and have to lay them off at the end of a job,
7 they use a temporary labor services company instead.

8 This has been going on in the United States and the
9 world for centuries. The idea of co-employment is -- has
10 been out there and is used by millions of employees and
11 entities throughout the country. In fact, law firms, we use
12 temporary labor supply companies all the time. It's no
13 different than the concern that the electrical industry
14 would have folks, paralegals, legal secretaries, and
15 attorneys come to work for us under our license, our
16 supervision, and there's nothing untoward or improper about
17 it.

18 I mean, a good example in this industry is an open shop
19 contractor who is behind on the job and needs some
20 additional electrical help. They can immediately call a
21 temporary labor supply house, somebody gets sent out there,
22 they finish the job, and then the employee goes back to
23 essentially being on call again with the temporary labor
24 supply company. It happens all the time, everywhere. And
25 the enforcement of these citations would essentially



1 eliminate the ability to have that practice continuing in
2 this State of Washington.

3 Now, with regard to the specific citations before you,
4 all of the concerns or rationale that the Department has put
5 forth are really -- just have no merit in this circumstance.

6 First, as the Department essentially said, their only
7 argument here is that the Department of Revenue requires
8 that services record the employees under its UBI number when
9 it is paying the workers' comp and the unemployment
10 insurance. And that all makes sense; one database,
11 everybody is in one place, it's easier to reconcile that the
12 employees' workers' comp and stuff has been paid.

13 The Department then turns around and completely ignores
14 everything that happens after that, which is all of these
15 employees are working for Solutions. They are supervised by
16 Solutions's electrical administrator. They are in the field
17 with badges, tools. The contracts are held by Solutions.
18 Everything is being done on behalf of Solutions. They are
19 working for Solutions, are supervised by Solutions. So
20 there's no risk or concern to the public in terms of
21 transparency, safety, anything in a situation like this.

22 So, in this case, the Department and the record makes
23 clear the electrical administrator was working on behalf of
24 Solutions. At all times, the electrical work was being done
25 under the supervision of Mr. Brubach. All of the



1 electricians were duly licensed. All of the permits were
2 pulled by a licensed contractor, Solutions. All of the
3 employees believed that they worked for Solutions. It's
4 immaterial to them that their pay stub has, on top of it,
5 "services" and that most of them, before this started, had
6 no idea. They all talked to and interviewed and worked for
7 Solutions. The fact that the Department doesn't like the
8 co-employment situation doesn't mean it gets to preclude it
9 going forward without additional authority.

10 Moreover, this isn't even the typical labor supply
11 company/contractor relationship. These are sister
12 companies. MasTec, the parent company, is one of the
13 country's largest electrical contractors. I just learned
14 this morning, from Mr. Brubach, they employ over 50,000
15 employees across the country. They do this, and all of the
16 divisions or the subsidiaries where they are smaller
17 entities don't have the ability to staff human resources,
18 payroll, all the rest of that stuff.

19 Rather than bear those administrative overhead burdens
20 in each company, MasTec has a separate standalone entity,
21 MasTec Services, that handles all of that effort on behalf
22 of those subsidiaries. So all of the payroll, all of the
23 human resources, all of that is done, and then everybody is,
24 what we would call, seconded to Solutions to actually
25 perform the work on a day-in-and-day-out basis. That's the



1 only contact they ever have with services, is when they get
2 a W-2 form and a paycheck. Services is not performing
3 electrical work, full stop. It has no contracts. It has no
4 trucks. It buys no materials. It doesn't do anything other
5 than process payroll.

6 Ironically, in this circumstance, the record indicates
7 that checks that services drafts to the employees are
8 actually drawn on Solutions's bank account. Services isn't
9 even paying them directly. It's coming from Solutions's
10 bank account. All the other costs and fees are reimbursed
11 to services by Solutions on a regular basis. There are bank
12 records in the record before you that demonstrate an
13 affidavit saying that's how it's all done. Again, services
14 does no work.

15 Now, the concept of co-employment, it's the only
16 legitimate legal authority in the record in this case, is a
17 case of Rowe Company versus the Department of Revenue. This
18 case is several decades old. An engineer working for a
19 temporary labor engineering firm was sent out to go do work
20 for an engineering firm, and in that appeal, somebody
21 disputed whether or not this co-employment relationship was
22 valid, and the courts found that it certainly is. It's a
23 common, normal practice to have co-employment.

24 The key that -- in the case is at the end, is that
25 control and supervision of the employees was done by the



1 engineering firm who held the license, and that's what
2 mattered most. That's exactly the same circumstance here.
3 The permits are held by Solutions. The work is being done
4 on behalf of Solutions. They are all being supervised
5 there. There's no harm and there's no issue with the way
6 that this is structured.

7 I want to address just briefly the Department's
8 accusation that somehow there's a permissive or some tax
9 advantage for doing this. Clearly, the Department, no
10 offense, doesn't file corporate tax returns. Anybody who
11 does would understand it makes no difference for Solutions
12 if they paid everybody direct payroll. All that payroll is
13 deductible. The fact that they pay a fee to services, and
14 it's deductible, and services pays the wages, and then
15 that's deductible, there's no tax gain here. There's an
16 administrative overhead gain from a business-decision
17 standpoint. There's no nefarious tax evasion or something
18 happening here.

19 MasTec has never alleged that the Department of Revenue
20 mandates this corporate structure. We have only said that
21 if services is paying the workers' comp and the
22 unemployment, the Department of Revenue then does require
23 that it record the employees under its UBI in the ESD
24 database. That's all.

25 So all of this leads to the conclusion that these



1 citations are without merit.

2 If the Department truly wishes to eliminate the use of
3 co-employment and a common pay master, it needs legislative
4 authority to do that. There is nothing that is in violation
5 of a WAC or statute if you accept the concept of
6 co-employment, and that's exactly what's going on here. And
7 for those reasons, the Board should uphold the ALJ's
8 decision and dismiss these citations.

9 Thank you.

10 CHAIRPERSON JENKINS: Thank you very much.

11 Comments from the Board.

12 BOARD MEMBER COX: Mr. Chairman, I would like to
13 make a motion.

14 In the matter of the State of Washington's appeal of
15 OAH number 02-2023-LI-01844, with the irrefutable facts
16 presented in the record before us, the Electrical Board
17 finds that the administrative law judge ruled clearly,
18 correctly, and justly based upon those facts, and the
19 administrative law judge's initial order should be upheld.

20 CHAIRPERSON JENKINS: Okay. So we have a motion.

21 Do we have a second?

22 BOARD MEMBER CUNNINGHAM: Board member
23 Cunningham. I'll second that.

24 CHAIRPERSON JENKINS: So we have a motion and
25 second.



1 Any discussion?

2 SECRETARY MOLESWORTH: Can I say something?

3 CHAIRPERSON JENKINS: Yes.

4 SECRETARY MOLESWORTH: I think this was
5 predetermined before we actually had an opportunity to ask
6 questions and to determine some of the validity of the
7 evidence that they showed.

8 CHAIRPERSON JENKINS: I guess point of order
9 would be --

10 SECRETARY MOLESWORTH: Yeah, point of order.

11 CHAIRPERSON JENKINS: We have typically, in the
12 past, had discussion beforehand, but this would be the point
13 where we had that discussion based upon his -- his motion.

14 SECRETARY MOLESWORTH: Right.

15 CHAIRPERSON JENKINS: So this is the point where
16 you could introduce that information.

17 SECRETARY MOLESWORTH: Okay. Could I ask a
18 question of Counsel?

19 CHAIRPERSON JENKINS: Yes.

20 SECRETARY MOLESWORTH: Okay. So in the matter of
21 co-employment, do -- does the company that employs the
22 electricians, do they supply labor to any other
23 organizations or just to this one?

24 TOM KRIDER: And you are asking me?

25 SECRETARY MOLESWORTH: Yes.



1 TOM KRIDER: And you are asking specifically
2 about services and Solutions or generally?

3 SECRETARY MOLESWORTH: I'm asking about
4 specifically licensed electrical -- or certified
5 electricians.

6 TOM KRIDER: So Services -- I do not know the
7 answer to that question. I presume it is only providing
8 across the country certified licensed electricians. I don't
9 know whether it also has other administrative staff that it
10 pays for, or the, at best, subsidiaries.

11 CHAIRPERSON JENKINS: Let me stop there. That's
12 not inside the document.

13 TOM KRIDER: Right.

14 CHAIRPERSON JENKINS: So we don't -- we don't
15 leave our document out.

16 SECRETARY MOLESWORTH: Okay. I was just --
17 because of his saying that it was shared employment, I was
18 trying to determine whether or not it was really the same
19 company with the same principal employers.

20 CHAIRPERSON JENKINS: Okay.

21 SECRETARY MOLESWORTH: And that they only worked
22 with each other, is what I'm looking for.

23 TOM KRIDER: And if I may. In this circumstance,
24 yes, everybody is under the umbrella of MasTec.

25 CHAIRPERSON JENKINS: Okay.



1 SECRETARY MOLESWORTH: So this isn't really a
2 discussion now?

3 CHAIRPERSON JENKINS: It's discussion, yes.

4 SECRETARY MOLESWORTH: So from the State's point
5 of view, this isn't really shared labor in the point of,
6 like, labor -- any of the labor-sharing organizations out
7 there; right? Where you have people that come in, they sign
8 a contract with you, and you disperse them out to different
9 organizations depending on the type of work they do; right?
10 There's a contract between the two to -- between the two
11 groups to actually accept that labor.

12 The problem I have here is that it's -- it's virtually,
13 again, the same principals, two different companies. One is
14 a pay master, and the -- could work the same way if the
15 electricians were employed by the licensed -- or the people
16 actually doing the work and the company that actually has
17 them doing the work was the one that actually employed them.
18 Instead, they are employed by a contractor that's not an
19 electrical contractor and then shared with another
20 contractor.

21 And so it appears to me -- because I'm a little
22 confused as to the two different entities. But it appears
23 that one of the contractors is not licensed but they have
24 the employees and they are giving those employees to an
25 unlicensed contractor that's doing the work.



1 Have I got that right, Counsel?

2 TOM KRIDER: I don't know if you want me to enter
3 into a -- engaging on these questions --

4 CHAIRPERSON JENKINS: As long as the questions
5 stay within --

6 TOM KRIDER: I don't want to overstep my bounds.
7 I'm perfectly happy to answer the questions, but I know you
8 have a limited record, and answers may go beyond that
9 record. I just --

10 CHAIRPERSON JENKINS: As long as it doesn't leave
11 the information we have from our record, you are welcome to
12 answer the question. If it leaves that, I have to --

13 TOM KRIDER: And I don't have it fully memorized,
14 but I -- the -- again, the conceptual problem here is the
15 Department thinks that the entering of a name in the ESD
16 database is the exclusive definition of employment. It just
17 isn't.

18 SECRETARY MOLESWORTH: I think we have a tendency
19 under the electrical law to disagree because we protect the
20 consumers of Washington through these laws, stating that the
21 employee actually is working for a licensed contractor.
22 Their bond is responsible for the work being done. So
23 there's that relationship ladder that we have for the
24 consumer that states that you must work for a licensed
25 electrical contractor; right?



1 So I'm not sure that that was established completely,
2 that they are. It seems like they work for another
3 contractor or another company.

4 TOM KRIDER: The only work -- the only entity
5 that they do work for is Solutions, who is a licensed
6 electrical contractor. They do no work on behalf of
7 services, who is the pay master.

8 SECRETARY MOLESWORTH: Okay. But they are
9 employed by Solutions, who does no work.

10 CHAIRPERSON JENKINS: Let's ask the question.

11 SECRETARY MOLESWORTH: Who does no work. That's
12 what I'm trying to establish.

13 CHAIRPERSON JENKINS: Introduce yourself.

14 MR. KNOTTINGHAM: Board member Knottingham.

15 You mentioned a temporary labor supply -- I'll just
16 call them supply companies' arrangements. So there's a
17 couple. You mentioned a couple of them in brief. If they
18 loan out labor to a non- -- and I guess I'll address this to
19 the chief.

20 If they supplied labor electricians to a non-electrical
21 contractor, who is responsible for the electrical work?

22 SECRETARY MOLESWORTH: It would be the -- we
23 would probably cite the non-electrical contractor that was
24 using the labor to actually do the work in that instance.

25 BOARD MEMBER KNOTTINGHAM: If they supplied labor



1 to a licensed electrical contractor and there were issues,
2 who would be issued -- who would be responsible, ultimately,
3 for the work?

4 SECRETARY MOLESWORTH: The licensed electrical
5 contractor would be.

6 BOARD MEMBER KNOTTINGHAM: Okay. And in this
7 case -- and I'll direct this to the attorney for MasTec.

8 So you have an employer who is not licensed, not
9 licensed electrical contractor supplying labor to a licensed
10 electrical contractor. Is that your contention?

11 TOM KRIDER: Correct.

12 BOARD MEMBER KNOTTINGHAM: Okay. Thank you.

13 TOM KRIDER: And again, I'm fairly confident --
14 and I don't know if this is in the record, so I apologize.
15 I don't believe any of the temporary labor supply companies
16 are licensed electricians.

17 CHAIRPERSON JENKINS: That's not in the record.

18 BOARD MEMBER KNOTTINGHAM: Yeah. It didn't go
19 there. It just listed them, so...

20 CHAIRPERSON JENKINS: And a comment, yes, Mr. Don
21 Baker.

22 BOARD MEMBER BAKER: Does the record reflect who
23 the administrator is assigned to?

24 TOM KRIDER: Yes. It's MasTec Solutions.

25 BOARD MEMBER BAKER: But there's two companies -



1 I'm trying to understand - services and Solutions?

2 TOM KRIDER: Yes. Services does the services --
3 the employment services. Solutions is in the field doing
4 the work.

5 KAITLIN LOOMIS: The administrator is reported as
6 an employee of Services, not the electrical contractor.

7 BOARD MEMBER BAKER: That's what I'm trying to
8 find out. There's two entities here, Services and
9 Solutions, MasTec. Who is the administrator assigned to?

10 TOM KRIDER: Well, under the license, it is
11 Solutions.

12 BOARD MEMBER BAKER: When I go into the State
13 records, who is the administrator assigned to?

14 TOM KRIDER: Services. He's employed by Services
15 for ESD purposes.

16 BOARD MEMBER BAKER: That does not perform any
17 electrical work is what you said?

18 TOM KRIDER: Correct.

19 BOARD MEMBER BAKER: Okay. And Solutions is
20 doing all of the -- is a licensed contractor that does not
21 have an administrator?

22 TOM KRIDER: No. His license is on behalf of
23 Services -- I mean on behalf of Solutions. If you go into
24 the L&I database, it says, "Anthony Brubach, electrical
25 administrator, Network Solutions."



1 BOARD MEMBER BAKER: Okay.

2 CHAIRPERSON JENKINS: Questions asked.

3 Did you want to add information to that?

4 KAITLIN LOOMIS: I would just add that he's not
5 an employee of Solutions, which is required under the
6 statute.

7 CHAIRPERSON JENKINS: Any other questions,
8 Electrical Board?

9 BOARD MEMBER BAKER: Comment.

10 And, Wayne, maybe you can clean this up for me if I
11 have it wrong, but my understanding of the WAC is that an
12 electrical contractor, when performing an installation, is
13 required to have a permit posted onsite prior to beginning
14 that work, and our employees cannot work for another
15 contractor unless we have a written agreement authorizing
16 that other contractor to manage and supervise those
17 employees.

18 SECRETARY MOLESWORTH: So the last part of that.
19 A written contract was actually just an article in the
20 Currents that that was what they were going to allow. I'm
21 not too sure there's any validity of that in law, though,
22 so...

23 BOARD MEMBER BAKER: Okay. My understanding has
24 been for quite some time that that is the law. But yeah,
25 I'm looking to you to verify that because, in a sense, it



1 sounds like that's what these two bodies are doing.

2 SECRETARY MOLESWORTH: Well, and they could
3 be -- like you, I'm confused with Solutions and -- and the
4 name of the other one --

5 TOM KRIDER: Services.

6 SECRETARY MOLESWORTH: -- Services, which one was
7 which. It sounds like services is the one that does the
8 payroll.

9 TOM KRIDER: Yes.

10 SECRETARY MOLESWORTH: They are the licensed
11 contractor?

12 TOM KRIDER: No. Solutions has the license,
13 pulls the permits, does all the work.

14 SECRETARY MOLESWORTH: Okay. Who are the
15 employees listed under?

16 TOM KRIDER: Services.

17 SECRETARY MOLESWORTH: "Services."

18 TOM KRIDER: Because that's what the Department
19 of Revenue requires.

20 KAITLIN LOOMIS: And if I could just --

21 BOARD MEMBER BAKER: No. We're good.

22 So I -- in my mind right now, the way the discussion
23 has gone, what I've heard and what I've read, I'm okay with
24 the employees being -- working for Solutions. I struggle
25 with the administrator not being an employee; right? Those



1 services that we've all used in the past and were aware of,
2 they do not -- they do not send out administrators.
3 Administrators are signed and listed with the company, and
4 Solutions does not have an administrator, to my
5 understanding, that he -- he might be listed, but he's not
6 an employee.

7 TOM KRIDER: But that is who he is working for,
8 is Solutions. Everything to the general public is he's the
9 administrator on behalf of Solutions. The only thing that's
10 different is the requirement that for the payroll, the
11 common pay master, they have to record it for the Department
12 of Revenue and ESD under the common pay master.

13 BOARD MEMBER BAKER: This group has history with
14 this exact thing, where administrators aren't employees or
15 members of the firm, which, to me, it falls into that
16 category.

17 CHAIRPERSON JENKINS: So I was waiting for
18 everyone else to get a chance so I can speak on this also.

19 After looking at all of this information, we
20 historically have seen this happen before, and again, where
21 we have two UBI numbers and two contractors trying to work
22 under one company effectively, and in the past, we've always
23 stayed with the idea that is not allowed. You have one UBI
24 number. You have one contractor.

25 Now, if they want to pay them a certain way and send



1 off a paycheck to a company that sends out paychecks, that's
2 their prerogative. But what it looks like to me here is
3 that they are superseding the electrical law in order to
4 gain some type of a tax benefit. That's what I'm seeing,
5 because we've always said you cannot have two contractors
6 under one UBI number, or two entities under one. And that's
7 what they are trying to do, is say it's one entity. It's
8 not. It's legally two entities.

9 I don't like that kind of fee we are looking at here,
10 how much is being caused by this, but I do think that their
11 structure is incorrect and it should be under one UBI
12 number. And if they want to pay a fee for another company
13 that makes the paychecks, that's great, but they are not
14 listing the employees under the electrical contractors --
15 contractor UBI number. It's more of a paperwork issue. I
16 don't know if that would be -- I see they are trying to work
17 under the correct contractor location, but their paperwork
18 says otherwise. The paperwork says, I work for a different
19 contractor legally. And I think that's what the State is
20 trying to say. It's not a legal business model. Their
21 business model is superseding what the Electrical Code says.
22 That's what I get out of that.

23 Question over here. Comment.

24 BOARD MEMBER KNOTTINGHAM: Board member
25 Knottingham.



1 A comment was made that -- and I'm going to paraphrase.
2 I'm not quoting directly. But, you know, contractor needs
3 help, so they call a temporary employment service. The
4 employees come out and assist them, and they don't have to
5 lay them off or hire people that they have to cull later.

