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ELECTRICAL BOARD MEETING

TRANSCRIPT OF PROCEEDINGS

October 30, 2025



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DEPARTMENT OF LABOR AND INDUSTRIES
STATE OF WASHINGTON

ELECTRICAL BOARD MEETING
TRANSCRIPT OF PROCEEDINGS
October 30, 2025
Via Zoom Videoconference
Pages 1 through 184

**CERTIFIED
TRANSCRIPT**

Taken Before:

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1 BE IT REMEMBERED that on Thursday, October 30,
2 2025, at 9:00 a.m. via Zoom, an Electrical Board meeting
3 was held before Michelle Brandt, Washington State
4 Certified Stenographic Reporter, residing at Clark
5 County.

6 WHEREUPON the following proceedings were had, to
7 wit:

8 ---ooo0ooo---

9
10 CHAIR JENKINS: This is Jason Jenkins,
11 Chair of the Board. I would like to call this
12 meeting to order on Thursday, October 30, 2025, at
13 approximately 9:02 a.m.

14 I want to say thank you for everyone
15 attending. I appreciate that. This meeting is
16 taking place largely over Zoom platform due to the
17 recent Governor's Executive Order on spending. I
18 would like to ask that all individuals participating
19 in the meeting, unless the Board Members -- except
20 the Board Members, turn your cameras -- turn off
21 your cameras and leave your microphone off until you
22 are called on.

23 Further, we have a court reporter taking
24 everything down. The remote nature of this meeting
25 makes it imperative that only one person is speaking



1 at a time. I also ask you to please identify
2 yourself prior to speaking so the court reporter can
3 properly attribute the comments to the record.

4 So we will jump right into the actual
5 meeting itself. Looks like a safety message.

6

7

SAFETY MESSAGE

8

9

10

RANDY BARNES: Hello, I'm Randy Barnes,
technical specialist for Chief Molesworth.

11

B-a-r-n-e-s.

12

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21

I would like to take a few minutes, if I
could, to talk about personal safety. Washington is
always really good at being at the forefront of
trends and, unfortunately, right now we are, for
whatever reason, leading the way on crime in
Washington State for national average. This was put
out by the State Patrol recently. I would like to
take a few minutes speaking on going into darker
weather. Less light during the day, if we can talk
about personal safety, and hit a few items.

22

23

24

25

General awareness, try to stay alert. Pay
attention to your surroundings and avoid focusing on
your phone in public spaces, especially in
unfamiliar areas. Trust your instincts. If



1 something feels wrong, remove yourself from the
2 situation immediately. Be confident. Attempt to
3 project an image of confidence and walk with purpose
4 at a steady pace.

5 Know the area. Make yourself familiar with
6 the potential shortcuts. Be also aware of the
7 locations that you are going before you go. Carry a
8 charged cell phone. Carry a charger every chance
9 you get. Make sure your phone is charged at all
10 times. Plug it into your vehicle. Plug it into
11 your office.

12 When out and about, whenever possible,
13 travel with others. Travel in groups. Stick to
14 well-lit areas. Stay in areas where the streets
15 have working lights. Have your keys ready. Have
16 them in your hand ready to approach a car to spend
17 minimal time looking for and searching to be in a
18 vulnerable spot. When taking public transport, sit
19 near the bus driver on trains or buses, and try to
20 sit near the path of the -- excuse me, the aisle
21 seats for easier access.

22 And always try to have a safety phrase with
23 your friends and family. I know with my daughter, I
24 have teenage daughters, and I know that she does not
25 like spicy pickles. I happen to love them. And so



1 when she is in a tight spot or needs assistance with
2 her friends, or is in an area that maybe she can't
3 ask for something, I will ask a phrase such as, "Hey
4 do you have any spicy pickles?" Or "Is the
5 restaurant you're at serving spicy pickles?" And if
6 her answer is yes, that means she needs help. Like
7 come get me. Come bail me out of this situation.