6 So I go back to who is supervising them. And I
7 understand your argument. And I think that, you know,
8 that's correct under those instances, but it's my
9 understanding - correct me if I'm wrong - that all the
10 employees are being reported by Services. And if that's the
11 case, then how does Solutions provide supervision if they
12 don't have any employees to supervise?

13 I also agree with Board Member Baker that it does
14 appear the admin is absentee from Solutions, since he's
15 employed by Services.

16 So those are my two hang-ups. Can you address those?

17 TOM KRIDER: Yeah. As to the first one, again,
18 as I said early, this puts in front of the Board the whole
19 use of temporary labor services, because they are all
20 required to report the employees under themselves while they
21 are sending out labor electricians to other companies to
22 work under their licenses.

23 So if --

24 BOARD MEMBER KNOTTINGHAM: I'll interrupt you and
25 then I'll let you continue.



1 In that case -- and that alluded to the first question
2 I had asked, which is, if the employees are loaned out to a
3 licensed electrical contractor and the contractor does work,
4 even though they are owned, reported from the temporary
5 agency, they are, in fact, working, doing electrical work
6 for the licensed electrical contractor. That is different
7 in this case, is all the employees are working for Services.
8 All the working is being done by Solutions. There's no
9 supervision done by Solutions employees, from my
10 understanding. They don't have an administrator that works
11 for them. He's being loaned out to them by Services.

12 TOM KRIDER: Well, again, the -- his electrical
13 license says he is administrator for Solutions. So he
14 is -- Solutions consider him their supervising
15 administrator.

16 BOARD MEMBER KNOTTINGHAM: But he's not employed
17 by them.

18 TOM KRIDER: He's co-employed by them. The --
19 again, and Services is not performing any work. This is
20 different than if you have two contractors trying to use a
21 single license. This is not the case here. Services is not
22 a contractor. It's just a business entity.

23 CHAIRPERSON JENKINS: Another question? A whole
24 bunch of them popped up. Let's start with Board Member
25 Kerry Cox.



1 BOARD MEMBER COX: Yeah. Board Member Cox.

2 A UBI number does not constitute a contractor. My
3 chiropractor has a Washington State UBI number in order to
4 make their reports to the State. My physician -- my medical
5 physician has a UBI number so that they can report the
6 things that they need to report to the State. That doesn't
7 make them a contractor.

8 If I can bring our attention to the record, page 74 of
9 the MasTec Electrical Board appeal packet. I'm looking at
10 the -- I don't know if this is what you call a deposition of
11 Inspector Jobe Risenhower (phonetic), where he is asked,
12 "What is your understanding, as you sit here today, of what
13 the difference is between Solutions and Services?"

14 And the answer from Jobe Risenhower, from the State,
15 is, "The Department identifies them as separate entities,
16 separate businesses."

17 A subsequent question is asked: "And what do you
18 understand of each of them to do?"

19 And he answers, "MasTec Network Solutions holds an
20 electrical contractor's license valid in Washington, and
21 MasTec Services provides payroll."

22 The question is subsequently asked: "Are you aware of
23 the services doing anything other than providing payroll?"

24 His answer is, "No."

25 This was the State's inspector answering the question,



1 "What's the difference between these two?": "They are two
2 businesses. Network Solutions is the electrical contractor.
3 The only thing Services does is provides payrolls."

4 Just because they have a UBI number does not make them
5 a contractor. Working under two separate entities.

6 CHAIRPERSON JENKINS: Okay. Thank you. Thank
7 you.

8 Hand up here? Yes, Board member Dylan Cunningham.

9 BOARD MEMBER CUNNINGHAM: Yes. Board Member
10 Cunningham.

11 Is there anything under this structure that would
12 prevent Services from dispatching temporary labor to another
13 licensed electrical contractor other than MasTec? I realize
14 they are sister companies. That's in your statement. But
15 if another contractor needed labor and came to Services and
16 wanted electricians, could -- is there anything stopping
17 them from fulfilling that request?

18 TOM KRIDER: Probably a whole bunch of things,
19 but not functionally or probably legally. Again, the --
20 Services is not in the business of having a pool of
21 available labor to send out when somebody needs it, like a
22 typical labor supply company. They are just running payroll
23 for the MasTec entities and various jurisdictions across the
24 country.

25 BOARD MEMBER CUNNINGHAM: Understood .



1 CHAIRPERSON JENKINS: All right. Any other --
2 Yes, Board Member Byron Allen.

3 BOARD MEMBER ALLEN: Yes. Board Member Allen.
4 And I'm the new kid on the block here; right? So if I step
5 out of line here on something, don't feel bad about
6 correcting me. But I -- you know, just so you know, I'm
7 just a broken down, knuckle-dragging, old lineman here, but
8 I -- I kind of speak rather plainly on things.

9 You said in your statement, sir, that -- and correct me
10 here. Which one is actually bonded and insured? Is it
11 Solutions or Services?

12 TOM KRIDER: Solutions.

13 BOARD MEMBER ALLEN: Okay. And their bond is for
14 the performance of electrical work; is that correct?

15 TOM KRIDER: Correct.

16 BOARD MEMBER ALLEN: All right. Does that bond
17 cover their employees?

18 TOM KRIDER: It covers all of those working under
19 them.

20 BOARD MEMBER ALLEN: Okay. And how would you
21 define "working under them"?

22 TOM KRIDER: Those that are performing work on
23 the contracts that they hold.

24 BOARD MEMBER ALLEN: Okay. All right. So if
25 they come and wire my home - all right? - which they



1 probably don't. I doubt they do residential, or at least my
2 little house. But anyway, if they were, if I was to hire
3 them to come wire my home, and an employee, an electrician,
4 something -- performed something incorrectly, maybe got out
5 of line on whatever, and for whatever reason, I seek to take
6 legal action, who do I take legal action against?

7 TOM KRIDER: Solutions.

8 BOARD MEMBER ALLEN: Okay. Can I take legal
9 action against Services?

10 TOM KRIDER: Probably, as co-employer, but your
11 recourse is against -- primarily against Solutions.

12 BOARD MEMBER ALLEN: So we had discussion about
13 UBI number, you know, and what does that mean in the State
14 of Washington.

15 Is -- is services -- in their UBI, do they list
16 themselves as a sister company of Solutions?

17 TOM KRIDER: I don't know off the top of my head,
18 and I don't think it's in the record. I think the L&I
19 database shows the same mailing addresses for both, in
20 Florida, as their corporate headquarters.

21 BOARD MEMBER ALLEN: That could be any number of
22 companies --

23 TOM KRIDER: I'm just saying I don't think it
24 identifies them specifically as related.

25 BOARD MEMBER ALLEN: Okay. All right. So,



1 again, I'm just Joe Public. I've got an issue with what's
2 going on. I -- I thought I hired Solutions. I thought I
3 hired employees of Solutions.

4 Now, can my attorney, that I have limited funds to hire
5 to come in and state my case, am I going to prevail to say,
6 "I want to sue Services too because they are the ones that
7 actually provided the labor?"

8 TOM KRIDER: Yeah, I don't know that you would
9 have -- it's not my area of expertise.

10 And, Chairman, this is probably beyond the record.

11 Your recourse is against Solutions. When I say you
12 could probably also go after Services, that's because you
13 can kind of sue anybody you want and then the courts figure
14 it out later. Sort of the litigators' knee-jerk reaction of
15 yes, you could. But they are employed by both. But in
16 terms of vicarious liability for the employer, unlikely to
17 fall to Services because the supervision and the actual
18 oversight of the work is being done by Solutions.

19 BOARD MEMBER ALLEN: Who has no employees?

20 TOM KRIDER: Who has all of the workers, but they
21 don't record their employment under the Department of
22 Revenue.

23 BOARD MEMBER ALLEN: Okay. Thank you.

24 TOM KRIDER: I -- just one last -- they still pay
25 for everybody. Services writes a check but doesn't fund it.



1 The funding of all the labor is done by Solutions.

2 CHAIRPERSON JENKINS: Is that a question from
3 Secretary first? I saw a hand over here.

4 SECRETARY MOLESWORTH: Yes. I just want to bring
5 some clarity to the Board, is that the UBIs are an
6 identifier for a business, not a contractor. Contractors
7 are a business; right? They -- if I get an electrical
8 license, I can become an electrical contractor. I have a
9 UBI number that identifies me as a liable business.

10 And so the question I actually had was -- because we
11 seem to be talking about temporary labor. And is there
12 anything temporary about the employees? And what's
13 temporary about the employees in relationship to the same
14 thing with Labor Ready that you're talking about?

15 TOM KRIDER: No. It's just that they are exactly
16 analogous in terms of who is reporting them to the
17 Department of Revenue and who is actually supervising the
18 work.

19 SECRETARY MOLESWORTH: So these guys could be
20 working for them for 20 years.

21 TOM KRIDER: Correct.

22 SECRETARY MOLESWORTH: And so there's no movement
23 of labor, like in the situations where you have Labor Ready.
24 These are temporary help that work for a limited amount of
25 time for them; right? And then they wind up being employed,



1 if they are going to stay any length of time. Because I've
2 had -- worked with people like that. Any length of time,
3 the employer actually hires them away from the Labor Ready
4 because of the different costs involved.

5 So I don't think it's the same thing when I look at it.
6 And I'm going to agree with our new board member - I think
7 I'm agreeing with him - in that when we go about holding
8 somebody responsible, we follow the money, and there's no
9 way to follow the money for an employee that did something
10 that was negligent to a company that holds a contract,
11 because they don't employ you; right? So there's a block
12 there. I can't follow the money to this electrician that
13 did something negligent. I want to sue them -- I want to
14 sue the company, but the company says, "This guy doesn't
15 work for me"; right? "You have to sue this guy." But I
16 don't have a contract with that guy.

17 So that's what I'm worried about, is how do we ensure
18 that the public has the safeties that are put in place for
19 them in the electrical law to make sure that electricians
20 are working for a licensed electrical contractor?

21 TOM KRIDER: The same question applies to the
22 temporary laborer who is assigned. If they foul it up,
23 we've got the same question. There's just no difference,
24 logically, between the temporary labor supply company and
25 what Services is doing here in terms of who has hired them,



1 who is reporting the UBI under the ESD, and who is actually
2 supervising the work. It's -- there's no distinction that
3 can be made between those two entities, other than perhaps
4 the duration of the employment.

5 CHAIRPERSON JENKINS: Yes, Board Member Allen.

6 BOARD MEMBER ALLEN: Yes. Board Member Allen.

7 I would disagree. I think there's a huge difference
8 between this circumstance and a temporary labor supplier,
9 Labor Ready, whoever. They are augmenting an existing
10 workforce. They are augmenting an employer's need for
11 temporary labor, for whatever that reason is. That's not
12 the case here. There is no augmentation of an existing
13 workforce going on. This is a total 100 percent supply of
14 an existing -- of a workforce to a company that stands alone
15 and has no workforce but has a license.

16 TOM KRIDER: Right. But the violations in the
17 citation all had to do with the reporting of the employment
18 with ESD services. That's the same in both. That's why I
19 say there's no distinction. There's a distinction in -- in
20 scope, yes, but in terms of what the violations are stating,
21 there is no distinction.

22 BOARD MEMBER ALLEN: I do believe -- if I may. I
23 do believe this does fly contrary to the WAC that does
24 require -- that does say that two entities cannot operate
25 under one permit. And for me, you haven't presented



1 Services and Solutions as two clearly -- as two associated
2 entities. Your own statements say, "Well, yeah, you could
3 maybe sue both, but I'm not -- you know, that's not my area
4 of expertise." I'm paraphrasing here. I do believe,
5 though, that they are two separate entities. And I think it
6 would be a challenge for the average individual that hired
7 one to be able to go after the other if something went
8 wrong, and that's why the rule is in place.

9 CHAIRPERSON JENKINS: Thank you.

10 My -- did someone have a question over here? No.

11 The only comment I want to add to that is -- again, got
12 to think about this. I'm going to bash insurance companies
13 for a second. But if the insurance company has a way of not
14 paying a claim, they tend not to. And so if I was a
15 customer that was employed by -- or hired, effectively,
16 Services, because that's who they are working for, thinking
17 I got Solutions there, and something went wrong, I want to
18 sue them, I don't know how the bonding works -- that is not
19 in our packet. I don't have that information to verify
20 that. But the bonding company could say, "Well, they are
21 not an employee of ours. Look at the record. It shows they
22 are an employee of Services," which made my collection or my
23 fix that much harder. So now I have to prove that those two
24 companies are associated and that bonding will cover
25 Services.



1 That's my -- that would be my concern because the
2 State -- I'll say L&I is concerned, like we all are, there
3 needs to be a clear chain of who is responsible for the
4 labor that's doing the work. And by maintaining them
5 under -- I know you mentioned the contractors, but under one
6 UBI number, there's a straight chain back to their bonding
7 and the insurance system.

8 I don't see that the way this one is set up currently
9 today, and I think that's what you are mentioning there.

10 Anybody else?

11 Yes, Board Member Cunningham.

12 BOARD MEMBER CUNNINGHAM: Which entity solicits
13 and enters into contracts with potential customers to do
14 projects?

15 TOM KRIDER: Solutions and only Solutions.

16 BOARD MEMBER CUNNINGHAM: And which entity
17 receives payments from said customers for performing work?

18 TOM KRIDER: Solutions and only Solutions.

19 BOARD MEMBER CUNNINGHAM: Is there a contractual
20 relationship between Services and Solutions regarding the
21 supply of labor?

22 TOM KRIDER: At the moment, no.

23 BOARD MEMBER CUNNINGHAM: Okay.

24 TOM KRIDER: The record, I think, reflects the
25 fact that we asked the Department if one would satisfy their



1 concerns, and we did not get an answer.

2 CHAIRPERSON JENKINS: Okay. Any other comments
3 between the board members?

4 Yes.

5 BOARD MEMBER NORD: I have a question. Board
6 Member Nord. Question for Counsel.

7 Is Network Solutions and Network Services two different
8 corporations?

9 TOM KRIDER: I believe they are two different
10 legal entities, yes.

11 BOARD MEMBER NORD: Okay. Corporate officers are
12 different, et cetera?

13 TOM KRIDER: I believe so. Now, they may have a
14 shared -- somebody at MasTec parent may be on both boards.

15 BOARD MEMBER NORD: But they are two separate
16 legal entities?

17 TOM KRIDER: Correct. That's my understanding.

18 BOARD MEMBER NORD: Okay. Because of that, I
19 have to go along with the secretary's position and Board
20 Member Allen's and Board Member Cunningham's position.

21 CHAIRPERSON JENKINS: Thank you.

22 Any other comments from the Board? Anybody else have
23 any questions, comments?

24 All right. Hearing none from the Board, I will -- all
25 in favor of the motion to uphold the ALJ's decisions. All



1 in favor, raise your hands so I can get a count in favor of
2 that. (Hands raised.)

3 All opposed. (Hands raised.)

4 The motion fails.

5 The Chair would entertain a motion.

6 Let me rephrase that. The Chair would entertain a
7 motion to -- what's the right word?

8 BEN BLOHOWIAK: Reverse.

9 CHAIRPERSON JENKINS: Reverse or oppose -- modify
10 the ALJ's decision to uphold the -- (conferring with Ben
11 Blohowiak off the record).

12 CHAIRPERSON JENKINS: Say it out loud for me.

13 BEN BLOHOWIAK: I think what the Chair is trying
14 to say -- this is Ben Blohowiak, counsel for the Board. The
15 Chair would entertain a motion to overrule or modify the
16 ALJ's decision to dismiss the citations in this case.

17 BOARD MEMBER NORD: Board Member Nord. I make
18 such motion.

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

21 BOARD MEMBER ALLEN: Board Member Allen. Second.

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

24 Yes, Board Member Don Baker.

25 BOARD MEMBER BAKER: I don't think I can vote in



1 favor either way, as a broad sweeping brush, over all seven
2 or eight of these citations. I need to look at them
3 individually, because some of them I may agree with and some
4 of them I may not. So any motion for an all-encompassing, I
5 don't think I can support that.

6 CHAIRPERSON JENKINS: Okay. So given the motion
7 to modify, we would like to adjust our motion to go through
8 each one of these, I guess.

9 BOARD MEMBER NORD: Board Member Nord. So be it.

10 CHAIRPERSON JENKINS: Okay. And do we have a
11 second?

12 BOARD MEMBER ALLEN: Board Member Allen. Second.

13 CHAIRPERSON JENKINS: We have a second.

14 BOARD MEMBER BAKER: And I don't want to steer
15 the whole Board. I mean, if you guys feel like you can --

16 BOARD MEMBER ALLEN: It makes sense.

17 BOARD MEMBER BAKER: For me, there's just some
18 things with these that I need to deal with each one.

19 CHAIRPERSON JENKINS: Okay. There's been a
20 motion and second to make that --

21 BEN BLOHOWIAK: There's been a motion. There's
22 been a second. So now is the time for discussion.

23 So, Board Member Baker, if you'd like to work through
24 those, we can talk about them --

25 BOARD MEMBER BAKER: I don't want to run the



1 discussion. I want to be part of the discussion.

2 CHAIRPERSON JENKINS: Okay. Let me go back to
3 the --

4 BOARD MEMBER COX: Point of order, Mr. Chair.

5 CHAIRPERSON JENKINS: Yes.

6 BOARD MEMBER COX: Do we need to know which one
7 of these we are -- the motion is to reverse?

8 CHAIRPERSON JENKINS: Modify.

9 BOARD MEMBER COX: To modify?

10 CHAIRPERSON JENKINS: Yeah.

11 CHAIR MEMBER COX: Do we need to know that at
12 this point rather than saying we are going to work through
13 each of them or are we going to have -- in Robert's Rules of
14 Order, are we going to have subsequent motions under the
15 master to modify? I just need to clarify, please.

16 BEN BLOHOWIAK: So the way the motion is before
17 the Board now, we are addressing the entire order. I think
18 that is part of the discussion. We can go through and
19 modify each in turn, if you'd like to take them one at a
20 time in a motion. I'm just trying to keep this streamlined,
21 Board Member.

22 BOARD MEMBER COX: I'm just wondering how we are
23 going to accomplish that, Counsel. If we have one motion to
24 take them individually, how we're going to accomplish the
25 record for each individual one and still under a master



1 motion without having a motion to modify each individual
2 citation?

3 TOM KRIDER: Mr. Chairman, I would have a
4 suggestion. If the attorney general would agree, you can
5 probably lump these in by entity. You have three groups.
6 You have Services, you have Solutions, and then you have
7 Mr. Brubach, and you can probably look at them individually
8 in three sets rather than looking at all seven citations
9 individually, because they really are all about the same
10 thing.

11 BOARD MEMBER COX: Well, if I could defer to
12 Board Member Baker what his thought was on how we are going
13 to process through this.

14 BOARD MEMBER BAKER: Thank you.

15 My suggestion was that we look at them individually.
16 And my recommendation would be that we make a motion and
17 vote on each one of them individually. That's how I would
18 choose the order.

19 Does that make sense?

20 BOARD MEMBER COX: Uh-huh.

21 CHAIRPERSON JENKINS: So --

22 BOARD MEMBER COX: So point of order. Do we need
23 this master -- do we need the motion that's on the floor?

24 BEN BLOHOWIAK: No. There should be a motion to
25 kill this motion.



1 CHAIRPERSON JENKINS: So if we kind of clear this
2 thing up. If we don't like the way this is stated - it
3 sounds like a good consensus on this - we can let this fail
4 and then we can do a motion on each individual citation.