8 So these are some things -- you know, some
9 of them seem like common sense. But it is easy to
10 be distracted walking through the parking lot
11 texting your family members, texting job people.
12 Parking your vehicle in a well-lit area, especially
13 during the day, knowing you will come out at night.
14 And then hiding your valuables in your vehicle.
15 Never leave them in plain sight.

16 These are just a few things you can do to
17 try to keep yourself, and your family, your friends
18 safe. And that's what I have for you this month.

19 CHAIR JENKINS: Thank you, very much. This
20 is Chair Jenkins speaking. I appreciate it. This
21 actually was very informational. Thank you very
22 much. That was really good.

23 ///

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ROLL CALL

CHAIR JENKINS: At this point here, I would like to do a roll call. Please, if members would please unmute your microphone. I want to verify quorum. So starting off the top here.

Secretary of the Board, Chief Wayne Molesworth, if you could chime in.

SECRETARY MOLESWORTH: Sorry, I was on mute. Present.

CHAIR JENKINS: Thank you. Board Member Kerry Cox.

BOARD MEMBER COX: Present.

CHAIR JENKINS: Thank you. Board Member Erick Lee.

BOARD MEMBER LEE: Present.

CHAIR JENKINS: Board Member Jack Nottingham.

BOARD MEMBER KNOTTINGHAM: Present.

CHAIR JENKINS: Thank you. Board Member Mike Nord.

BOARD MEMBER NORD: Present.

CHAIR JENKINS: Thank you. Board Member Ivan Isaacson.

(No response)



1 CHAIR JENKINS: Thank you. Board Member
2 Don Baker.

3 (No response)

4 CHAIR JENKINS: Board Member Kevin Davis.

5 (No response)

6 CHAIR JENKINS: Board Member Bobby Gray.

7 BOARD MEMBER GRAY: Present.

8 CHAIR JENKINS: Board Member Gregory
9 Johnson.

10 BOARD MEMBER JOHNSON: Present.

11 CHAIR JENKINS: Board Member James
12 Tumelson.

13 BOARD MEMBER TUMELSON: Present.

14 CHAIR JENKINS: Board Member Stephen
15 Entrekin.

16 CHAIR JENKINS: And Board Member Byron
17 Allen.

18 BOARD MEMBER ALLEN: Here.

19 CHAIR JENKINS: All right.

20 Other than that, for the record, we do have
21 a quorum.

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APPROVE TRANSCRIPT FROM THE JULY 31, 2025
ELECTRICAL BOARD MEETING

CHAIR JENKINS: And the Chair makes a motion to approve transcripts of the last meeting of July 31, 2025.

BOARD MEMBER NORD: Board Member Nord, motion.

BOARD MEMBER ALLEN: Board Member Allen, second.

CHAIR JENKINS: We have a motion and second. Any discussion?

(No response)

CHAIR JENKINS: Hearing none, all in favor to indicate by saying aye.

(Chorus of ayes)

CHAIR JENKINS: And any opposed?

(No response)

Hearing none, the motion passes.

APPEALS

CHAIR JENKINS: All right. Cruising right along. We are into appeals here.

I want to announce that the appeals for



1 Israel Reyes and 7Electric has been continued to the
2 next meeting. Epic Lights and Charles Elledge has
3 also been continued to the next meeting.
4

5 EMPLOYER SOLUTIONS STAFFING GROUP, INC.

6 EROJE03683 & EROJE03684
7

8 CHAIR JENKINS: So our first appeal we will
9 see here today is Employer Solutions Staffing Group.
10 First case -- one second. Sorry. I'm looking at my
11 notes here. Okay. There we go. Sorry.

12 This matter before us today is an appeal of
13 the Employer Solutions Staffing Group, Incorporated,
14 Docket No. 10-2024-LI-02263. This hearing is being
15 held pursuant due to proper notice to all interested
16 parties. And proceedings via Zoom on October 30,
17 2025 at approximately 9:10 a.m.