5 So all in favor of this motion to modify the ALJ's
6 decisions. All in favor, say "aye." (No response.)

7 All opposed. (Chorus of nays.)

8 Okay. Motion fails.

9 So now let's go back to our record, I'm assuming.

10 Let's do this. Let's take a, say, 10-minute break.
11 Sound good enough to gather your thoughts a little bit?
12 Yes? No? I'm looking at consensus here. And so we'll get
13 started at about 10:15. Apprentices, 10:15, and journeymen,
14 10:15.

15 Can I get a motion to recess?

16 BOARD MEMBER NORD: Board member Nord. Motion.

17 CHAIRPERSON JENKINS: Board member Nord, motion.

18 Do we have a second?

19 BOARD MEMBER KNOTTINGHAM: Board Member
20 Knottingham. Second.

21 CHAIRPERSON JENKINS: Any discussion? (No
22 response.)

23 All in favor, say "aye." (Chorus of ayes.)

24 Any opposed? (No response.)

25 Motion passes. Recess.



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(Recess taken.)

CHAIRPERSON JENKINS: Okay. It is now 10:20, about. We'd like to bring the Board back to order.

So after discussion with counsel, it looks like the best way to do this is if we were to go to Board packet page number 14. Give everyone a chance to get there, Electrical Board packet page 14, where I'm on 5.10.

So 5.10 has the first citation number. And I think the best way to go through this would be to possibly have a motion for 5.10, and a motion for 5.11, 5.12, 5.13, and 5.14 has three citations in there. If we don't like the way -- we can separate those if need be. But those are the different citation numbers. And then once we decide what we would like with that, we can turn to our counsel here, and they can help us hash through the changes as needed, and come back to the next meeting or after this with a decision.

Board Member Dominic Burke.

BOARD MEMBER BURKE: Can we go to page 1930 and actually go through the citations themselves. Because where you're at on 14, they're kind of paraphrased and there's added language. Would that be okay?

CHAIRPERSON JENKINS: Give me one second to take a look.

BOARD MEMBER BURKE: Sorry, Ben.

BEN BLOHOWIAK: So the Board needs to address the

1 findings of facts and conclusions of law as outlined by the
2 administrative law judge. If you want to refer back to the
3 full citations just for clarity in the record and your own
4 understanding, that's fine. Just when it comes to the
5 motion, it needs to be addressed towards the ALJ's order and
6 those conclusions of law, so...

7 BOARD MEMBER BURKE: Okay. Then I would just
8 like to let the Board know beginning on page 1930 is the
9 actual citations for reference as we're going through them,
10 in Exhibit 2.

11 CHAIRPERSON JENKINS: Thank you.

12 BOARD MEMBER BURKE: Better?

13 CHAIRPERSON JENKINS: I like it.

14 BEN BLOHOWIAK: Nothing wrong with what you're
15 saying. I'm just saying as far as the motions going, we've
16 got to make sure that we're clear.

17 BOARD MEMBER COX: And you said that's page 14,
18 Mr. Chairman?

19 CHAIRPERSON JENKINS: Yes, it starts on page 14
20 of the Electrical Board packet. 5.10.

21 So concerning EREIF -- I'm sorry. Once again,
22 concerning citation number EREIF01172, the Chair would
23 entertain a motion.

24 BOARD MEMBER ALLEN: Mr. Chair, Board Member
25 Allen.



1 I'm not sure exactly how to formulate the motion. I
2 believe you're looking for a motion to dismiss --

3 CHAIRPERSON JENKINS: Or uphold.

4 BOARD MEMBER ALLEN: Okay. So I would make a
5 motion to dismiss.

6 CHAIRPERSON JENKINS: So the motion you are
7 asking for is to --

8 BEN BLOHOWIAK: So -- and this is Ben Blohowiak.

9 Board Member Allen, I just want to -- so the ALJ
10 dismissed the citation.

11 BOARD MEMBER ALLEN: Right. So my motion would
12 be to dismiss the ALJ's reversal of the citation --

13 CHAIRPERSON JENKINS: Reverse the ALJ's --

14 BOARD MEMBER ALLEN: Reverse. Okay. Thank you.
15 That's what I was looking for, the proper terminology.

16 BEN BLOHOWIAK: Thank you. I was just trying to
17 understand so we have the proper motion.

18 BOARD MEMBER ALLEN: Okay. So I would make a
19 motion to reverse the ALJ's decision.

20 CHAIRPERSON JENKINS: On citation
21 number EREIF01172 --

22 BOARD MEMBER ALLEN: Yes.

23 CHAIRPERSON JENKINS: -- we have a motion.

24 Do we have a second?

25 BOARD MEMBER NORD: Board Member Nord. Second.



1 CHAIRPERSON JENKINS: We have a motion. We have
2 a second. Any discussion? I'll let the Board take a minute
3 to verify what they are reading here.

4 BOARD MEMBER BAKER: Dominic, are you on the
5 citation page?

6 BOARD MEMBER BURKE: No.

7 BOARD MEMBER BAKER: Can someone tell me who the
8 citation was written to? Was it written to Services or
9 Solutions.

10 TOM KRIDER: Solutions.

11 BOARD MEMBER COX: Written to Solutions, which is
12 what 5.10 refers to.

13 So now my question - Board Member Cox - is, do we see
14 anywhere in the record that Solutions did not obtain
15 electrical -- okay. Solutions -- okay. Do we see anywhere
16 in the record where Solutions obtained an electrical permit
17 for Services?

18 And a subsequent question to that would be, or did
19 Solutions always pull a permit for Solutions?

20 CHAIRPERSON JENKINS: Any comments on that?

21 BEN BLOHOWIAK: Board Member Cox --

22 BOARD MEMBER COX: Yes.

23 BEN BLOHOWIAK: -- that may be a question you
24 might want to direct towards Counsel. He might be able to
25 help.



1 KAITLIN LOOMIS: And I can --

2 BOARD MEMBER COX: Yes, to the State's counsel.

3 KAITLIN LOOMIS: Yes. There's -- in the record,
4 there's Jobe Risenhower's investigation, in his inspector
5 statement. And attached to that, there were several
6 exhibits describing -- showing that the permits were
7 purchased by Solutions.

8 BOARD MEMBER COX: Which is -- yes, that's -- I
9 agree to that. That's the -- that's what I'm seeing the ALJ
10 saw, was that the permits were pulled for Solutions. There
11 is uncontroverted evidence establishing that Solutions did
12 not obtain any work permits for Services.

13 KAITLIN LOOMIS: So I don't know if this is
14 getting into, like, more of an argument, but in the
15 inspector's statement, it also describes that Services has
16 the employees. So upon Mr. Risenhower's inspection, he
17 discovered that these employees were performing the work
18 under the permits pulled by Solutions -- purchased by
19 Solutions.

20 CHAIRPERSON JENKINS: So let me help to clarify
21 this, if you don't mind.

22 So this -- 5.10. This is a -- this is a citation to
23 who?

24 TOM KRIDER: Solutions.

25 CHAIRPERSON JENKINS: This is a citation to



1 Solutions for obtaining permit for services; is that
2 correct? Does that sound right?

3 TOM KRIDER: Yes.

4 CHAIRPERSON JENKINS: Okay.

5 BOARD MEMBER COX: And it's my understanding
6 there's nowhere in the record -- I'll address appellant's
7 counsel.

8 Is there anywhere in the record that establishes that
9 Solutions obtained electrical permits for Services?

10 TOM KRIDER: No.

11 BOARD MEMBER COX: Thank you.

12 CHAIRPERSON JENKINS: Any comments?

13 BOARD MEMBER BAKER: Do we have a motion on the
14 Board?

15 CHAIRPERSON JENKINS: Yes. To deny -- to
16 change -- to remove -- reverse the ALJ's.

17 BOARD MEMBER BAKER: Okay. I won't support that
18 motion. I'm going to support to affirm the ALJ's decision.

19 CHAIRPERSON JENKINS: Any more discussion on the
20 floor?

21 Yes.

22 SECRETARY MOLESWORTH: So I want to make sure
23 I'm -- I'm clear about this.

24 So you're asking if Services bought the permits; right?

25 BOARD MEMBER COX: No, no. The citation



1 is -- the citation is issued against Solutions for not
2 obtaining electrical permits.

3 SECRETARY MOLESWORTH: Okay.

4 BOARD MEMBER COX: Okay. And there is -- and
5 I've had an answer that nowhere in the record is there
6 evidence that Solutions obtained electrical work permits for
7 services, which is what the violation is. It's one of those
8 double-negatives. I think that's why Board Member Allen was
9 trying to understand how to word it.

10 SECRETARY MOLESWORTH: That's kind of where I'm
11 going too, because one entity can't buy a permit for another
12 entity. That's illegal; right?

13 BOARD MEMBER COX: Right.

14 SECRETARY MOLESWORTH: If that entity, the
15 unlicensed contractor that has the contract on the work, if
16 they are there doing the work under contract, then they need
17 to have a permit, and we would cite them for not having a
18 permit, not being a licensed contractor - right? - all of
19 it.

20 And so what I think you were getting at was -- was they
21 are citing -- say it to me again. They were citing
22 Solutions.

23 BOARD MEMBER COX: They were citing Solutions.
24 That's what the citation was written for -- written to, was
25 written to MasTec Network Solutions for not obtaining



1 electrical permits.

2 SECRETARY MOLESWORTH: Right. And so they were
3 onsite. They admitted to doing the work onsite, but they
4 didn't have a permit. They pointed out that -- that
5 Services had a permit. We would turn to them, as the
6 agency, and say, "Sorry, but Services' permit can't -- you
7 know, they can't buy that permit for you. You have to have
8 purchased your own permit."

9 And so that's why we wrote the citation, was because
10 there was no permit there for Solutions. It's Solutions
11 that actually purchased it.

12 CHAIRPERSON JENKINS: One second. I think what
13 you're saying -- let me clear this thing up.

14 So Solutions company, they went to L&I and they
15 purchased a permit, and Solutions was the listed contractor;
16 correct?

17 TOM KRIDER: Correct, yes.

18 BOARD MEMBER COX: See, that's --

19 BOARD MEMBER BURKE: Yes.

20 CHAIRPERSON JENKINS: So Solutions has the
21 contract -- had the contract. The problem the State was
22 seeing was that the people that worked under that permit
23 were employed under Services.

24 SECRETARY MOLESWORTH: Right.

25 CHAIRPERSON JENKINS: That is the citation

1 sitting on the floor right now.

2 TOM KRIDER: Well, that's a different citation,
3 actually.

4 BOARD MEMBER COX: Yeah. Thank you.

5 TOM KRIDER: There's multiple citations for each
6 of these entities. This is purely for pulling a permit for
7 more than one entity.

8 KAITLIN LOOMIS: And if I could just state this:
9 The WAC is 296-46B-901(3), and it was for obtaining an
10 electrical work permit for an entity not authorized to
11 perform electrical work.

12 So the State's position is that Solutions, a duly
13 licensed electrical contractor, obtained these permits, but
14 Services, an unlicensed entity, performed the work.

15 CHAIRPERSON JENKINS: Right. Any more
16 discussion?

17 Board Member Don Baker.

18 BOARD MEMBER BAKER: The reason I'm going to vote
19 to affirm the law judge's decision is because I believe that
20 the arrangement with Services and Solutions, for them to
21 provide labor, and Solutions, as the contractor, pulling
22 permits and executing the work, I believe that's valid.
23 Whether they have a written agreement to provide labor and
24 supervise that labor is insignificant to me, but I believe
25 Solutions -- Solutions was the electrical contractor, they



1 did pull a permit, and the citation was incorrectly written
2 to Services because L&I made that connection that because
3 the labor was employed by them.

4 So for me, Solutions did everything right there. They
5 did pull a permit, they did execute the work, and I believe
6 they've got an arrangement with Services, that different
7 entity, to provide labor.

8 CHAIRPERSON JENKINS: Okay. Any more discussion
9 from board members?

10 Yes, Board Member Erick Lee.

11 BOARD MEMBER LEE: Board Member Lee.

12 So can -- my hang-up is where the admin is.

13 BOARD MEMBER COX: That's a different citation.

14 BOARD MEMBER LEE: But even right now, if the
15 permit is pulled by an entity that doesn't have an admin as
16 an employee, is the permit legitimate?

17 BOARD MEMBER NORD: That's my problem.

18 CHAIRPERSON JENKINS: Board Member Kerry Cox?

19 BOARD MEMBER COX: The labor -- Labor &
20 Industries lists Anthony Brubach as the administrator for
21 Solutions.

22 BOARD MEMBER LEE: But he's not an employee of
23 Solutions.

24 TOM KRIDER: He's co-employed by Solutions.

25 BOARD MEMBER LEE: Here we go again.



1 BOARD MEMBER COX: He is the designated
2 administrator for Solutions, according to Labor &
3 Industries.

4 BOARD MEMBER LEE: Understood. But isn't it an
5 issue we had come up before? If he's listed there, we had
6 to go and have powers proven and all that kind of stuff;
7 right?

8 BOARD MEMBER BAKER: So if they were going to
9 give a citation, then it would be for not having a valid
10 permit. But that's not what the citation is.

11 CHAIRPERSON JENKINS: Yes, Board Member --

12 BOARD MEMBER KNOTTINGHAM: Board Member
13 Knottingham.

14 There's a lot of nuances here, but I agree with Baker
15 that -- Board Member Baker. It does appear that Solutions
16 purchased the permit. I don't know how they gave a permit
17 to somebody that wasn't the licensed contractor, then they
18 got cited for it. I mean, they bought a permit. So citing
19 them for not having a permit, I think, is -- I don't think
20 that holds water, personally.

21 SECRETARY MOLESWORTH: I think the citation,
22 though, is for purchasing a permit for another entity;
23 correct?

24 KAITLIN LOOMIS: Correct.

25 SECRETARY MOLESWORTH: It's not that they didn't

1 purchase a permit. They bought it with the intent that
2 Services was going to do the work, not them, not themselves.

3 BOARD MEMBER COX: We can't interject intent, can
4 we? We just have to look at what's in the record. You just
5 said, "their intent was." We don't know what their intent
6 was. We see what the record says, black-and-white.

7 SECRETARY MOLESWORTH: Let me rephrase that.

8 BOARD MEMBER COX: Thank you.

9 SECRETARY MOLESWORTH: So Solutions didn't do the
10 work; right?

11 BOARD MEMBER COX: Yes, they did.

12 SECRETARY MOLESWORTH: I -- gees. I tell you.

13 BOARD MEMBER COX: I know.

14 SECRETARY MOLESWORTH: So Solutions bought a
15 permit?

16 BOARD MEMBER BURKE: Solutions has the admin.
17 Solutions has the contractor's license. Solutions has the
18 contract. And Solutions is paid to do the work. The
19 hang-up continues to be that Services has employed labor.

20 SECRETARY MOLESWORTH: Yeah.

21 BOARD MEMBER BURKE: So, I mean, that's the crux
22 of every one of these.

23 BOARD MEMBER COX: Looking at this particular
24 citation that we are taking, step by step, we have been
25 answered there is nowhere in the record to establish this.



1 Solutions did not obtain an electrical permit for Services,
2 which would have been in violation of WAC 296.46B.901(3).

3 CHAIRPERSON JENKINS: Chair Jenkins.

4 The only thing I would throw in there is that that's
5 partially incorrect because if I was the administrator and
6 employed by Services, okay, and I pull a permit under a
7 system, Solutions, I'm intending to do the work, all of
8 my -- myself and my employees all work for Services.

9 TOM KRIDER: Can I correct that? The record --

10 CHAIRPERSON JENKINS: Hold on. Hold on.

11 TOM KRIDER: Sorry.

12 CHAIRPERSON JENKINS: Do you see where I'm
13 getting at there?

14 BOARD MEMBER COX: I do, and I disagree. So I --

15 CHAIRPERSON JENKINS: I'm just going -- if you
16 look at all of these things, they are all interconnected.
17 And the one thing I'm afraid to have happen is that
18 -- there's some violations here, in my opinion.

19 BOARD MEMBER COX: And I think that's why Board
20 Member Baker has done what he's done, taken these one by
21 one.

22 CHAIRPERSON JENKINS: So we take too many of
23 these things out and we dismiss -- or we keep what the ALJ
24 does say, it gives opportunity to say, "Well, yeah, that's
25 kind of wrong, but they took it out. So if that's not



1 wrong, then this can't be wrong."

2 And that's what I'm kind of hanging up on. It's --
3 it's -- you know, I'm leaving the Board to decide on that,
4 but I'm having a hard time making these changes because
5 you're removing blocks out of the system that it just falls
6 out and then nothing gets fixed.

7 TOM KRIDER: Can I clarify one thing in the
8 record from what you just stated?

9 CHAIRPERSON JENKINS: Yes.

10 TOM KRIDER: Mr. Brubach and all of the employees
11 believed they were working for Solutions. Nobody ever
12 thought they worked for Services. So the intent was always
13 that the work was being done by Solutions.

14 CHAIRPERSON JENKINS: Thank you. And my argument
15 to that is, that's kind of irrelevant because this is what
16 happened. The intent is not what the law looks at. The law
17 looks at legally what happened. And I get it. We had too
18 many people coming in here saying, "I didn't intend to do
19 that, but I did that, and I didn't know it was wrong."

20 That -- still, there's a violation kind of happening
21 there because we have an employee that -- employed by one,
22 pulls a permit knowing all their employees are part of this.

23 So Solutions, being a contractor, is responsible to
24 make sure that their employees, which are not in their name,
25 is in somebody else's name, they pull a permit and the other



1 employees to do it.

2 That's my argument. I get it. Once again, I hate to
3 pull too many blocks out because it falls apart, and then
4 they -- it never, once again, gets collected.

5 So, hands go up.

6 Yes.

7 BOARD MEMBER BAKER: There's a lot of little
8 rabbit trails and nuances to all of these citations, and at
9 the end of the day, we are charged with coming up with a
10 decision, and it may not be perfect, but I think we're going
11 to have to look at this objectively and go, "Yeah, generally
12 speaking, this is right, this is wrong."

13 So I agree with you. Right? We can get in the weeds
14 and not make -- and polarize ourselves and not be able to
15 make a decision. But that's what I'm doing. I'm looking at
16 generally speaking, saying, "Yeah, this is right and this is
17 wrong."

18 CHAIRPERSON JENKINS: Okay. Thank you.

19 SECRETARY MOLESWORTH: So let me have one more
20 try at making my point.

21 So Solutions is the licensed contractor. They buy a
22 permit for that job, but, ultimately, Services does the work
23 because that's who the employees are employed by. They are
24 employed by Services. So, legally, they did the work. It's
25 like Services did the work. I think that's why they are



1 also citing Services for not being electrical contractor;
2 right?

3 And so -- so they are looking at that as since those
4 employees work for Services, Solutions didn't have anybody
5 to do the work, so they ultimately bought the permit and let
6 somebody else do the work. That's why that's issued that
7 way, buying a permit for another entity.

8 CHAIRPERSON JENKINS: Board Member Baker.

9 BOARD MEMBER BAKER: My response to that is what
10 I stated earlier, that one contractor can let his employees
11 work for another contractor as long as there's an agreement
12 there. And the Department has recognized that in the past,
13 and I believe that's the arrangement between Services and
14 Solutions.