18 This is an appeal of initial order issued
19 by the Office of Administrative Hearings on
20 April 29, 2025. It is my understanding the decision
21 is set aside. Citation Notices, EROJE03683 and
22 EROJE06348 issued by the Department of Labor and
23 Industries on April 29, 2025. It is further my
24 understanding the Department has timely appealed the
25 decision of the Electrical Board. Is there a



1 representative for the Department present this
2 morning?

3 ANGELA ZURLINI: Yes, Chair Jenkins, Angela
4 Zurlini.

5 CHAIR JENKINS: Can you please speak and
6 spell your name for the court reporter?

7 ANGELA ZURLINI: Sure. My first name is
8 Angela, which is A-n-g-e-l-a. And my last name is
9 Zurlini, which is Z-u-r-l-i-n-i. And I'm the
10 Assistant Attorney General that represents the
11 Department.

12 CHAIR JENKINS: Thank you very much. And
13 is there a representative from Employer Solutions
14 Staffing Group, Incorporated here today?

15 DEBBIE KITE: Yes, Debbie Kite on behalf of
16 the Employer Solutions Staffing Group.

17 CHAIR JENKINS: Spell your name for the
18 court reporter, please.

19 DEBBIE KITE: D-e-b-b-i-e. Last name is
20 Kite, K-i-t-e.

21 CHAIR JENKINS: Thank you very much.

22 The Electrical Board is a legal body
23 authorized by Legislature not only to advise a
24 department regarding the electrical program, but to
25 hear appeals when the Department issues citations or



1 takes some other diverse action regarding electrical
2 licensing certification and compliance.

3 The Electrical Board is a complete separate
4 entity from the Department, and, as such, will
5 independently review the actions taken by the
6 Department. Whether the Department issues
7 penalties, the hearing is assigned to the Office of
8 Administrative Hearings to conduct the hearing
9 pursuant to the Administrative Procedures Act.

10 The ALJ who conducts that hearing then
11 issues a proposed decision and order that either
12 party appeals that decision to subject to review by
13 the Electrical Board. Please keep in mind that
14 while our review is de novo, that we sit in the same
15 position as an Administrative Law Judge and review
16 the entire record regardless of whether a certain
17 piece of evidence is referenced by ALJ.

18 We are bound by the evidence in the record
19 and no new evidence can be submitted at this
20 hearing. Each party will be given approximately 15
21 minutes today to argue the merits of their case.
22 Any Board Members may ask questions at the time, and
23 the time may be extended and the discretion of the
24 Board.

25 At the conclusion of the hearing, the Board



1 will determine if the findings and conclusions
2 reached by the ALJ are supported by the facts and
3 rules pertaining to the rules and regulations.

4 One second, please. All right. There we
5 go. Any questions before we begin? All right. The
6 Department, as the appealing party, you have the
7 burden of proof to establish the proposed decision
8 is incorrect. Therefore, you would be first.

9 ANGELA ZURLINI: Thank you. Good morning,
10 Chairperson Jenkins and members of the Board.

11 This is the Department's appeal to an OAH
12 decision that set aside noncompliance Citation Nos.
13 EROJE03683 and 3684 that were issued to Employers
14 Solutions Staffing Group, which from this point
15 forward I'm simply going to refer to as ESSG. They
16 were issued to ESSG after a Department investigation
17 concluded ESSG performed unpermitted electrical work
18 as an unlicensed electrical contractor.

19 In its defense, ESSG argues RCW 19.28 and
20 WAC 296-46B do not apply to it because it simply
21 provided skilled labor as a temporary staffing
22 company. Board Members, ESSG's attempt to evade the
23 application of RCW 19.28 and WAC 296-46B by arguing
24 it's a staffing company should be denied because
25 regardless of what it calls itself, the activity it



1 engaged in is that of an electrical contractor.