15 SECRETARY MOLESWORTH: But there is no agreement.
16 They already stated there was no written agreement right
17 now.

18 BOARD MEMBER BAKER: I believe, generally
19 speaking, there is an agreement.

20 SECRETARY MOLESWORTH: There was what?

21 BOARD MEMBER BAKER: I believe there is an
22 agreement.

23 BOARD MEMBER BURKE: Now we're defining
24 "employment" and "agreement."

25 CHAIRPERSON JENKINS: Board Member Cox.

1 BOARD MEMBER COX: Board Member Cox.

2 I'll ask this question of the chief electrical
3 inspector of the electrical program of Department of Labor &
4 Industries.

5 If Anthony Brubach is not allowed to be an
6 administrator for Solutions because it is your position he's
7 an employee of Services, then why, as chief electrical
8 inspector of the electrical department of Labor &
9 Industries, is he allowed through Labor & Industries systems
10 to be the designated administrator for Solutions?

11 SECRETARY MOLESWORTH: So we call that an
12 "absentee administrator." And what that is is that the guy
13 puts his name and assigns his name to that company, but then
14 we have to go through the process to make sure, with the
15 criteria, that he actually is, which means that he has to
16 make a wage that's comparable to an administrator, he -- or
17 he has to be a member of the corporation, member of the
18 business; right? And so none of those pertain here; right?
19 He can assign himself there, but he's not legally their
20 administrator when you apply the criteria to it.

21 And so we don't have any way to actually look at that
22 criteria until we investigate and we find these things or
23 they are reported to us. In this case, that's what
24 happened. It was report had to us, and we did the
25 investigation and find out that he's not employed by



1 Solutions, he's not a member of Solutions company, he's not
2 a member of the company, and he's not being paid by
3 Solutions. He's being paid by Services, and he's not an
4 administrator for Services; right?

5 So virtually, he's kind of in limbo because he doesn't
6 qualify to be the administrator for either company because
7 Services is not an electrical contractor and Solutions
8 doesn't have him as an employee -- listed as an employee.
9 That's where ESD comes in, is that we rely on them to tell
10 us who is employed by who; right? And so -- and that's what
11 it comes down to, is that we would consider him an absentee
12 administrator at that point because he doesn't fall under
13 the criteria.

14 BOARD MEMBER COX: Thank you.

15 CHAIRPERSON JENKINS: All right. Any more
16 questions from the Board? Any more discussions, I'll say
17 correctly, from the Board?

18 All right. Given that from the Electrical Board, is
19 there -- all in favor of --

20 BOARD MEMBER BURKE: Reversing.

21 CHAIRPERSON JENKINS: Reserving the ALJ's
22 favor -- all in favor of reversing the ALJ's decision on
23 EREIF01172, all signify by raising their hand. One, two,
24 three, four.

25 All opposed? One, two, three, four.



1 And that makes me a tiebreaker, and I would reverse. I
2 choose to reverse the administrator's decision.

3 So 5.10 is reversed on EREIF01172.

4 All right. Moving on to 5.11.

5 TOM KRIDER: Can I ask a point of order,
6 Mr. Chairman?

7 CHAIRPERSON JENKINS: Yes.

8 TOM KRIDER: Are we allowed to discuss and object
9 at this point to the amounts to the citation? Because to
10 date, those have not been --

11 CHAIRPERSON JENKINS: No. Let me -- this
12 Electrical Board does not have the authority or allowance to
13 do...

14 BEN BLOHOWIAK: I think, Counsel, because this
15 was on a motion for summary judgment, there was never any
16 evidence or any arguments presented over to the amounts of
17 the citations. Is that what you're getting at?

18 TOM KRIDER: Correct.

19 BEN BLOHOWIAK: Yeah. So no. What would happen
20 is the Board is going to reverse this decision to dismiss
21 the citation, upholding the citation, so then it could be
22 appealed again to the Office of Administrative Hearings for
23 a hearing on the merits.

24 TOM KRIDER: Okay. On the merits of the
25 underlying entitlement or just on the merits of the



1 valuation of the citation?

2 BEN BLOHOWIAK: I think just the valuation of the
3 citation would be appropriate.

4 CHAIRPERSON JENKINS: Yes, Board Member.

5 BOARD MEMBER KNOTTINGHAM: Board Member
6 Knottingham.

7 We've had these discussions before where we've had
8 multiple citations, and it seems like the amounts get blown
9 up. And I don't know if there's another mechanism -- and
10 this would be directed to the chief.

11 If the citations have been affirmed, can there still be
12 a settlement agreement to discuss the amounts or is
13 that -- what's the process?

14 SECRETARY MOLESWORTH: We -- of course, usually,
15 it's taken care of during the settlement process; right?
16 That we look at the citation amounts and we decide whether
17 or not, you know, both parties can agree. I know we have
18 done that in the past. We have taken a look at the final
19 number and made a change in the penalty, like we did with
20 the last -- one of the last cases we heard.

21 CHAIRPERSON JENKINS: Before it came back to the
22 Board?

23 SECRETARY MOLESWORTH: Yes, before it came back
24 to the Board. I'm not too sure we couldn't do it -- if you
25 guys make a decision, we can do it at that time as well. I



1 think that would be available to us when the counsels were
2 coming up with an agreement.

3 CHAIRPERSON JENKINS: So what I'm hearing you
4 say, then, is that the Electrical Board feels that if the
5 citation values are too high or too low, depending on the
6 future applications, the Board can give advice to the
7 Department?

8 SECRETARY MOLESWORTH: So I would say, yeah, that
9 the -- well, the Board has given advice to the Department
10 that they have taken into consideration and made some
11 changes.

12 It, of course, is going to depend on case by case, you
13 know, how much we do, but I think that we could take a look,
14 you know, at the final amount. I usually don't look at the
15 final amounts until something like this, just because I
16 think that's outside of my purview. I shouldn't be
17 considering an amount when I'm considering citations.

18 CHAIRPERSON JENKINS: Okay. Does that answer the
19 question?

20 BOARD MEMBER KNOTTINGHAM: Yes. I hope there's
21 discussion about --

22 CHAIRPERSON JENKINS: Beyond us?

23 BOARD MEMBER KNOTTINGHAM: Yes. I would
24 encourage that.

25 CHAIRPERSON JENKINS: Okay. So moving on to



1 5.11, where we are looking at citation EREIF01173. And the
2 Chair would entertain a motion.

3 BOARD MEMBER BAKER: I make a motion to reverse
4 the law judge's decision.

5 CHAIRPERSON JENKINS: So we have a motion onboard
6 to reverse the ALJ's decision of EREIF01173.

7 Do we have a second?

8 BOARD MEMBER NORD: Board Member Nord. Second.

9 CHAIRPERSON JENKINS: We have a second.

10 Any discussion?

11 I'm going to ask counsel for both departments and
12 Mr. --

13 TOM KRIDER: Krider.

14 CHAIRPERSON JENKINS: -- Krider, would you recap
15 what this violation is for to kind of get us all on the same
16 page?

17 TOM KRIDER: Do you want to read it or do you
18 want me to?

19 KAITLIN LOOMIS: It's EREIF01173. At issue is
20 RCW 19.28.061, failure of the electrical contractor to
21 ensure the assigned electrical administrator or master
22 electrician is a member of the firm or a full-time
23 supervisory of the -- supervisory employee of the firm.

24 CHAIRPERSON JENKINS: Thank you. I appreciate
25 that.



1 BOARD MEMBER COX: Question for Member Baker.

2 Don, is your position that, technically, he was
3 employed by Services? Is that your reason for reversal?

4 BOARD MEMBER BAKER: Yes. The record shows that
5 he doesn't have any evidence of being a full-time employee
6 of Solutions, yes. I don't deny that he was working for him
7 doing it, but technically --

8 BOARD MEMBER COX: It's technical? Okay. That's
9 what I thought your position was.

10 BOARD MEMBER BAKER: And in the past, we've had
11 cases like this before. To be consistent, that's our
12 decision.

13 BOARD MEMBER COX: Right. Thank you.

14 CHAIRMEMBER JENKINS: Board Member --

15 BOARD MEMBER BURKE: Sorry. My issue is that it
16 doesn't show that he was not a partner, member, or some form
17 of such at Solutions either, so I struggle.

18 KAITLIN LOOMIS: And if I may.

19 In the record, we did -- we do have a copy of MasTec's
20 board members, and Mr. Brubach is not on there.

21 CHAIRPERSON JENKINS: Thank you.

22 TOM KRIDER: Yeah. We don't hold out that he's a
23 member. We hold out that he believes and, to this day,
24 works full-time for nobody but Solutions.

25 CHAIRPERSON JENKINS: Thank you.



1 Any other questions from the board members? Any
2 discussion, I should say correctly, from the board members?

3 Hearing none, all in favor to reverse the decision of
4 EREIF01173, all signify by saying "aye." (Chorus of ayes.)

5 Any opposed? (Nay heard.)

6 CHAIRPERSON JENKINS: So it passes -- the motion
7 passes.

8 Moving on to Board packet number 15.

9 I am looking at 5.12 now, citation number EREIF01174.
10 The Chair would entertain a motion.

11 And given that, maybe this might help: Can I, once
12 again, get a description of what this violation is from
13 Counsel?

14 KAITLIN LOOMIS: Yes. In EREIF01174, at issue is
15 RCW 19.28.0615(b), failure of the assigned administrator or
16 master electrician to ensure licensed electrical contractor
17 does not obtain electrical work permits for an entity not
18 authorized to perform electrical work.

19 BOARD MEMBER BAKER: I'll make a motion to uphold
20 the law judge's decision.

21 BOARD MEMBER COX: Second.

22 BOARD MEMBER BURKE: Second.

23 CHAIRPERSON JENKINS: So we have a motion and we
24 have a second from Board Member Burke to uphold the decision
25 from the ALJ.



1 Any discussion?

2 SECRETARY MOLESWORTH: Are we doing that because
3 he wasn't the administrator? Is that -- is that why we are
4 moving down that road to uphold the ALJ's decision, because
5 we didn't think he was the administrator, so how could he
6 hold up the laws and rules of Washington?

7 CHAIRPERSON JENKINS: I guess that's a question
8 to you.

9 BOARD MEMBER BAKER: I feel like they pulled a
10 permit. They had a permit posted for the project. They
11 ensured they had a permit.

12 SECRETARY MOLESWORTH: So when we talk about
13 these, these are there all of the different citations, the
14 -- the -- you know, the right people doing the work,
15 employed by the right people, not buying a permit for
16 another entity, and that's where the other permit was for a
17 different entity, so they are saying that he shouldn't have
18 allowed them to do that; he should have been more versed in
19 the laws of Washington and made sure that they were being
20 followed because that's the --

21 BOARD MEMBER BAKER: It's in Solutions's name.

22 BOARD MEMBER COX: It's in Solutions's name.

23 BOARD MEMBER BAKER: Yeah. I just don't see a
24 violation there. I just don't.

25 BOARD MEMBER BURKE: The assertion of the



1 citation is that the permit was pulled by Solutions for
2 Services, which I don't think happened.

3 BOARD MEMBER BAKER: Yeah, there's an assumption
4 being made there.

5 BOARD MEMBER CUNNINGHAM: Well, pulled by
6 Solutions to be executed by Solutions, with labor being
7 supplied at a cost, minus a fee, to pay those electricians
8 to come and do the work. Solutions performed the work with
9 labor supplied by an outside entity.

10 BOARD MEMBER COX: By duly licensed electricians.

11 CHAIRPERSON JENKINS: And to correct that, "duly"
12 meaning they have multiple licenses. They are not licensed
13 for both entities.

14 BOARD MEMBER COX: Let me clarify that. They are
15 licensed electricians in the State of Washington under the
16 laws, rules, and regulations of the Department of Labor &
17 Industries.

18 CHAIRPERSON JENKINS: Thank you.

19 Yes, Board Member Knottingham.

20 BOARD MEMBER KNOTTINGHAM: Board Member
21 Knottingham.

22 You know, a lot of these are -- I don't see this -- I
23 mean this -- personally, I don't see this as a 90/10 either
24 way. I mean, it's really close.

25 And I change my mind on the citation ending in 72 about



1 obtaining the permit. And the reason I did -- and I'll go
2 along with this, is opposing the ALJ's decision is, when the
3 permit was purchased, the assumption was that it was going
4 to be by -- and you can disagree with me, but it was going
5 to be done by Services employees. There was no -- it wasn't
6 like they bought a permit, and the permit just hung out
7 there, and somebody else came in and kind of captured their
8 permit. It was purchased with the knowledge that it was
9 going to be done by this other entity.

10 So, for me, that's the defining line on that one,
11 reversing 72, and why I would support reversing 74.

12 CHAIRPERSON JENKINS: Yes, Board Member Allen.

13 BOARD MEMBER ALLEN: I concur with that
14 statement. I don't see really any difference between this
15 and 72. The only difference is this: We're talking about
16 Mr. Brubach, who was the administrator employed by Services
17 that went and obtained the electrical permit -- work permit,
18 knowing full well that it was going to be performed by
19 Services employees. So I just don't see the difference, and
20 I would, likewise, support the reversal of 74.

21 CHAIRPERSON JENKINS: And I'll add in my two
22 cents. And that is, I also I think it should be -- reverse
23 the ALJ simply because yes, his job as a supervisory -- as
24 the administrator of the company is to ensure that
25 everything is correct. So verifying that he works for the



1 right company, making sure he's employed by the same
2 company, that's the job of the administrator.

3 Now I'm going to throw in there I don't believe it's
4 the correct amount of money associated with this. I'll go
5 back to the suggestion I might throw out there towards L&I.
6 Yes, you, as the administrator, are required to know this.
7 That's why you're the administrator. And you not catching
8 that, by the way, yeah, you're working under two different
9 companies, and that's against the law, well, that's kind of
10 your job as administrator. So it's a violation, in my
11 opinion, but I don't really think the -- the fines are
12 pretty hefty for that purpose. That's my two cents.

13 Yes, Board Member Cox.

14 BOARD MEMBER COX: Board Member Cox asks a
15 question of the appellant's counsel.

16 Does Mr. Brubach have an employee agreement with the
17 company that he works for?

18 TOM KRIDER: A written employment agreement?

19 BOARD MEMBER COX: Yes.

20 TOM KRIDER: Not sure. We can ask him. It's not
21 in the record. But what is in the record is that
22 Mr. Brubach and all of the electricians believe they works
23 for Solutions. So there was never any intent or any idea
24 that they were pulling a permit for somebody other than
25 Solutions.



1 BOARD MEMBER COX: See, that's my whole -- my
2 whole issue with this, is we've got a group of
3 electricians -- we've got a whole company -- we have
4 people's livelihoods, men's families here that are adversely
5 affected because for all these years, they've assumed that
6 they've worked for MasTec Network Solutions, and because of
7 a technicality that a -- some corporate structure, this now
8 invalidates Mr. Brubach's administrator position, their
9 livelihoods, again, all because there's this legal
10 Employment Security question and -- yeah, I guess that's my
11 whole issue with this, is all of the men and the families
12 that this is affecting. I just -- where they have -- it's
13 in the record that they -- they understood they were working
14 for MasTec Network Solutions.

15 CHAIRPERSON JENKINS: Thank you.

16 Secretary, yes.

17 SECRETARY MOLESWORTH: Mr. Chairman, may I make a
18 comment?

19 Mr. Cox, I understand where you're coming from there.
20 I look at it in a different way. If the company would have
21 had the correct structure in place by law, there would have
22 been no adverse effect. I'm not sure there is an adverse
23 effect to the employees because the employees can
24 actually -- except for the administrator, are not being
25 cited. They can actually be transferred to the other



1 company that's a licensed contractor and become employees of
2 theirs with very little -- very little transitional effort;
3 right?

4 So I don't think there's an impact there. I think the
5 impact was from the company doing business -- whether they
6 are aware or unaware, it's outside the law. I want to make
7 clear to the Board that we don't make decisions on
8 assumptions or what somebody believed that they were a part
9 of; right? We make decisions on the law and how the law is
10 based.

11 So I -- I don't want L&I to be the boogeyman here
12 because we are just enforcing the laws. The legislature
13 is -- the legislature is put in place to protect the
14 citizens of Washington; right?

15 TOM KRIDER: My only comment on that would be,
16 you do that by ignoring the ability to have co-employment,
17 which is a valid -- the employment relationship in every
18 other instance in the State of Washington and in the
19 country. You have to eliminate co-employment to enforce
20 these.

21 CHAIRPERSON JENKINS: Thank you for your input.

22 But, anyway, I think what the Secretary is trying to
23 get at: We do not have the capability to let the Board give
24 equitable relief in this situation. All we can do is, like
25 we just did with this case here, is suggest, yeah, it was a



1 mistake, it was not quite understood, the structure was
2 incorrect, and so yeah, the penalty might be a little
3 extreme. I'd like to see that reduced, but I do still think
4 it's in error the way it was structured.

5 BOARD MEMBER COX: And for the record, I
6 appreciate the chief's clarification and your statement on
7 that.

8 SECRETARY MOLESWORTH: Thank you.

9 BOARD MEMBER COX: Thank you, Wayne.

10 CHAIRPERSON JENKINS: Yes.

11 BOARD MEMBER ALLEN: Board Member Allen.

12 I also would like to echo that I don't believe that
13 Mr. Brubach or any of the electricians or other employees
14 that were working on this project for Solutions believed
15 that they were not employees of Solutions. I think that the
16 fact that they were working under corporate structure, that
17 maybe they were -- maybe not aware of, it's not their fault.
18 And I concur with, you know, the belief that the assessment
19 penalty is extreme and it should be lessened as well. So
20 thank you.

21 CHAIRPERSON JENKINS: Thank you.

22 Any more discussion?

23 Yes, Board Member Baker.

24 BOARD MEMBER BAKER: Man, I want to get in your
25 guys' camp and understand where you're coming from.



1 BOARD MEMBER ALLEN: Come on over. The water is
2 fine.

3 BOARD MEMBER BAKER: The permits -- if you look
4 at the electrical permit, it's pulled in Solutions's name.
5 So to make the assumption -- I just heard Wayne say the
6 Department doesn't make assumptions. To make the assumption
7 that it was pulled for Services is an assumption. It was
8 pulled for Solutions. And to say that Solutions failed --
9 or the administrator failed to pull a permit for Solutions
10 is not correct. The permit was pulled for Solutions. So
11 just know when you're voting that, it's contrary to what the
12 record shows.

13 CHAIRPERSON JENKINS: Also, if the administrator
14 was aware of -- more aware of the situation of having two
15 different companies like this, he would have been aware that
16 he's pulling a permit for Solutions and that he's going to
17 be using that permit under the Services labor. He, as an
18 administrator, is required to know the law when it comes to
19 that. Not knowing the law is not an excuse for not --

20 BOARD MEMBER BAKER: Every employee, the badges
21 that are in this record, say "Solutions" on them.

22 CHAIRPERSON JENKINS: And that's why I don't
23 hold -- I don't even have a slight issue with the employees,
24 anybody else. It's just the technical portion of this falls
25 on the responsibility of the contractor and the



1 administrator to make sure that what they are doing is legal
2 and correct. And I don't like how the -- this being such a
3 minor issue as far as two different companies and not
4 noticing this, I don't think this is penalized -- I think
5 it's overpenalized, but I don't -- I think they are
6 responsible to know that they are not supposed to have two
7 different companies under one permit. That's my problem.

8 BOARD MEMBER BAKER: Show me a permit that has
9 two different companies' names on it. Go on the record and
10 find me a permit that shows -- it doesn't exist. The permit
11 is in Solutions's name.