2 So before we get to the facts, I just want
3 to set the stage. So this case involves a large
4 industrial electrical project at the REC Silicon
5 plant in Moses Lake. A company by the name of
6 Loebro Industrial Construction, LLC was the entity
7 contracted to perform the electrical work at that
8 site. During the dates identified in the matrix
9 citations, which of course is included in the
10 Board's record, Loebro was not a licensed
11 electrical contractor in Washington. At the time of
12 the investigation, there were no electrical work
13 permits for the REC Silicon plant project. So
14 Board, I'm going to ask you to focus on ESSG's
15 activity, not how it formed itself as a company.

16 So starting with the undisputed facts, ESSG
17 agrees it sent journey level electricians to the
18 silicon plant to perform electrical work on the
19 dates identified in the metric citations. The
20 journey level electricians ESSG sent to perform the
21 electrical work are identified on the Electrical
22 Board packet pages 245, 246 and 249 through 256.

23 ESSG agrees it employed the 10 journey
24 level electricians as quote, W2 employees, end
25 quote, for whom ESSG pays for their healthcare,



1 their workers' compensation benefits, their
2 unemployment benefits, and payroll, including their
3 tax withholding.

4 ESSG agrees when it sent their journey
5 level electricians, that they employ, to the REC
6 Silicon plant, ESSG was not a licensed electrical
7 contractor in Washington. ESSG agrees that it did
8 not obtain an electrical work permit for the work
9 performed by its journey level electricians. And,
10 lastly, ESSG agrees Loenbro paid for the electrical
11 work the ESSG journey level electricians performed
12 at the REC project under an agreement that ESSG and
13 Loenbro shared.

14 In reaching its decision to set aside the
15 citations on appeal, OAH focused on Loenbro's role
16 in the project and what the Judge identified as a
17 lack of clarity regarding the relationship between
18 Loenbro, ESSG, and the project.

19 Board, the Department asserts there is
20 great clarity between the relationship between ESSG
21 and Loenbro. In fact, there was clarity between
22 Ross Plaetzer, who testified as representative and
23 comember of ESSG. He testified about the
24 relationship shared between ESSG, Loenbro, and a
25 company called Road Dogs. As reflected in the Board



1 record, Mr. Plaetzer told us ESSG is a staffing
2 company that provides laborers to perform everything
3 from sweeping snow, to skilled craftsman, including
4 journey level electricians that it employs.

5 He testified that ESSG outsources its
6 employee and client recruiting to Road Dog
7 Industrial because, quote, they have goodwill in
8 particular sectors or particular locations. And
9 Road Dog is well known in the skilled craftsman or
10 craftsperson sector, end quote. He testified that
11 ESSG entered into an agreement with Road Dog that
12 sets out each party's responsibilities, their
13 rights, and liabilities. Ross Plaetzer testified,
14 quote, we say we will take the liability and do
15 everything. And what we would like you to do is
16 find employees, find clients, and service that
17 relationship. And, for that, we will pay you a
18 commission based on payroll dollars or gross
19 payroll.

20 The agreement between ESSG and Road Dogs,
21 he testified, led to Road Dog, quote, finding the
22 Loenbro electrical contracting company for the
23 project in Moses Lake. ESSG entered into an
24 agreement with Loenbro to supply Loenbro with ESSG
25 employees. Mr. Plaetzer testified, quote, it's



1 clear that we did send journeymen, and I think some
2 apprentices to the site, end quote --

3 ESSG invoiced Loenbro for the journeyed
4 level electricians ESSG provided, which Loenbro did
5 pay. The invoiced amount included ESSG's base rate,
6 plus the commission amount ESSG paid to Road Dog for
7 servicing the Loenbro project. Mr. Plaetzer
8 testified, quote, the money flows right through us.

9 Board, in this case, the Department has the
10 burden of proving, by a preponderance of evidence,
11 that ESSG violated RCW 19.28.041 and WAC
12 296-46B-901(5) by performing unpermitted electrical
13 work as an unlicensed electrical contractor while
14 working at REC Silicon plant. The weight of the
15 evidence proves the Department has met its burden.

16 The Board should reverse OAH's decision to
17 set aside the citations for the following reasons:
18 First, RCW 19.28.041 does not exempt staffing
19 companies from its application. ESSG argues its
20 status as a staffing company exempts it from the
21 statutory requirements identified in RCW 19.28.

22 ESSG's argument is flawed for the following
23 reasons: RCW -- excuse me. 19.28.041(1) states in
24 pertinent part, quote, it's unlawful for any entity
25 to engage in, conduct, or carry on the business of



1 installing or maintaining wires or equipment to
2 convey electrical current, or installing or
3 maintaining equipment to be operated by electrical
4 current as it pertains to the electrical industry
5 without having an unrevoked, unsuspended, and
6 unexpired electrical contractor.

7 Board, RCW 19.28.041 includes any entity,
8 without exception or exemption, for an entity type.
9 Specifically, RCW 19.28.041(1) does not exempt
10 staffing companies from its application. If you're
11 an entity in Washington performing electrical work,
12 you are subject to the enforcement under RCW 19.28.

13 Based on the undisputed facts in this case,
14 ESSG is one, an entity; two, who engaged in,
15 conducted, or carried on the business of sending its
16 journey level electricians to the electrical project
17 at the REC Silicon plant; three, those journey level
18 electricians installed, maintained wires or
19 equipment that convey electrical current, or
20 installed, maintained equipment to be operated by
21 electrical current; then, finally, for which Loenbro
22 paid ESSG.

23 The fact that ESSG is also in the business
24 explained other types of labor is immaterial and
25 does not change the fact that activity, again, we



1 are focused on the activity ESSG engaged in, falls
2 squarely within the requirements of RCW 19.28.041.

3 Inspector Robertson testified that had
4 Loenbro been a licensed electrical contractor during
5 the dates identified on the matrix, ESSG would not
6 have been cited for supplying journey level
7 electricians to Loenbro. The fact of the matter is,
8 neither were licensed as electrical contractors.
9 Both entities were performing electrical work at the
10 REC Silicon plant as unlicensed contractors.

11 Again, Mr. Plaetzer testified ESSG assumes
12 the liabilities of its journey level electricians.
13 ESSG assumed that liability when it sent its journey
14 level electricians to the REC Silicon plant to
15 perform electrical work for an unlicensed electrical
16 contractor, Loenbro. ESSG is liable for the work
17 performed by its journey level electricians,
18 including their compliance with RCW 19.28.041.

19 Second, the Board should reverse OAH's
20 decision to set aside the citations because
21 similarly WAC 296-46B-901(5) does not exempt
22 staffing companies from its application. Again,
23 regardless of what it calls itself, the activity
24 ESSG engaged in is that of an electrical contractor.
25 The permitting requirements identified in WAC



1 296-46B-901(5) does not except or exempt a staffing
2 company from its application.

3 The fact of the matter is, ESSG employed
4 journey level electricians to perform electrical
5 work at the REC Silicon plant. Inspector Robertson
6 testified the electrical work performed by ESSG
7 journey level electricians required an electrical
8 work permit, which ESSG failed to obtain.

9 Board, the Department has proven, by a
10 preponderance of the evidence, ESSG performed
11 unpermitted electrical work as an unlicensed
12 electrical contractor in violation of RCW 19.28.041
13 and WAC 296-46B-901(5). The Department has met its
14 burden in this appeal and, therefore, asks the Board
15 to reverse the April 29, 2025 OAH decision that set
16 aside noncompliant Citation Nos. EROJE03683 and 3684
17 and their associated penalties. And the Department
18 requests the Board affirm those Department citations
19 and their associated penalties. Thank you.