12 CHAIRPERSON JENKINS: It is, but he technically
13 works for Services.

14 BOARD MEMBER BAKER: We've already addressed that
15 citation. We've already address that citation.

16 CHAIRPERSON JENKINS: And if you remove this one,
17 does it remove the other one?

18 BOARD MEMBER BAKER: Not in my mind. And I
19 believe there's an agreement, whether it's in writing or
20 whether it's -- within the company, they have an agreement
21 for those employees to work under Solutions and be
22 supervised and managed by them. And I guarantee you, in the
23 next two months, they are going to have it in writing.

24 CHAIRPERSON JENKINS: Okay.

25 SECRETARY MOLESWORTH: And that's the intent of



1 compliance, is to change the behavior and correct the
2 problem.

3 BOARD MEMBER BAKER: Maybe just a phone call next
4 time.

5 SECRETARY MOLESWORTH: Yeah -- no. That's not
6 what we're tasked with.

7 BOARD MEMBER BAKER: That's right.

8 CHAIRPERSON JENKINS: All right. So any more
9 discussion about, effectively, 5.12?

10 Yes, Board Member Knottingham.

11 BOARD MEMBER KNOTTINGHAM: Board Member
12 Knottingham. Yes, just a quick comment. And I've debated
13 this too.

14 If the electrical contractor goes out and buys a permit
15 and they intend to do the work and then, you know what, they
16 get hung up and can't do it, and the general contractor
17 goes, "Well, you know what? We can just do it for you," and
18 they do the work, and he knows that they did it, that's kind
19 of the way I see this.

20 He bought the permit. Buying the permit was legal, but
21 he allowed somebody else to do the work that wasn't properly
22 licensed. And Services is not a licensed electrical
23 contractor. We've already established that. That's the way
24 I view it.

25 CHAIRPERSON JENKINS: Okay. Yes, Board Member



1 Cunningham.

2 BOARD MEMBER CUNNINGHAM: In my opinion, this
3 whole house of cards is built on the assertion that Services
4 is performing the work. What they're doing is providing a
5 commodity to a licensed contractor. The only batch of
6 citations that I think makes sense are the two that applies
7 specifically to the administrator for not having -- for not
8 ensuring that they are assigned as a sole proprietor,
9 member, et cetera, employee of the contractor.

10 The rest of it I think is all built on this premise
11 that Services is doing the work. They are not, in my -- in
12 my understanding of the structure. They are providing labor
13 to an entity that is buying that labor plus fee. The money
14 comes in to Solutions. The money must go out to Services to
15 pay the employees. They rake off their fee. Labor is
16 provided. I don't think it's that complicated.

17 CHAIRPERSON JENKINS: Any comments from the
18 Board?

19 So the current -- current motion on the floor right now
20 is to uphold - am I saying that right? - uphold the ALJ's
21 decision on EREIF01174.

22 All in favor, say "aye." We have one, two, three,
23 four.

24 All opposed? One, two, three, four. And I being the
25 tiebreaker, I oppose.



1 BOARD MEMBER BURKE: Sorry. I was for the
2 dismissal.

3 CHAIRPERSON JENKINS: Okay. Let me redo this.

4 So all in favor of reversing -- sorry, affirming the
5 ALJ's decision. All in favor, please raise your hand. One,
6 two three, four, five.

7 Opposed? One, two, three, four.

8 Motion passes.

9 So 5.12, under EREIF001174, has been affirmed to stay
10 as the ALJ decided.

11 BOARD MEMBER COX: Mr. Chairman.

12 CHAIRPERSON JENKINS: Yes.

13 BOARD MEMBER COX: Point of order on the first
14 one that we voted on --

15 BOARD MEMBER BAKER: Yeah.

16 BOARD MEMBER COX: -- ending in 1172.

17 CHAIRPERSON JENKINS: Yes.

18 BOARD MEMBER COX: I understood the record -- our
19 record to say four in favor, four against. You were the
20 tiebreaker. How did we now just get a count of five to
21 four?

22 CHAIRPERSON JENKINS: It seems like someone did
23 not --

24 BOARD MEMBER COX: Did someone not vote?

25 BOARD MEMBER BAKER: Did someone not understand?



1 I'd make a motion that we revote.

2 BOARD MEMBER ISAACSON: I abstained on that one.

3 BOARD MEMBER COX: Oh, you did?

4 BOARD MEMBER ISAACSON: Yeah.

5 BOARD MEMBER COX: Because I know we have a
6 non- -- you're a non-voting member; right?

7 MR. ISAACSON: Right. I abstained.

8 BOARD MEMBER COX: Okay. Thank you.

9 CHAIRPERSON JENKINS: All right. So are you
10 still making a motion?

11 BOARD MEMBER BAKER: No. I'm good.

12 CHAIRPERSON JENKINS: Okay. So we are up to 5.13
13 - am I correct? - under EREIF01175. I'm going to ask the
14 same thing of Counsel, to please note what the citation is
15 about.

16 KAITLIN LOOMIS: In the citation, it was
17 RCW 19.28.061, issued against Inspector -- Administrator
18 Anthony Brubach for failure of the administrator or master
19 electrician to be a sole proprietor, member, partner, or
20 supervisory employee of the firm.

21 CHAIRPERSON JENKINS: Okay. So the Chair would
22 entertain a motion on EREIF01175.

23 BOARD MEMBER CUNNINGHAM: Motion to uphold the
24 ALJ's finding.

25 CHAIRPERSON JENKINS: We have a motion to uphold.



1 BOARD MEMBER COX: Board Member Cox. Second.

2 CHAIRPERSON JENKINS: We have a motion and
3 second.

4 Any discussion?

5 BOARD MEMBER COX: In the RCW that I heard from
6 counsel, "or a supervisory employee." He was an supervisory
7 employee.

8 CHAIRPERSON JENKINS: Okay. Motion to --

9 BOARD MEMBER COX: Hang on. Hang on. I've got
10 to read this.

11 "Did not fail to be a supervisory employee of
12 services." Okay. That's why I need to see the actual
13 citation.

14 CHAIRPERSON JENKINS: While you're doing that,
15 I'm going to go over to Board Member Knottingham.

16 BOARD MEMBER KNOTTINGHAM: Board Member
17 Knottingham.

18 I believe the records show that he's an employee of
19 Services and not Solutions, but is assigned to Solutions.
20 So that's why I would vote to reverse the ALJ's decision.

21 CHAIRPERSON JENKINS: Any other discussion?

22 BOARD MEMBER BAKER: Yeah. I agree with Jack.
23 It's oddly strange because it's contrary to what we
24 previously voted on, but because it's written to Services,
25 it's not right. He is a full-time supervisor employee of



1 Services.

2 CHAIRPERSON JENKINS: Okay.

3 TOM KRIDER: I'm sorry. Can we clarify which
4 citation we're talking about? I thought we were talking
5 about 75.

6 CHAIRPERSON JENKINS: We are talking about
7 citation number EREIF01174.

8 Was that the one you quoted to me?

9 KAITLIN LOOMIS: 75.

10 TOM KRIDER: We just voted on 74.

11 And so the clarification I was looking for -- somebody
12 just said, I think that the citation was to Services. It
13 says, as I understand it, Mr. Brubach.

14 CHAIRPERSON JENKINS: And this is to the
15 administrator for not making sure that he is an employee of
16 Services.

17 BOARD MEMBER BAKER: Services, which he was.

18 TOM KRIDER: I presume it would be failure to be
19 an employee of Solutions.

20 CHAIRPERSON JENKINS: Solutions. Correct. I
21 said it wrong. He's saying he's not the -- he failed to be
22 an employee of Solutions because he's a full-time employee
23 of Services.

24 TOM KRIDER: Right. And on behalf of
25 Mr. Brubach, I would say that, first of all, he always



1 believed he was an employee of Services, but -- of
2 Solutions; however, my other point with this: I'm not sure
3 that this is appropriate for the administrator itself.
4 Based on this violation, it seems more a company violation
5 than an administrator violation.

6 CHAIRPERSON JENKINS: Thank you for your input.

7 BOARD MEMBER COX: Board Member Cox would like to
8 ask State's counsel to restate the violation, please, if you
9 would.

10 KAITLIN LOOMIS: The RCW is 19.28.061(5)(a), and
11 it was issued to Anthony Brubach for failure of the
12 administrator or master electrician to be a sole proprietor,
13 member, partner, or supervisory employee of the firm.

14 BOARD MEMBER COX: "Of the firm." So
15 that's -- the citation was failed to be a supervisory
16 employee of the firm.

17 BOARD MEMBER BAKER: Specifically, Services.

18 BOARD MEMBER COX: It doesn't -- as I understand
19 State's counsel, it just says "of the firm."

20 KAITLIN LOOMIS: If I may explain a little --

21 BOARD MEMBER COX: Yes. Please.

22 KAITLIN LOOMIS: So Mr. Brubach is the
23 master -- is the administrator of Solutions.

24 BOARD MEMBER COX: Yes.

25 KAITLIN LOOMIS: He is not an employee of



1 Solutions; thereby, he failed to be a supervisory employee
2 of Solutions.

3 BOARD MEMBER BURKE: So it's written wrong.

4 BOARD MEMBER ALLEN: Yeah, 5.13 is written wrong.

5 BOARD MEMBER BURKE: What's the motion?

6 CHAIRPERSON JENKINS: Well, the motion right now
7 is to uphold the ALJ's decision.

8 BOARD MEMBER CUNNINGHAM: I'll withdraw it. I
9 think, in keeping with the argument that we've been kicking
10 around is that Mr. Brubach should have been an employee,
11 member, or sole proprietor or somehow attached to Solutions,
12 not Services, so that he -- that was the error. So I'm
13 going to withdraw my motion to uphold.

14 CHAIRPERSON JENKINS: So we have a withdrawal of
15 that motion.

16 BOARD MEMBER CUNNINGHAM: Yes.

17 CHAIRPERSON JENKINS: So I am going to -- before
18 we go any further, the Chair would like to -- would
19 entertain a motion concerning EREIF01175.

20 BOARD MEMBER ALLEN: Board Member Allen.

21 I would make a motion to reverse the ALJ decision on
22 said --

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

25 BOARD MEMBER NORD: Board Member Nord. Second.



1 CHAIRPERSON JENKINS: We have a motion and second
2 and open for discussion.

3 Now, if you want to continue -- or anybody would like
4 to add to this?

5 Seeing none, the Chair --

6 SECRETARY MOLESWORTH: Can I clarify one thing
7 for counsel?

8 CHAIRPERSON JENKINS: Yes.

9 SECRETARY MOLESWORTH: The comment was made, he
10 wasn't sure that this was written in the right person;
11 right, thought it should be written to -- to Solutions
12 instead of the individual?

13 TOM KRIDER: Correct.

14 SECRETARY MOLESWORTH: The reason it's written to
15 the individual is because he took part in that practice.
16 And so he was part of that violation by assuming those
17 duties - right? - illegally.

18 So we would write that citation to both entities, that
19 they employed somebody that wasn't -- that they didn't have
20 an administrator and that the administrator was not able to
21 be the administrator for that company; therefore, he kind of
22 took part in that -- in that activity. So they both have
23 it.

24 CHAIRPERSON JENKINS: Any more discussion?

25 BOARD MEMBER BAKER: Just so I understand right.



1 75 is written to the administrator?

2 CHAIRPERSON JENKINS: That is correct.

3 KAITLIN LOOMIS: Correct.

4 BOARD MEMBER BAKER: Okay. I'm trying to figure
5 out the difference between 75 and 73. One is to the firm
6 and one is to the administrator?

7 KAITLIN LOOMIS: Correct.

8 BOARD MEMBER BAKER: Okay. Alright.

9 CHAIRPERSON JENKINS: So the motion to the Board
10 right now is to reverse the ALJ's decision on EREIF01175.

11 And all in favor signify by raising your hand. One,
12 two, three, four, five, six.

13 All opposed? Two.

14 The motion passes.

15 All right. So moving on to 5.14. These actually have
16 three violations built under here. I'm going to ask that
17 Counsel, once again...

18 KAITLIN LOOMIS: Yes. So first, EREIF01176 was
19 issued to MasTec Services Company for RCW -- for violating
20 RCW 19.28.010, for failing to ensure an electrical
21 installation is in strict conformity with the electrical
22 statutes, rules, regulations, and ordinances. And it's
23 pretty wordy beyond that.

24 But the second, EREIF01177, was issued to MasTec
25 Services Company for violating RCW 19.28.041, offering to

1 perform, submitting a bid for, advertising, installing, or
2 maintaining cables, conductors, or equipment that conveyed
3 or utilized electrical current without having a valid
4 electrical contractor license.

5 And EREIF01178 issued to MasTec Services for violating
6 WAC 296.46B.901(5), failing to obtain an electrical and
7 telecommunications work permit and post the permit or permit
8 number on the job site, or post a provisional electrical
9 work permit prior to beginning the electrical installation
10 or alteration.

11 CHAIRPERSON JENKINS: Thank you.

12 Does anybody need to break these apart?

13 BOARD MEMBER COX: I was just going to go there.

14 CHAIRPERSON JENKINS: Break them apart?

15 BOARD MEMBER COX: Yes.

16 CHAIRPERSON JENKINS: Okay. So the Chair would
17 entertain a motion on EREIF01176, which was the first one
18 she read. This is to Services for...

19 KAITLIN LOOMIS: So this is failing to
20 ensure -- basically, failing to follow the electrical rules
21 and --

22 CHAIRPERSON JENKINS: Going by the laws.

23 KAITLIN LOOMIS: Yes.

24 BOARD MEMBER KNOTTINGHAM: Board Member
25 Knottingham.



1 I'll make a motion that we reverse the ALJ's decision
2 and affirm citation ending in 76 to Services.

3 CHAIRPERSON JENKINS: So we have a motion on the
4 floor to reverse the ALJ's decision on citation ending in
5 76.

6 Do we have a second?

7 BOARD MEMBER NORD: Board Member Nord. Second.

8 CHAIRPERSON JENKINS: We have motion and we have
9 a second.

10 Discussion?

11 Seeing none, all in favor signify by saying "aye" or by
12 raising your hand. One, two, three, four, five.

13 Opposed? One, two, three.

14 Motion passes.

15 Moving on to citation number EREIF01177.

16 And can you just basic recap that one more time.

17 KAITLIN LOOMIS: That was issued to MasTec
18 Services Company, and it was for RCW 19.28.041, offering to
19 perform, submitting a bid for, advertising, installing, or
20 maintaining cables without a current electrical license.

21 CHAIRPERSON JENKINS: Thank you.

22 BOARD MEMBER COX: Board Member Cox moves to
23 uphold the ALJ's decision on EREIF01177.

24 BOARD MEMBER BURKE: Second.

25 BOARD MEMBER BAKER: Second.



1 CHAIRPERSON JENKINS: We have a motion on the
2 floor, and we have a second from Board Member Don Baker.

3 BOARD MEMBER BAKER: Correct.

4 CHAIRPERSON JENKINS: And discussion.

5 BOARD MEMBER COX: Services did not advertise,
6 did not. Services was not the electrical contractor.
7 That's my simple version of it. Solutions advertises.
8 Solutions offers for bid. All their bids and contracts are
9 under Solutions. That's my position, is that Services did
10 not violate it because they were not the ones that
11 advertised.

12 CHAIRPERSON JENKINS: Any more discussion?

13 SECRETARY MOLESWORTH: I think -- I think the
14 reason that this was written that way is because Services,
15 having all the employees, was offering to Solutions to do
16 the work; right? Because they had the employees. So they
17 were offering to Solutions to actually do the work. And
18 that's where that -- not that they offered it to the actual
19 contract holder, the customer, but to another company. So
20 they were offering to do that work for them.

21 BOARD MEMBER COX: I can see how the State made
22 that position. Thank you.

23 CHAIRPERSON JENKINS: Any more discussion?

24 So all of those in favor in affirming the ALJ's
25 decision on citation ending in 77, please raise your hand.



1 BOARD MEMBER COX: 7- -- oh, yeah, 77. Thank
2 you.

3 CHAIRPERSON JENKINS: Affirming the ALJ's
4 decision, please raise your hand. One, two, three, four,
5 five.

6 Opposed? One, two, three, four.

7 The motion passes.

8 Now moving on to citation no. EREIF01178.

9 And once again, Counsel, just a real simple recap.

10 KAITLIN LOOMIS: In this one, Services was cited
11 for violating WAC 296-46B-901, subsection 5, and this is for
12 failing to obtain an electrical work permit to post on the
13 job site prior to beginning the electrical installation or
14 alteration.

15 CHAIRPERSON JENKINS: Thank you.

16 The Chair would entertain a motion on citation ending
17 in 78.

18 BOARD MEMBER BAKER: I'll make a motion to uphold
19 the law judge's decision.

20 BOARD MEMBER BURKE: I'll second.

21 CHAIRPERSON JENKINS: We have a motion and second
22 for the citation ending in 78 to uphold the ALJ's decision.

23 Open for discussion.

24 BOARD MEMBER BURKE: Question: Who is this
25 written to? I'm sorry.



1 KAITLIN LOOMIS: MasTec Services Company.

2 BOARD MEMBER BURKE: Okay.

3 CHAIRPERSON JENKINS: Any more discussion?

4 Yes, Board Member Allen.

5 BOARD MEMBER ALLEN: Yes. Board Member Allen.

6 I'm sorry. It's funny that we're trying to do
7 everything we can to either join these two companies or
8 disenjoin them every step of the way here, depending on how
9 all this falls.

10 You know, honestly, to me, Services is just as culpable
11 in all of this as Solutions is. You know, Counsel's point
12 is that they are different companies; they are not the same
13 company on one hand, but oh, yeah, they are the same company
14 on the other hand.

15 Again, I'm the new guy, and this is very -- it's very
16 confusing. I'll say that. And I've got a little bit of
17 history in the electrical industry. I've been around a bit.
18 I would hate to be the customer hiring this work done if
19 something went bad. And who the hell do I go after?

20 I just think that these -- the laws of the State of
21 Washington are written for a lot of reasons. These
22 particular laws that we're talking about today, these rules
23 that we're talking about today were written to protect the
24 consumer, to protect the person that's hiring the work done.
25 And allowing companies to operate the way MasTec operates



1 does not -- is not in the -- to the benefit of the consumer,
2 is only to the benefit of the bottom line for the employer
3 to be able to operate in this fashion.

4 So for that reason, I would vote against the motion.

5 CHAIRPERSON JENKINS: Thank you.

6 Board Member Knottingham.

7 BOARD MEMBER KNOTTINGHAM: Yeah. It's -- the
8 record is pretty clear. It doesn't show permits purchased
9 by Services. Services has all the employees. Services did
10 the work. So how can you not cite Services for not having a
11 permit? That's my view.

12 CHAIRPERSON JENKINS: Thank you.

13 My opinion here: I agree with both of your decisions
14 on that.

15 But any other discussion from the Electrical Board?

16 Hearing none, all those in favor of upholding citation
17 ending in 78, please raise your hand. One, two, three,
18 four, five.

19 Those opposed? One, two, three, four.

20 The motion passes.

21 All right. So I believe that concludes all of these.

22 So thank you.

23 The Board has made a decision -- its decision. This is
24 kind of a mixed bag here. So if the two parties would
25 please get together and to -- during the lobby to see if



1 they can come to terms, an order can be agreed upon. Please
2 don't leave today until you have let us know if you need
3 additional time or reached an agreement. Please advise.