20 CHAIR JENKINS: Thank you very much.

21 And so moving on to ESSG, Debbie Kite.

22 DEBBIE KITE: Good morning, and thank you
23 Board Members for being here today.

24 This case is not drawing a clear line
25 between labor supplier and an electrical contractor



1 and ensuring we are holding the right party
2 accountable. The Office of Administrative Hearings
3 got this right. Employer Solutions Staffing Group,
4 which I will also refer to as ESSG, was not an
5 electrical contractor. The citations issued against
6 ESSG have been appropriately set aside.

7 In this case, Loenbro was the entity
8 performing the electrical work on-site who is
9 contracted to perform the electrical work, and they
10 are the proper party to answer for any violations.

11 Starting with what an electrical contractor
12 is, the governing definition found in RCW 19.28.006
13 defines an electrical contractor as a person, firm,
14 partnership, corporation, or other entity that
15 offers to undertake, undertakes, submits a bid for,
16 or does the work of installing or maintaining wires
17 or equipment that convey electrical current. In
18 implying this definition, the Administrative Law
19 Judge found unequivocally that ESSG does not offer
20 to undertake, did not undertake, did not submit a
21 bid for, or do the work of installing or maintaining
22 wires or equipment that convey electrical current.
23 Instead, ESSG provided temporary workers to the
24 entity that engaged in the electrical contracting
25 work, which was Loenbro.



1 Additionally, ESSG does not fall under the
2 category of entities defined under RCW 19.28.041
3 that states the license is required when an entity
4 advertises, offers to do work, submits a bid,
5 engages in, conducts, or carries on the business of
6 installing or maintaining wires or equipment to
7 convey electrical current.

8 Inspector Robertson's testimony at the
9 hearing confirms that ESSG was not functioning as an
10 electrical contractor under the statute. He did not
11 identify any ESSG advertisements to do electrical
12 contractor work. He does not know if ESSG ever
13 offered to do the work, and he could not say if ESSG
14 submitted a bid. And there is no documentation that
15 ESSG ever submitted a bid to do the electrical
16 contracting work.

17 When asked whether he found that if ESSG
18 was conducting or carrying on the business of
19 installing wire, he could only state that he found
20 ESSG was paying the journeymen and industrial
21 insurance. Paying workers is not among the
22 statutory acts that make an entity an electrical
23 contractor. It is not among the prohibited tasks
24 under RCW 19.28.041 and that OAH's findings reflect
25 exactly that.



1 Inspector Robinson went so far as to admit
2 he doesn't know what ESSG is. And he could not
3 describe any instances where ESSG had done any of
4 the cited alleged activities under 19.28.041 to
5 support his citation. Instead, Inspector Robertson
6 correctly found that Loenbro was the entity that was
7 contracted to perform the electrical work at the REC
8 Silicon facility.

9 The Washington State Legislature did not
10 intend to hold temporary staffing agencies as
11 electrical contractors by merely supplying laborers
12 which would require them to secure license. The
13 fundamental objective of statutory interpretation is
14 to ascertain and carry out the Legislature's intent.
15 Under this rule, the Legislature intended to
16 regulate individuals or entities that engage in, or
17 purport to be engaged in, and hold themselves out to
18 the public as electrical contractors.

19 The Department's reliance on a newsletter
20 from 2003 does not change the law or the
21 Legislature's intent. A newsletter is not a
22 statute, nor is it an interpretive statement or
23 policy statement, according to the Administrative
24 Procedures Act. Further, the newsletter itself is
25 irrelevant as Inspector Robertson testified that he



1 did not rely on the newsletter when he cited ESSG.
2 He clearly cited ESSG under RCW 19.28 and WAC
3 296.46B.

4 Further, he describes the electrical
5 current's newsletter as merely a lay explanation,
6 basically explaining the laws and rules in kind of
7 electrician terms rather than law terms, were his
8 words. As he put it, the newsletter just explains
9 how temporary staffing agencies fit into the law and
10 rules, but is not law itself. This is merely one
11 interpretation.