4 And if you do not reach an agreement today, the matter
5 will be sent for presentment at the next regularly scheduled
6 board meeting. If an agreed order has not been received by
7 that date, the parties will be expected to file their
8 proposed orders and appear -- and advise why they the
9 proposed order best reflects the Board's decision.

10 Hopefully this will not be necessary.

11 If you are able to reach agreement to the form of the
12 order before the next meeting, please forward to the
13 Secretary of the Board, and they will ensure it will get
14 signed and copies provided to the parties.

15 Thank you very much for your time.

16 TOM KRIDER: Thank you.

17 KAITLIN LOOMIS: Thank you.

18 CHAIRPERSON JENKINS: Thank you.

19 I guess I should say, any questions?

20 KAITLIN LOOMIS: I just want to clarify.

21 Essentially, you are saying we need to agree to a proposed
22 order to send to you prior to the next hearing -- or
23 Electrical Board meeting?

24 CHAIRPERSON JENKINS: Yes, or you need to appear
25 at the next hearing, and why your decision reflects what we



1 decided here today.

2 KAITLIN LOOMIS: Okay. Thank you for clarifying.

3 CHAIRPERSON JENKINS: Make sense? Questions?

4 TOM KRIDER: Yeah. My impression is you thought
5 that we may have a decision today. Is that an expectation?
6 Because I don't know that that can happen.

7 CHAIRPERSON JENKINS: Well, the decision today
8 would be -- do you have any issues with what --

9 BEN BLOHOWIAK: No. So if you can't come -- if
10 you guys meet and talk and you can't come to --

11 TOM KRIDER: You can vote on it today if we get
12 it today, is the only point; otherwise, it's next hearing?

13 BEN BLOHOWIAK: Yes.

14 TOM KRIDER: Okay.

15 CHAIRPERSON JENKINS: All right. Any other
16 questions?

17 TOM KRIDER: No.

18 CHAIRPERSON JENKINS: Send off to counsel?

19 Awesome. Thank you very much for your time. I
20 appreciate it.

21 KAITLIN LOOMIS: Thank you.

22 CHAIRPERSON JENKINS: All right. So we are at a
23 point -- we are not quite ready for lunch, I'm assuming, so
24 let's move on to our next item in our meeting here.

25 Moving on to item number 4:



1 Departmental/legislative/rulemaking update.

2 Randy Barnes and Larry Vance, are you available?

3 Either one is not here?

4 Well, let's do this. Let's just take a short, short
5 10-minute break while they are getting things set up.

6 Probably have to set stuff up anyway. So let's --

7 BOARD MEMBER ALLEN: Do you need a motion?

8 CHAIRPERSON JENKINS: Not in this case.

9 So let's take a break for 10 minutes. Get back here at
10 11:35, not 11:36.

11 (Recess taken.)

12 CHAIRPERSON JENKINS: All right. It is now
13 11:44. I'd like to bring the Washington Electrical Board
14 meeting for January 25th back to order.

15 All right. So we are on item no. 4 for the
16 departmental/legislative/rulemaking update.

17 Randy Barnes and Larry Vance -- it looks like we have
18 Technical Specialist Larry Vance here with us to discuss the
19 next couple of items.

20 LARRY VANCE: Yes, I am. Randy is not with us
21 today, so I'll be giving you a short report on the
22 rulemaking for the fee increase.

23 We have filed a filed a 102 on that, so we are at the
24 point where we are going to have a public hearing on
25 January 26th. Information about that public hearing is on

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1 the -- L&I's website.

2 In March of 2024, we're anticipating filing the CR 103,
3 which is the final version of the rule. And on July 1,
4 2024, the rule will become effective and the new fees will
5 become effective.

6 So that affects WAC 296-46B-906. Those are your
7 inspection fees, your permit fees. It also affects
8 WAC 296-46B-909, which are all of the licensing fees for
9 contractors and electricians and administrators. And it
10 also affects WAC 296-46B-911, which is electrical testing,
11 laboratory, and engineer accreditation fees.

12 So essentially, it affects all of our -- all of the
13 fees that go into the electrical fund.

14 Any questions on the fee rulemaking?

15 CHAIRPERSON JENKINS: I think we're good.

16 BOARD MEMBER COX: Yes, question, Larry.

17 Just kind of a general percentage increase; is that --

18 LARRY VANCE: It's a general percentage increase.
19 I believe that it is 6.4 percent.

20 BOARD MEMBER COX: Okay. I'm just looking at the
21 strikeouts and the new numbers, and it looks like it's
22 pretty consistent.

23 LARRY VANCE: Yes. And that is the fiscal growth
24 factor that's determined by the State of Washington, so...

25 BOARD MEMBER COX: Very good. Thank you.



1 LARRY VANCE: Yes. Any more than that, then we
2 have to have legislative approval. We can do that through
3 rulemaking, though.

4 So the coded option rulemaking is on track. It's on
5 schedule for filing the CR 103 in February of 2024. We had
6 a public hearing on July -- on January 9th, and we're still
7 evaluating the public comment. There was 30 comments,
8 somewhere around 30 comments, and so the Department is still
9 evaluating those comments.

10 And we are on track to -- whatever happens with -- as a
11 result of those comments, it's not going to, more than
12 likely, affect adoption of the code on April 1st. So the
13 National Electrical Code will probably not be affected.
14 It's just the Department is still working on evaluating
15 those public comments.

16 So that's -- that's what I have to report.

17 CHAIRPERSON JENKINS: So I have a question for
18 you on that one.

19 I read through the comments -- I read through the rule
20 as it hit the hearing in January, and so things I was
21 concerned about was the dot - was it 9? - that has to do
22 with the cable between the head and the -- or HVAC installer
23 can install the wire from the outside unit to the inside
24 unit and all other units of the building, and the other one
25 was, where they have a disconnect, they are allowed to put a



1 -- some type of a surge suppression or whatever it is on the
2 unit or at the disconnect. And the Electrical Board, I
3 would say, resoundly said, "No, we don't want that to go
4 forward." Yet at the hearing, it was put back in again. So
5 at the hearing, it was, "Well, we did take it out. We're
6 getting -- now hearing on this."

7 And my understanding in the historical (indiscernible),
8 anywhere along the line of the WAC rules and RCW -- WAC
9 rules, I guess, as they go through, as soon as we get
10 controversy, as soon as we hit something that's not
11 approved, and most people as well as these stragglers, but
12 some of the groups don't agree with it, it stops at that
13 point, and it goes back and says, "Well, we're not going to
14 do this this time. Apply for it again next code cycle."

15 This one seems a little -- I'll just put it bluntly.
16 I'm a little disappointed that it was not killed at the
17 Electrical Board. Instead, it was passed on further to the
18 hearing concerning the HVAC scope increases. We were in
19 here. It says it's unsafe. There's no reason that we
20 should be continuing this process because the -- it's just a
21 contractor/manufacturer request to increase scope onto the
22 HVAC industry.

23 I accepted the hearing of it also. And all the people
24 that were on there that talked about for this scope increase
25 were either contractors -- 01 contractor, on top of that,



1 that was choosing to do so. And we had HVAC manufacturers,
2 and we had -- that's about it on that. All the rest of the
3 people that voted against it were actual industry-related as
4 far as workers, 01 business managers to general 01
5 installers. All all said that this is not a safe
6 installation for the safety of the public, that we're
7 actually opening a door for an installation that's never
8 been given before. And the State -- I shouldn't say the
9 State. Labor & Industries is choosing to ignore the
10 Electrical Board's opposition to allowing that to go
11 forward.

12 And so it showed up again during the hearing, and it
13 sounds like to me you are still saying that it might go in
14 there, even with all this opposition. And I'm -- I love
15 what Labor & Industries does. They have done a great job in
16 the past. This is the one time I've ever seen it. I'm kind
17 of disappointed it happened, that they are kind of ignoring
18 our input into the subject.

19 And I'm not picking on you. I hope I'm not -- seem
20 like I'm picking on you. I'm trying to say this is
21 something I'm concerned about, that -- why are we doing
22 this? If you're asking for an opinion from us and then you
23 say, "Ah, we heard your opinion, but we're still doing
24 this," I -- I -- why are we -- why do we give an opinion on
25 something that doesn't get changed? So...



1 Yes.

2 SECRETARY MOLESWORTH: Larry, if I could.

3 I'm going to take responsibility for that action. I
4 felt that there was enough controversy about it -- and I did
5 the same thing at TAC (phonetic). I pulled it from TAC, and
6 I said, "We need it -- we're not going to get anywhere. I
7 need to take this to the Board."

8 And then when the Board talked about it, I thought,
9 "Okay. There's public hearings available too that we can
10 get additional information from." And we did.

11 And so as Loren (phonetic) has quoted, it's a nice
12 three-legged stool to get us to a decision. And right now,
13 we are in the process of, like Larry said, evaluating that
14 information that we got. I've had a conversation with Joel
15 Sacks and my leadership. I know he's had conversations with
16 parties involved, and we have meetings scheduled over the
17 next couple of days to come to a resolution.

18 It wasn't that we were ignoring the Board's advice;
19 right? We actually weighed that very carefully and said
20 "Let's talk some more," because this is a very heated
21 question, and we just wanted to make sure we were making the
22 right decision all the way along the way.

23 CHAIRPERSON JENKINS: Thank you for your input.

24 I just -- it seems like there is a change, as of this
25 cycle, from what's happened in the past. And it's -- it's



1 going in the direction where the Board is getting less and
2 less authoritative. I don't want to -- I don't know if
3 that's the right word for that. But in the past, like I
4 said, if it hit the TAC -- Board TAC meetings, whenever we
5 had something that was not really asking us to do this, the
6 Department said, "Yeah, there's enough controversy we're
7 just going to -- we're going kill it now. Until you can
8 say -- we can get a -- pretty much an industry okay with
9 this, we won't take it further."

10 Well, it got past the TAC, but there was that
11 controversy. And then it got here. And if anything came to
12 here that was -- saying that we don't agree with this,
13 especially since we had a hundred percent "No, we don't want
14 this to go through," it was done. It was, okay, we're done.

15 So the way I've always seen it in the past, it's been a
16 step, in the past hearing, yes or no. No? Then it doesn't
17 go any further. Did it pass here? Yes or not? Yes, it
18 passed. And each one is a step. And it feels like,
19 considering the past, it's that we're just, ah, it's an
20 opinion. We'll continue on.

21 And my thought was, Labor & Industries, I get
22 there's -- you do have a lot of people out there that have a
23 lot of experience, but when the rest of the - I'm just going
24 to put it bluntly - the 01 industry says, "That's not a good
25 idea," it almost feels like it's being crammed down the



1 throat of the industry by saying, "Well, we're going go to
2 do it anyway."

3 And whether it be political, whether it be something
4 else, I think we have proven -- I don't know if you all feel
5 the same way, but I think it's proven this is a less safe
6 direction to head. And the industry is supposed to
7 be - especially with L&I - to be a more safe or equal level.
8 And for an industry to say, "Well, we want to do this," and
9 once again, being backed by a -- what do you call a -- what
10 Carol Mogue (phonetic) is?

11 LARRY VANCE: Lobbyist.

12 CHAIRPERSON JENKINS: The lobbyist and
13 contractors. Oh, and manufacturers. It's not being pushed
14 by the people. It's not being pushed -- I saw zero people
15 that are 06A come in and say, "Yeah, I can do this work, and
16 I should be able to do this work." It was all pushed from
17 the contractors' end. And so -- I can keep going on my
18 soapbox here, but I'm kind of frustrated a little bit.

19 SECRETARY MOLESWORTH: Yeah, and I understand
20 your frustration. I'm sorry you feel that way.

21 I do want to say we did take the other three or four
22 recommendations that you guys made and we removed those from
23 the rules. And -- but I look at this as being -- with the
24 amount of stakeholder input from both sides, I was looking
25 at it as being responsible from the position of the



1 Electrical Department and L&I.

2 Gosh. Now I'm going to lose my voice.

3 So -- but I want to assure you that we are -- we will
4 have an answer on that here very shortly. I just heard
5 about a couple more meetings during the break, so...

6 CHAIRPERSON JENKINS: And I'm going to
7 ask -- it's a personal thing. I don't know if anybody else
8 has a -- any results that might be sent down to us?

9 SECRETARY MOLESWORTH: What's that?

10 CHAIRPERSON JENKINS: Any results from this
11 before -- can we get information from that?

12 SECRETARY MOLESWORTH: Absolutely, yes.

13 CHAIRPERSON JENKINS: I'd be curious just to
14 see where this is going.

15 SECRETARY MOLESWORTH: I can make sure you guys
16 are aware of what we're doing --

17 CHAIRPERSON JENKINS: Thank you.

18 SECRETARY MOLESWORTH: -- as soon as I know.

19 BOARD MEMBER BAKER: Refresh my memory maybe,
20 Larry, of the rulemaking process before it becomes law
21 January 1st, 2024. Does it come back before this Board
22 again prior to that?

23 LARRY VANCE: Well, what -- the Board sees the
24 entirety of the rules. We can't add anything to the rule
25 past this point. If something is removed from the rule



1 between the CR 102, which is, here's the draft of their
2 proposed rules, the CR 103 level -- 103 filing is, here are
3 the rules.

4 So what can happen in between: If there is anything
5 removed from the proposed rule, the 103 will have
6 information about why it was removed, have to justify why it
7 was removed. So the other thing that will happen is there
8 will be a concise explanatory statement that is actual
9 verbatim testimony that was given in the public hearing, and
10 each person that spoke at the public hearing will get a copy
11 of the concise explanatory statement.

12 There also will be -- as we move toward the CR 103
13 process, there's more public -- I think all members of the
14 Board, I believe, are on the email. There's an email list
15 that's part of this rulemaking, that's part of the
16 stake-holding of this rulemaking. So every time we
17 communicate this, the Board gets communicated as members of
18 that -- of that distribution list.

19 So, very formal process. When the CR 103 is -- when it
20 is filed, that is the -- that is the -- that's the signed
21 version of the rule . And then there's -- so there's a date
22 that it's signed and then there's a date that it becomes
23 active. So that February is the date that we're going to
24 sign it. Then there's a period of time and it becomes
25 effective April 1st.



1 So yes, there's notification all along that -- on that
2 road, so to speak. Yeah.

3 CHAIRPERSON JENKINS: Thank you.

4 Any more questions?

5 Board Member Knottingham.

6 BOARD MEMBER KNOTTINGHAM: Yes, one thing.

7 I was at the hearing on the 9th. And one addition I'll
8 make to Board Member Jenkins's -- or Chair Jenkins's
9 comment: People that were opposed to it, it was a lot of
10 training directors, a lot of instructors for training
11 centers. You know, I've been involved in this process for
12 quite a while. I've seen this come through three or four
13 times, and we've always consistently said, you know, "If you
14 want to expand scope, you need to expand training," and I
15 still haven't seen any expanded training. So I find that
16 really frustrating.

17 You know, everybody wants to do more. Everybody wants
18 to do more. There's models out that allow them what they
19 want to do right now. We have 01 contractors that have
20 06As, 06s, 01s working for them, and they can do the work.
21 I understand maybe not everyone can do that, but, you know,
22 there's a process. And if you want to expand scope, then
23 step up and expand training. And that component seems to be
24 missing. So that's my frustration.

25 CHAIRPERSON JENKINS: Board Member Cox, yes.



1 BOARD MEMBER COX: Question for Board Member
2 Knottingham.

3 When you were at that meeting, was there any discussion
4 of upping the training for the HVAC contractors to do this
5 kind of work?

6 BOARD MEMBER KNOTTINGHAM: There was a lot of
7 discussion about the factory training that's being provided.
8 And, you know, I've seen pictures of what they do. It looks
9 pretty -- pretty good. To quote Wayne, though, at the last
10 meeting -- I'll paraphrase for Wayne. I won't quote you
11 directly. You know, when you write a rule, it applies to
12 everybody.

13 And there are a segment of the industry that really are
14 trying to do it and trying do it right. They are going to
15 really good training provided by the manufacturer. But it's
16 not required for everybody. It's not required in statute.
17 It's not required in rule. And that's where I see the
18 problem. The apprenticeship hasn't stepped up and modified
19 the requirements of the apprenticeship.

20 So you have some individuals that are stellar, that are
21 really trying to do it, and you have other people that are
22 not. But the rules apply to everybody.

23 BOARD MEMBER COX: So what your position is is
24 that it's not required training; right? Okay. Understood.

25 BOARD MEMBER KNOTTINGHAM: Not now.

1 BOARD MEMBER COX: Understood. Thank you.

2 CHAIRPERSON JENKINS: Any other discussion from
3 the Board?

4 All right. Larry, thank you for your time.

5 LARRY VANCE: Thank you very much.

6 BOARD MEMBER COX: Might as well stay there.

7 LARRY VANCE: Do I need to stay here?

8 CHAIRPERSON JENKINS: Oh, yeah. Sorry. Other
9 stuff going on.

10 BOARD MEMBER BURKE: Don't go yet. We lost you
11 earlier.

12 CHAIRPERSON JENKINS: Before I go any further, we
13 also have Secretary's report. We also have Carissa
14 Rodriguez.

15 Are we looking at continuing, just kind of pushing
16 forward, or are we looking to take a lunch break here? I
17 need a consensus to the questions here.

18 Continue? Continue? Push?

19 UNIDENTIFIED MEMBER: Continue. Push.

20 UNIDENTIFIED MEMBER: Push.

21 CHAIRPERSON JENKINS: Okay. So let's go --

22 SECRETARY MOLESWORTH: Lunch. Just kidding.

23 CHAIRPERSON JENKINS: Well, we just never move
24 the Secretary from the Board.

25 UNIDENTIFIED MEMBER: You're not a voting member.



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(Collective laughter.)

LARRY VANCE: Well, Chairman Jenkins, board members, CI- -- excuse me, PSI was unable to generate a report for the previous year. We've got two days -- I just found that they've been working on this. There's two days in October that put a -- make a bug in trying to run a report that includes October. So the report for one year, for the previous year, would have included October. And so I don't have any data on that.

I do have the ability, and I will -- if the board members are interested, I can go back and run a report not including October. It would be 11 months of data, I believe. And if the Board has any interest in that report as far as first-time pass rates, I don't expect any changes to the first-time pass rates, but there has been -- and I don't know why we are still working with PSI on this issue, but they have a little bit of a data -- just some small data issue on a day will -- will break that report. And I've emphasized the importance of the report.

This was something that we asked them early on, and they went ahead and provided . We used to have a report that -- it was first-time pass rates, but it was first-time pass rate on the RCW/WAC portion, first-time pass rate on the -- the NEC in theory section. So you were looking at two things, and you really couldn't tell what the actual



1 first-time pass rate was. So they put this report together
2 for us, and it's worked great for many years. Only, right
3 now, there's only been a little bit of an issue. So I look
4 forward to working with them and resolving that and having a
5 report for a year's worth of data at the next Board meeting.

6 CHAIRPERSON JENKINS: Thank you.

7 I think there was a discussion with somebody beyond the
8 meeting --

9 BOARD MEMBER KNOTTINGHAM: And I already
10 mentioned this to Larry. I didn't want to blind-side him.

11 So I am getting reports from multiple people that have
12 had problems with PCI. Computers crash in the middle of
13 taking a test. One individual was taking his admin test.
14 He delayed. He shouldn't have, but he was pushing up
15 against the one-year limit. He took the test. He passed,
16 right up close to the border. He hadn't heard from PSI. He
17 contacted them, and he reportedly got a zero.

18 So I just want to make sure that -- that -- it's
19 unfortunate when it happens, and I understand glitches are
20 beyond the control of PSI and -- and L&I, but just if
21 there's allowances made as far as they are not being charged
22 to retest and that there's some kind of review process for
23 the individuals that, you know, got a result and a different
24 result from PSI, and then also the time limit was impacted
25 by a glitch from PSI, that that -- that they are not held to



1 that, that they are maybe given an extension to rectify it.

2 LARRY VANCE: Yes. Jack and I, in our
3 conversation earlier, I related to him about this issue.
4 There was -- I don't know if there was an anomaly in the
5 matrix of the world or something like that, but there was a
6 blip. And it happened in a couple of testing locations.

7 The way PSI is set up is that PSI has some of their own
8 brick-and-mortar testing locations and then they have what
9 they call "partner sites." And one of the reports that is
10 provided to the Board is a report that shows all of the
11 national testing results. And we always -- we always
12 provide that because it just shows the benefit of PSI,
13 meaning the ability to deliver this exam on a national
14 scale.

15 Having said that, PSI, on one of their partner sites,
16 you know, it's not necessarily PSI staff. It may be at an
17 airport. It may be at a community college, et cetera. You
18 know, there's these small partner sites, and there's things
19 that happen at partner sites. There's power outages.
20 There's -- there's just things that happen. A car hits a
21 pole. We just -- we don't know.

22 When something happens during an exam, what happens is
23 the candidate is given -- this is our understanding of the
24 process: The candidate is given contact information for PSI
25 customer service and an incident number. Because when that



1 exam crashes, PSI -- in PSI land, that is now an incident.

2 What we've experienced is that people -- exam
3 candidates may not fully understand what they need to do as
4 far as contacting PSI and how important that incident number
5 is. And what we've done is -- we've had too many of these
6 people contact us. I don't know the exact number, but there
7 was a -- there was a group there. It was over -- it's
8 happened on several occasions. Maybe it was 20 people. But
9 I know if I was taking the administrator's exam and I
10 passed, you know, two of the three sections and the thing
11 crashed and my exam results were gone, I wouldn't be a happy
12 camper.

13 And what we do when we find out about this, if
14 anybody -- anybody has a problem with this, please, please
15 contact us at lmi.wa.gov -- or electricalprogram@lmi.wa.gov,
16 and we immediately will contact PSI. We'll look at it.
17 There are several of us that can look into the PSI database.

18 And they are having a few data issues, and they are
19 working on them. But we've gotten, I believe, everybody
20 resolved. And I'm sorry to hear about this one, if it's
21 not resolved. But essentially, what PSI has done is that
22 they've -- you know, they've went into their system. They
23 are going to -- this candidate, if they were in the middle
24 of -- if they hadn't completed the exam section, they are
25 just allowed to retake the exam section at no cost. There's



1 some data -- data work that they do. The passing -- the
2 score thing is a real mystery. But they are able to recover
3 that data out of their system.

4 And no -- it's a strange one. We've never encountered
5 it before. But we have encountered some instances where --
6 because of a power outage or something like that, an
7 interruption. But this score thing is something that is new
8 to us, new to them, as far as, you know, what do you mean?
9 I have my passing score sheets here. They say my score on
10 them, and your system says I got a -- you know, that I got a
11 zero or maybe I did not even take the exam.

12 So those are some things that are concerning, and we're
13 addressing them.

14 BOARD MEMBER KNOTTINGHAM: Do you always get a
15 printed score after you're done?

16 LARRY VANCE: Everybody at PSI does, yeah. It's
17 got a nice pictures of yourself. It's a picture and it's
18 your exam section that you took and your score.

19 BOARD MEMBER KNOTTINGHAM: All right. I'll ask
20 if they have that.

21 LARRY VANCE: Yeah. I imagine he has them.
22 And -- yeah.

23 So the thing that happens when they don't get a score
24 in the PSI system but they've got their passing score sheets
25 is that they finally call and they say, "Hey, I passed my

1 exam, and I haven't got my card yet." And you look at the
2 PSI system, and it says, well, you haven't even taken the
3 exam. And the applicant says, "I've got passing score
4 sheets." And then we investigate further.

5 So I think it's very isolated but it's also very
6 troubling. So we're looking into it and working with PSI
7 and hope to get it all resolved.

8 But, please, Jack, have those people contact us, and
9 we'll take care of that.

10 BOARD MEMBER KNOTTINGHAM: Thank you.

11 CHAIRPERSON JENKINS: Thank you very much.

12 Any other questions, comments for Larry concerning our
13 certification/CEU quarterly report?

14 Hearing none, thank you very much. I appreciate your
15 time.

16 LARRY VANCE: Thank you all.

17 CHAIRPERSON JENKINS: It looks like we are on to
18 the Secretary's report.

19 So, Wayne, the floor is yours.

20 SECRETARY MOLESWORTH: Thank you, Mr. Chairman,
21 board members.

22 The Secretary report to the Electrical Board on
23 January 25th, 2024.

24 The budget. "The electrical fund balance on
25 December 31st, 2023 was \$14,134,963, which is about five



1 times the average monthly operating expenditures. The
2 average monthly operating expenditures for second quarter of
3 fiscal year 2024 were \$3,078,185 compared to \$2,445,928 for
4 the same period last year. This is an increase of about
5 25 percent. Average monthly revenue for the second part of
6 FY '024 was \$2,784,462 compared to \$2,383,864 for the same
7 period last year, an increase of about 16 percent."

8 Numbers for December for customer service. We had
9 "41,063 permits were sold last quarter. 98.3 percent or
10 40,369 were processed online, which is an increase of 0.1
11 percent from last quarter. 87.8 percent of contractor
12 permits were sold online, which is a decrease of 11.8
13 percent from the previous quarter. Homeowners' online sales
14 from this quarter is 83.7 percent, which is a 0.4 percent
15 increase from the previous quarter. Online inspection
16 requests were 75.9 percent, which is a .2 percent increase
17 from last quarter. During this quarter, customers made
18 90.8 percent of all electrical license renewals online,
19 which is a 1.3 percent decrease from last quarter."

20 Moving on to key performance measures. Score card or
21 indicators. First one is "percent of inspections performed
22 within 24 hours of request." Our goal is 86 percent. In FY
23 '23, they had 74 percent. And same period this year,
24 76 percent.

25 "Percent of inspections performed within 48 hours of



1 request." Last year, at this time, 87 percent. Currently,
2 89 percent.

3 "Total inspections performed," 61,627. The same period
4 this year, 64,356.

5 "Virtual electrical inspections performed." Last year,
6 during this time frame, 5,770. This year, it's 11,344.
7 Quite a jump.

8 "Number of focused citations and warnings, contractor
9 licensing, work certification, no permit, failing to
10 supervise trainees." In the field, they wrote 249. E CORE
11 wrote 797 for a total of 1,046, last year. This year, the
12 field wrote 647, E CORE had 4,862 for a total of 5,509.

13 "Inspection stops per inspector per day, workload
14 indicator only." Last year was 12. This year was 11.2.

15 "Serious electrical corrections that would result in
16 disconnection of power," last year, was 8,941. This year,
17 was 9,674.

18 "Turnaround time for average plan set reviewed." The
19 goal is 1.6 weeks. Last year, at this time, it was three
20 days. And the same period this year, three days as well.

21 "Plan pages reviewed" were 985 last year. 926 this
22 year.

23 "Percent of warnings by focused violation type,"
24 licensing was one percent; certification, 20 percent;
25 permits were 68 percent; trainee supervision, 11 percent;



1 and all focused citations were three percent."

2 "Electrical licensing/citations/amusement rides, and
3 appeals." This is our licensing division and appeals.

4 "As of 1" -- or "As of January 24th, 2024, there are
5 approximately 440 items to be processed by the licensing
6 team. The oldest item is dated December 19th, 2023. 370 of
7 these items are affidavits."

8 "In addition to processing documents, licensing staff
9 are responsible for answering all incoming electrical
10 licensing phone calls for the time frame between October 1,
11 2023 to December 31, 2023. They answered a total of 5,637
12 calls. This is an average of 1,879 calls per month, 470 per
13 week, 94 per day, and 11.75 per hour. This does not include
14 inbound calls to their direct lines or outbound calls made
15 to the customers."

16 "There are currently two vacant positions within the
17 licensing team, and the licensing supervisor position is
18 vacant. These positions cannot be recruited for at this
19 time. Due to those vacancies, staff from the citations team
20 have been assisting the licensing team, and this is
21 impacting their workload. The citations team had been
22 current on mailing out citation letters to violators;
23 however, a backlog is beginning. Also, there is a
24 significant backlog of outstanding debt needing to be sent
25 to the external collections agency."



1 There are "no new testing labs."

2 "And ESSB5320, an Act relating to journey-level
3 electrician certifications of competency, was signed into
4 law by Governor Jay Inslee on April 24th, 2023," was the
5 passed legislation.

6 I don't have any other program updates for you at this
7 time, but I'm willing to answer any questions.

8 CHAIRPERSON JENKINS: I'll make a quick comment.

9 I'm kind of impressed that we are seeing -- not that
10 they are happening, but we are seeing an increase of E CORE
11 picking up more issues. I know we had a point where it
12 dropped really low in comparison, and now it's back up to
13 where we typically get. Not that they should be happening,
14 but -- you know, we don't like that idea, but it looks like
15 we're getting back to our normal conditions.

16 SECRETARY MOLESWORTH: Thank you.

17 I think one of the things that's noteworthy is to take
18 a look at what the field is actually writing and how they've
19 increased their compliance efforts. There's a different
20 type of underground economy that they -- that they search
21 out than E CORE does. And so this is the neighborhood stuff,
22 the guy wiring basements on the side that works for the hot
23 tub company, you know, that kind of stuff. And so there's a
24 lot of that, and so they really stepped it up. We've asked
25 them to make an emphasis on compliance right now.



1 CHAIRPERSON JENKINS: Thank you very much.

2 Any other comments from the Board?

3 Yes.

4 BOARD MEMBER BAKER: Could you speak to your
5 vacancies and recruitment for inspectors, particularly.

6 SECRETARY MOLESWORTH: So there's a lot -- lot to
7 this particular topic. We're actually looking at our budget
8 currently along with -- or our fund with our allotment. We
9 are or have been a hundred percent filled in our vacancies.
10 We're allowed to hire 126. We have done that. And we
11 had -- we had been completely full at 126 for leads and
12 inspectors. And we have had -- recently had a couple of
13 vacancies. We haven't refilled those vacancies because we
14 are projecting -- even though we are into this biennium, not
15 very much, you know, a few months, we are projecting that
16 there might be a shortfall, and that shortfall is due to a
17 lot of the -- let's say, the -- the -- the very needed wage
18 increases that went through. We had the 21 percent in the
19 governor's budget, we had a classic comp package, and we had
20 a cost-of-living increase. And while putting those
21 together, the allotment wasn't calculated just right, and
22 it's showing that we're a little bit at a loss.

23 That doesn't mean our fund is. They are two different
24 things; right? So right now, we're trying to make up the
25 difference for that by holding some in areas -- some of you



1 are really busy and then there are some that aren't. We've
2 seen our permits and inspections drop this last year lower
3 than the previous two years. And so we're just holding onto
4 those in those areas to make sure that we don't overhire at
5 this point, and at the same time, it makes up some of the
6 budget -- or some of the things we're concerned about.

7 BOARD MEMBER BAKER: I'm surprised to hear you
8 say you're a hundred percent filled in your vacancies. It
9 seems like last time we talked, you had 40 or 50 openings.

10 Have you hired that many in the last six months?

11 SECRETARY MOLESWORTH: I don't think we ever had
12 40 or 50, but --

13 BOARD MEMBER BAKER: Maybe I'm misunderstanding.

14 SECRETARY MOLESWORTH: I'm trying to think back a
15 couple Board meetings ago. But when we're -- when we first
16 got -- we anticipated that we might see an increase; right?
17 So we increased our efforts and were able to fill some of
18 those vacancies. We still have a couple vacancies that we
19 couldn't fill because -- or people we'd run recruitments for
20 that are still in the wings because we couldn't hire them
21 because we met our limit of 126; right? And so now we've
22 got a budget package going to the Legislature to ask for
23 more FTEs, and then when we get those, then we have to make
24 the decision, do we hire them right away, depending on the
25 workload; right?



1 One of the things I think you guys have heard me say is
2 with hiring, we want to make sure we don't overhire, and we
3 watch it closely so we don't wind up in an '08/'09
4 situation, where we had to lay off a lot of people. And so
5 we want to make sure that we're hiring who we need. So I
6 think we're right in line right now. We did hire several
7 during that period of time just after we received the
8 compensation increase.

9 So we saw a huge jump in the number of applicants;
10 right? And something to go along with that that I'm not too
11 sure I've been completely clear with you guys is that we
12 implemented a pre-assessment. And so there's an exam that
13 applicants have to take, and if they pass the exam, they get
14 a letter and then they are allowed to be accepted for
15 interviews. So unless they pass the assessment, they
16 don't -- they don't get an opportunity for interview.

17 I think that's going to help us a lot in hiring the
18 best and the better candidates. We've had a little struggle
19 with that over the last couple of years, and so I think this
20 will help clear that up. So I thought I'd mention that to
21 you as well.

22 BOARD MEMBER BAKER: It's good to hear you got
23 full employment, and it's amazing how the compensation
24 package can make the difference. Weird.

25 SECRETARY MOLESWORTH: Yeah. It was -- when we



1 saw the number of applicants that were coming through, it
2 was amazing. You probably won't be surprised to know that
3 we hired a few from municipalities. Sorry. But -- but were
4 applying. And some of the good inspectors we had that went
5 to the municipalities because of wages --

6 BOARD MEMBER BAKER: Coming back.

7 SECRETARY MOLESWORTH: Right, and now they're
8 coming back. And they're -- can't blame them for that.
9 They're very good inspectors and a good asset for us.

10 BOARD MEMBER BAKER: Thank you.

11 CHAIRPERSON JENKINS: Yes, Board Member Cox.

12 BOARD MEMBER COX: Question for Secretary
13 Molesworth.

14 On your score card, can you speak to me about your
15 percentage of warnings. I just want to understand.

16 So of the 5,509 focused citations and warnings, as I
17 understand your note, all focused is three percent. So
18 three percent of that 5,509 are warnings; is that how I
19 understand that?

20 SECRETARY MOLESWORTH: Right.

21 BOARD MEMBER COX: So approximately 165. So of
22 that 165, 68 percent of those warnings are permit-related;
23 is that --

24 SECRETARY MOLESWORTH: Correct.

25 BOARD MEMBER COX: Okay. How do you



1 address -- can you address those warnings. Is it where an
2 inspector goes out and says, "Oh, you should have pulled a
3 permit for this. I'll give you a warning," rather than
4 signing them, saying, "A permit was not pulled"? Is that
5 you how that works, or can you explain it?

6 SECRETARY MOLESWORTH: Yes. Sometimes it's
7 circumstance-driven; right? They come out. They were
8 onsite. They started working. One of our guys happened by
9 and then we look it up and we see, okay, have they been
10 buying permits? One of the ways that we look at this is if
11 they missed one permit. They purchased a thousand permits
12 in the last six months. It's one of the things we do to
13 show a little bit of leniency on that. They get it right
14 away. We give them a deadline. "You get this by X. Give
15 me a call. We're good." If we don't get that, then we
16 write them a citation.

17 BOARD MEMBER COX: Okay. Can you talk to me
18 about the 20 percent certification number. I'm assuming
19 that's your card; right?

20 SECRETARY MOLESWORTH: Yeah.

21 BOARD MEMBER COX: Okay. Is that what that is,
22 is not having the card on you, or is it --

23 SECRETARY MOLESWORTH: Well, it could be a number
24 of things; right? It could be that you may not be
25 displaying it. It might be that maybe your trainee card



1 just expired; right? That type of thing. Very seldom do we
2 give warnings on -- on electrician certificates. Mostly for
3 trainees.

4 And so you might have a situation where somebody wasn't
5 supervised correctly or --

6 BOARD MEMBER COX: That's 11 percent, though.
7 Training supervision, 11 percent. So that would be
8 different from certification at 20 percent; is that right?

9 SECRETARY MOLESWORTH: Yes.

10 BOARD MEMBER COX: So normally it's just - what?
11 - that they don't have their card or something just expired
12 or....

13 SECRETARY MOLESWORTH: It could be a number of
14 different things. It depends really on the circumstances
15 that you are in at that time.

16 BOARD MEMBER COX: Okay. Thank you.

17 SECRETARY MOLESWORTH: We write some
18 pretty -- some pretty -- I'm trying to think of an example,
19 but some pretty good-size citations where trainees are kind
20 of caught in the middle - right? - somehow. And so we would
21 issue them a warning instead of a full-fledged citation.

22 BOARD MEMBER BAKER: Will you remind me. Once a
23 warning has been issued, you can't issue another warning
24 for a 12-month period, or what was it?

25 SECRETARY MOLESWORTH: Well, I don't know that we



1 look at that too much. We would issue a warning, but then
2 after that, we would issue citations. One of the reasons
3 for issuing written warnings, which we went to several years
4 back, was because everybody was giving out warnings, and
5 nobody could tell how many warnings somebody got; right? So
6 we started issuing a written warning so that we could
7 actually track those.

8 And again, it could be situational; right? But most of
9 the time, if you've gotten a warning, you're aware, and then
10 we would issue a citation.

11 BOARD MEMBER BAKER: Thank you.

12 CHAIRPERSON JENKINS: All right. Any more
13 questions for the Secretary?

14 All right. Well, thank you very much, Wayne. I
15 appreciate your time.

16 SECRETARY MOLESWORTH: You're very welcome.
17 Thank you.

18 CHAIRPERSON JENKINS: And it looks like we
19 are -- I hope we are all doing good because we are now at
20 number 7.

21 Is Carissa Rodriguez available?

22 SECRETARY MOLESWORTH: Mr. Chair, I think you're
23 going to have Brian Hornback talk with you today and Carissa
24 Rodriguez.

25 CHAIRPERSON JENKINS: Yes. I'm sorry. Why don't

1 you introduce yourself, and please spell your name for the
2 court reporter. And the floor is yours.

3 BRIAN HORNBACK: Thank you. I appreciate the
4 time of the Board. I'm Brian Hornback. I'm the deputy
5 assistant director for Field Services & Public Safety, which
6 provides oversight for the Electrical Board here and L&I.

7 This is Carissa Rodriguez, who is actually the star of
8 what I'm going to share with you because she's put it all
9 together and done just a tremendous amount of legwork on the
10 project we've been working on, so...

11 CARISSA RODRIGUEZ: Can you spell your name for
12 the court reporter?

13 THE COURT REPORTER: Can you spell your name?

14 BRIAN HORNBACK: Good luck with that. B-R-I-A-N
15 H-O-R-N-B-A-C-K.

16 THE COURT REPORTER: Thank you.

17 CARISSA RODRIGUEZ: Carissa Rodriguez.
18 C-A-R-I-S-S-A R-O-D-R-I-G-U-E-Z.

19 BRIAN HORNBACK: So really what we want to do
20 is just -- this is informational to the Board, and an
21 opportunity to ask questions about the proposal we are
22 working for -- working on here for the Department. We're
23 calling it a "Fresh Look Reconsideration," and it has to do
24 with the trainees' hours.

25 As you know, the trainees submit their hours here, and



1 we approve or disapprove those hours for the training time.
2 One of the things that has come up several times in
3 conversations: What happens when we disapprove hours and
4 the trainee disagrees; right? Legitimate question.

5 So I think from our perspective, we recognize exactly
6 what the impact of that is on the trainee, on the family, on
7 a business. They put a lot of hours in that, and we want to
8 get it right. I think it's too -- too important not to get
9 it right every time.

10 We already have a process in place, or it's, I would
11 say, not "well defined." But when a trainee appeals and
12 says, "Hey, you got it wrong," it goes through the program
13 again. It'll eventually wind up at the attention of the
14 chief to kind of get a review of that.

15 And we'll tell you, from our perspective, we know we
16 get -- the pass is at, like, 86 percent -- initial pass for
17 those hours of approval is 86 percent, but that doesn't
18 account for hours that may be -- or a second look at it,
19 where somebody is coming in and said, "Oh, I forgot to give
20 you this document," or, "We did X"; right? And that pass
21 rate goes up from -- that approval rate goes up from there.

22 But the reason for this is really recognition that
23 even -- we're humans; right? So do we get it right a
24 hundred percent of the time? By definition of human, no, we
25 don't. And for us, the truth is that the opportunity to



1 reconsider and get a fresh look at that right now is
2 difficult. The only real place to go is to take that to
3 superior court. We all understand how that can be very
4 expensive for a trainee, time-consuming for a business if
5 they want to assist the trainee, et cetera.

6 So this is about creating a standardized process. And
7 it really creates a confidence for the trainee, for the
8 businesses, for you as a Board, the confidence that we're
9 getting it right and the confidence that there's -- I guess
10 you call it an equal access to fairness and justice in the
11 process.

12 So where we're at right now is actively working through
13 a process where we have a defined -- a mailbox for them to
14 submit to and say, "Hey, we -- I want to resubmit"; right?
15 We are putting together -- having a resource put in place
16 that will look at that, that's not underneath the electrical
17 program. So a little bit of independence in that review
18 process. And then a lot of times the answer is just simply,
19 "Will you submit something. We didn't understand
20 something." So it's to give them that one more crack at
21 getting it right. We're still defining what the process
22 looks like.

23 Thank you, Jason, for -- we had time to kind of -- to
24 share this with Jason a few days ago just as a precursor,
25 get his questions, I think, and get an opportunity to answer



1 those.

2 So next steps in this is really nailing down that
3 process. What will our review look like? What will the
4 reviewer exactly do? Does he actually redo every step of
5 that audit or does he look at it and just check were the
6 steps of the process followed properly? Do we contact the
7 trainee and say, "Is there something else you want to tell
8 us? Why -- why is it that you believe that we should
9 reconsider this?"

10 And most appeals right now -- or most of the reasons
11 is, "I was late. Sorry. I was late." And that's the
12 reason for a large part of the denials. There will still be
13 a place -- there's still time frames. We're not looking to
14 say, "Ah, it's okay. We'll take it anyway"; right?

15 That's not the point. There's still process and law
16 and RCWs and WACs that we have to follow. This is about
17 making sure we did. Making sure we give every possible
18 consideration.

19 So in the next month or so, you should have -- you
20 should start hearing the additional details on what our
21 implementation looks like, in terms of what the appeal
22 process looks like. And then as we open this up and make
23 sure it's available to others, we're going to collect the
24 data. You know, how many appeals are we getting? Is this
25 one of those where because there's not a need for -- a



1 requirement for a bond, there's not a cost? Is everybody
2 whoever gets a letter of denial going to say, "I want an
3 appeal"; right? Recognize that that can be problematic just
4 given the volume; right? We're taking the resources to do
5 this out of our current -- current hide, so to speak, so...

6 We don't have an additional resource, but the idea is
7 to collect the data. Say, you know, how many times does
8 somebody -- how many appeals are we getting? How many times
9 are we changing our original decision? How often is it
10 something that was because it was information not submitted?

11 So is there a lesson learned that we need to clarify
12 what's requested, or is it simply we really did overlook
13 something and made the mistake from the Department? So we
14 collect the data. And then the intent is that once we have
15 a better idea of what the volume, what the resource
16 requirements are, we may wind up with a decision package
17 saying that we need one resource for this, or we need two,
18 or something to that effect.

19 So it's a little bit of a learning opportunity right
20 now. And like I said, it's just kicking off. But what we
21 didn't want to do is -- was have this on the street and
22 operating and have you guys go, "What was that all about?"

23 So our presence here today is to give you an
24 opportunity to ask some questions. And I was serious when I
25 said Carissa has done just amazing work with the electrical



1 program. This also applied to our plumbing program,
2 plumbing hours. And she's put this all together, so the two
3 of us wanted to be here to share it with you and ask
4 questions -- or answer questions if you might have them.
5 And I think that's about it, unless there's something you'd
6 like to add that I didn't cover.

7 CARISSA RODRIGUEZ: No. I think you did a great
8 job, and just open it up for questions.

9 BRIAN HORNBACK: So If you have questions, that's
10 what we're here for.

11 CHAIRPERSON JENKINS: Questions from the Board.

12 BOARD MEMBER BURKE: Just a comment.

13 I didn't know that it was that difficult, but as a wire
14 man, administrator, and a contractor, I'm glad to hear that
15 we're doing something because -- but also not making it too
16 easy. You know, that's going to be a tough line to tow.

17 BRIAN HORNBACK: Thank you.

18 BOARD MEMBER BURKE: Happy to hear that there's
19 something moving forward.

20 CHAIRPERSON JENKINS: The information -- I will
21 say that I know we've had a couple times during public
22 comment, we've had someone come in and complained they
23 couldn't get their hours documented, and I'm just like, "Ah,
24 I don't know where to send you."

25 And so, you know , usually I kind of wink at the



1 director or, in this case, our secretary and say, "Hey, can
2 you check into this?" But there's nothing we can do here at
3 the Electrical Board, so it's kind of nice to see we have a
4 different path for them so they can actually get it taken
5 care of if it's something that's legitimately problematic.

6 BRIAN HORNBACK: And we will make sure this Board
7 or staff has that email address so when somebody does come
8 to the Board with that, "Hey, here is the email address.
9 Here's your point of contact," and essentially make it
10 simpler. That's the whole point.

11 CHAIRPERSON JENKINS: Any questions?

12 Yes. Go ahead.

13 BOARD MEMBER ALLEN: Yes. Board Member Allen.

14 So is there going to be some sort of communication go
15 out on this so that it's easily accessible, it's something
16 that if somebody goes to the L&I website or whatever, they
17 can, "Oh, yeah, that's where I go"? Is there a plan for
18 that?

19 BRIAN HORNBACK: The answer is, absolutely, yes,
20 there will be a communication. Plans are still being
21 flushed out what that communication looks like, so we are
22 really clear on that. But yes, it will be -- the website
23 will have -- will have information, the Currents news
24 letter, when that goes out, and then, again, the information
25 out through -- I'm not going to pretend that I can tell you



1 every resource that the chief has to send information out,
2 but we'll be sending out pretty much every way we can.

3 SECRETARY MOLESWORTH: And there will be a
4 notification and information in every denial letter that
5 let's them know about the process when they get denied so
6 they'll know exactly how to approach that.

7 BRIAN HORNBACK: Thank you.

8 BOARD MEMBER BURKE: Anticipate a timeline on
9 implementation? I mean, I know that's a tough question
10 probably, but...

11 CARISSA RODRIGUEZ: Yeah. We're still working
12 through some of those minute details. We are hoping to have
13 something set up by April. We have -- in order to put --
14 pull a decision package together, we have to have the data
15 and whatnot gathered by August. So we're on a tight time
16 frame here and trying to get something set up. It may not
17 be perfect, but our plan is to learn through this
18 opportunity and prove it over time.

19 BOARD MEMBER BURKE: Perfect. Thank you.

20 CHAIRPERSON JENKINS: Any more questions,
21 comments from the Board?

22 All right. Thank you very much for your time. The
23 Board appreciates it.

24 BRIAN HORNBACK: Thank you. I'm assuming it's
25 lunch now. So enjoy.



1 CHAIRPERSON JENKINS: Before we hit public
2 comment, I just want to make I said -- I know I sat on my
3 soapbox here for a second, kind was -- you know, whatever on
4 the whole thing. I really appreciate the -- L&I and what
5 happens, what they do out there. They are awesome at what
6 they do. I just had that one blip that I just -- it just
7 really bugged me for a minute.

8 So I want to say I really appreciate what you all do.
9 I think the whole Board here -- I think, across the board,
10 we all appreciate the hard work you do and the things you go
11 through. So don't get me wrong. I just --

12 SECRETARY MOLESWORTH: No, no.

13 CHAIRPERSON JENKINS: It was something stuck in
14 the craw there, and there it is.

15 So right now it looks like we have Jim Corp - is he
16 here? - from JM Corp & Son, here for public comment.

17 So why don't you go ahead and take a seat up there.
18 You want to speak and spell your name for the court
19 reporter, and then the floor is yours.

20 JIM CORP: My name is Jim Corp, C-O-R-P, and this
21 is Chrystal Corp, C-H-R-Y-S-T-A-L. She's my daughter.
22 Well, she's actually the fourth-generation electrician. And
23 so she's not the son. I fired my son because he couldn't
24 work a shovel properly. And I sure as hell wasn't going to
25 give him a screwdriver.



1 So we are pleased to be here. We have a couple issues
2 that we -- some of this is along the line of prevailing
3 wage. But we -- we're signatory with 46 and 76. And with
4 the help of L&I, and we got that rule changed so we can go
5 up to six floors, and we started the residential division
6 back up for the union and stuff. And we're having a big
7 problem because we cannot get any 02 residential apprentices
8 out of the market. There's none available. But we've got
9 guys 01, first- and second-year period people, sitting on
10 their hands that don't have a job.

11 What the problem is -- and I'm going to have Chrystal
12 read from our bookkeeper. And it has to do with minimum
13 wage, but it also has to do with I need clarification on the
14 ratios. Because the way it's set up now is an apprentice is
15 assigned a registration number, and say that apprentice is
16 assigned in the program, the 01 program. Okay? When I want
17 to hire an 01 out of the hall to take an 02 call to learn
18 residential work, part of their 4,000 hour specialties,
19 which is required, it kicks it back. It doesn't recognize
20 it, so...

21 CHRYSTAL CORP: There's no way to record it.

22 JIM CORP: It doesn't get recorded.

23 So I'd like her to read this real quick for you to
24 understand because I want to get these guys taught by
25 residential journeymen, you know, and have those hours



1 registered to go towards their specialty hours, and they are
2 not being. So she can read the letter of what the
3 bookkeeper said.

4 CHRYSTAL CORP: All right. So, "Currently, we
5 are required to have a one-to-one ratio for 01 inside
6 wireman apprentices and a two-to-one ratio for residential
7 wireman apprentices.

8 We are a union contractor and there are currently no 02
9 residential apprentices available to work. The union is
10 willing to allow 01 apprentices to take 02 residential calls
11 and work under 02 residential wireman as long as they are
12 paid their correct dispatch free. We do not want to pay
13 these apprentices less than their current 01 classification.
14 We also need to have them work under an 02 residential
15 wireman with a two-to-one ratio.

16 "We have several prevailing wage projects. We are not
17 able to submit our certified payrolls in Secure Access,
18 LCPtracker or Elations when we try to enter the 01
19 apprentices due to ratio issues with the majority of 02
20 journeyman workers. When this happens, we are required to
21 make the apprentices journeyman rate for the hours that we
22 are out of ratio. This is an issue, since we must submit a
23 copy of each apprentice registration for approval for every
24 new apprentice that works on a project. We pull their
25 registration from ARTS and L&I. These registrations have



1 their apprentice ID numbers. These numbers tie them to the
2 apprentice program they are registered in. This prevents us
3 from entering an 01 apprentice as an 02 apprentice for those
4 hours, even though they are dispatched to us as 02
5 apprentices.

6 The solution is, "Is it possible for an apprentice to
7 have more than one apprentice ID? This would allow us to
8 report hours worked under an 01 journeyman under one
9 apprentice ID and all hours worked under an 02 journeyman
10 under another apprentice ID number."

11 And then, "An additional item that needs to be
12 addressed is making changes to the inside wireman collective
13 bargaining agreements to reflect the new ratios for the 01
14 apprentices working under 02 residential wireman. We are
15 required to submit copies of each CBA in LCPtracker and
16 Elations for our prevailing wage projects. So this will
17 also need to be added if approved."

18 JIM CORP: So we know that this is a prevailing
19 wage issue, but I can't get any traction. I need your guys'
20 help because you have the authority to direct -- and I
21 shouldn't be doing this. Okay? This is a problem. The
22 State -- I want to say they are blocking the opportunity for
23 these apprentices to get specialty hours registered towards
24 their certifications. So I don't know --

25 CRYSTAL CORP: And we're working on mixed-use



1 projects.

2 JIM CORP: We kind of started this mixed-use
3 deal, and we need some help. And I want these guys off the
4 books. We've got a workforce ready to be trained, but
5 there's a glitch in Olympia, and I don't know where to go.
6 I don't know how to fix it. And everybody in this state
7 knows there's a problem, and it's not fixed.

8 So that's that. And we're going to submit this. And
9 it will go to whoever it needs to go to; right?

10 The other thing is, talking about that
11 six-story -- six-story issue. I can give you the RCW number
12 where it's pertaining to. It's WAC rule 296 --

13 CHRYSTAL CORP: WAC Rule 296-46B-920(2)(a).

14 JIM CORP: And it pertains to the -- you know,
15 they changed the fire rating; right? There's five
16 classifications for fire rating. Romex can be done in
17 three, four, five. Well, we made the deal when we changed
18 the rule from going above three stories. We made a deal
19 that at six stories above -- you know, six stories. We
20 wanted to keep it below seven because that's usually where
21 the fire ratings are going. But we have buildings, for
22 example, in Tacoma that we have two levels of dwelling
23 units, steel studs, and then you have six stories of wood.
24 That -- that's eight stories. Okay?

25 So if my proposal says, "I don't know what to do," I



1 don't want to go back on the deal we made to get this rule
2 change, but I'm just saying that I think what needs to be
3 done is if it's the same system, if it's (5)(a) or eight
4 floors and you've got the same fire rating, the same
5 penetration ratings, the same safety, you know, issues,
6 we're going to have to go up more. And I don't know if you
7 want to just leave the six and say, "Anything above that,
8 call L&I for a variance." I don't care. But we're going
9 above six stories, and we're going for that because the wood
10 laminates and the different wood structures, they're going
11 higher with wood. So we've got to address that now.

12 So we will submit that stuff. I just want to give you
13 some forewarning. But if you could really help us on
14 getting those apprentices off those books, I would really
15 appreciate it.

16 CHRYSTAL CORP: Being able to record their hours
17 properly so it doesn't get kicked back. There's just no way
18 to record it. If we have the blessing, you can -- we can do
19 it. We just don't have a way to record it.

20 JIM CORP: So I don't know -- is Larry around
21 still?

22 LARRY VANCE: I am.

23 JIM CORP: Can you do something with this?

24 CHAIRPERSON JENKINS: Just so you know --

25 JIM CORP: Yeah. He's the -- I'm sorry.



1 CHAIRPERSON JENKINS: So during public comment,
2 we don't take questions. We listen to what you have to say,
3 and that's where we stop.

4 JIM CORP: Thank you.

5 CHAIRPERSON JENKINS: Thank you. If you have
6 anything else, please do. I just --

7 JIM CORP: No. I just want to get these guys
8 taught well, residential basic circuitry, know how to work,
9 know how to troubleshoot. It starts with residential, and
10 we're missing a big deal right here.

11 So thanks, guys.

12 CHAIRPERSON JENKINS: Thank you very much for
13 your time.

14 BOARD MEMBER BURKE: Don't leave until after the
15 Board -- and then you can ask --

16 (Cross-talk.)

17 BOARD MEMBER BAKER: Jim, let me ask you a
18 question on the residential six-story thing.

19 The statute currently allows you to do six stories
20 above type 1 and type 2. So you can have two floors of wood
21 frame and then you can do six floors.

22 Are you seeing more than six floors above?

23 CHRYSTAL CORP: Yeah. We have one in Tacoma
24 right now.

25 JIM CORP: They want to go eight.

1 BOARD MEMBER BAKER: Eight floors above the type
2 1 and type 2?

3 CHRYSTAL CORP: Yes.

4 JIM CORP: We want to bring that to your guys'
5 attention.

6 BOARD MEMBER BAKER: All right. Thank you.

7 CHAIRPERSON JENKINS: Yes, Board Member
8 Knottingham.

9 BOARD MEMBER KNOTTINGHAM: Knottingham -- Board
10 Member Knottingham.

11 I appreciate Jim and Chrystal coming here and talking
12 to us. We've had conversations before, and I think it's
13 important that we talk about the issues and see if there's a
14 way we can work through them. I, you know, don't agree with
15 everything that's proposed by everyone, but, you know, at
16 least if we have a discussion and see if we can try to find
17 common ground and reduce hurdles where we can.

18 JIM CORP: Well, Jack, you represented us on this
19 rule change. I'm grateful for what you did for us. So
20 thanks a lot. Thank you.

21 CHAIRPERSON JENKINS: Okay. One more thing
22 that's not on our agenda I need to move on to, and that is,
23 you notice we've had a person who is not here, Mr. Edward
24 Stimmel - Stimmel -- Stimmel (pronouncing). I probably
25 pronouncing it wrong. He has joined us in zero meetings



1 since he's been here.

2 Did anyone notice him that I haven't?

3 And so in order for us -- we've had a request for that
4 position to be filled, and unfortunately, as long as he
5 stays in that position, it can't be changed over, so we need
6 to get a motion to remove Edward Stimmel from our Electrical
7 Board.

8 BOARD MEMBER COX: Motion.

9 CHAIRPERSON JENKINS: So we have a motion to
10 remove Mr. Stimmel off the Board.

11 Do we have a second?

12 BOARD MEMBER BAKER: Second.

13 CHAIRPERSON JENKINS: We have a second.

14 Any discussion?

15 Hearing none, all in favor of removing him from the
16 Board, signify by saying "aye." (Chorus of ayes.)

17 CHAIRPERSON JENKINS: Opposed? (No response.)

18 The motion passes. Thank you.

19 And lastly, probably the most important one you want to
20 hear, the Chair would entertain a motion to adjourn.

21 BOARD MEMBER ALLEN: Motion.

22 CHAIRPERSON JENKINS: We have a motion.

23 SECRETARY MOLESWORTH: Second.

24 CHAIRPERSON JENKINS: And a second.

25 Any discussion?



1 All in favor, signify by saying "aye." (Chorus of
2 ayes.)

3 And opposed? (No response.)

4 The motion passes.

5 Thank you very much.

6 (Adjourned at 12:50 p.m.)
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C E R T I F I C A T E

I, PAMELA J. NELSON, the undersigned Washington Court Reporter pursuant to RCW 5.28.010 authorized to administer oaths and affirmations in and for the State of Washington, do hereby certify that the foregoing proceedings were reported by me and thereafter transcribed by me by means of computer-aided transcription;

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I further advise you that as a matter of firm policy, the stenographic notes of this transcript will be destroyed three years from the date appearing on this Certificate unless notice is received otherwise from any party or counsel hereto on or before said date;

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