12 The OAH correctly treated the statute and
13 the evidentiary record, not the newsletter, as
14 controlling. ESSG's citation for violation of WAC
15 296.46B derives directly from ESSG's incorrect
16 designation as an electrical contractor. Therefore,
17 that citation was also correctly dismissed.

18 The record is consistent and unrefuted.
19 ESSG is a temporary staffing company. It supplies
20 labor ranging from common laborers to professional
21 laborers and has never been or held itself out to be
22 an electrical contractor.

23 There is no evidence that ESSG had any
24 relationship with the owner of the REC Silicon plant
25 or ever received money from them. There is no



1 evidence they directed on-site electrical workers or
2 even appeared on-site. Those are the hallmarks of a
3 staffing firm, not a contractor. Instead, Loenbro
4 paid ESSG to provide temporary staff. ESSG had no
5 relationship, monetary or otherwise, with the owner
6 of the site. Loenbro is exactly who the statute
7 contemplates to be, an electrical contractor.

8 Inspector Robertson determined that Loenbro
9 is the only entity that performed electrical work on
10 the project and spoke with Loenbro's supervisor and
11 project manager on-site about licensing permits and
12 worker certifications. The permit history
13 underscores this. After Inspector Robertson's
14 visit, in which he solely interacted with Loenbro
15 on-site on September 28th, a work permit was
16 therefore purchased on September 29th for the
17 project.

18 The Department's broad theory that a
19 temporary employment firm becomes an electrical
20 contractor whenever it dispatches electricians to an
21 unlicensed electrical contractor does not fit the
22 statute and does not fit these facts. ESSG did not
23 hold itself out to the owner, did not bid work, did
24 not direct the installation on-site, did not set the
25 means and methods or appear on-site at the REC



1 Silicon plant in Moses Lake. Those responsibilities
2 and the corresponding legal duties rested with
3 Loenbro, which bid the project and was awarded the
4 contract. Yet, they are the ones that failed to get
5 an electrical contractor license before the work
6 began or the correct permits.

7 The inspector recognized as much and cited
8 Loenbro for its role and its violations.

9 Accountability here flows with control. Here,
10 control, bidding, performance, flowed all through
11 Loenbro. ESSG's role, recruiting in payroll for
12 temporary labor, does not transform them into an
13 electrical contractor under the statute.

14 For these reasons, the Board should affirm
15 OAH's initial order and hold that ESSG was not an
16 electrical contractor, and it was not required to
17 register or purchase a permit, and that the
18 Department's citations against ESSG were
19 appropriately set aside. The appropriate entity to
20 hold responsible is the one that actually undertook
21 and performed the electrical work, which was
22 Loenbro. The Department has not proven beyond a
23 preponderance of evidence that ESSG ever engaged in
24 the work as an electrical contractor. Thank you.

25 CHAIR JENKINS: Thank you very much. At



1 this point here we will take questions or comments
2 from the Electrical Board.

3 BOARD MEMBER NORD: Mr. Chair, I have one
4 question for the attorney for ESSG.

5 CHAIR JENKINS: Board Member Mike Nord.

6 BOARD MEMBER NORD: Board Member Mike Nord.
7 Am I correct, in what I have read and in what you
8 have told me, that ESSG hired these electricians,
9 they paid all of their wages, paid all of the taxes
10 as required by federal law, and state law, and
11 county laws? So you were the employer? As a
12 result, these employees were not working for an
13 electrical contractor, they were working for a
14 staffing agency. And they were responsible for the
15 staffing agency and the staffing agency was
16 responsible for any of their actions. So that
17 creates a couple of problems here. No permits. No
18 electrical employer. Plus in Washington State, you
19 have to have an administrator that oversees those
20 electricians for their licenses to be valid to work.
21 There is no administrator either with ESSG. Have I
22 missed anything here?

23 DEBBIE KITE: Yes. I would just -- you are
24 correct in saying that the electrician's paycheck
25 said ESSG was paying them. However, Loenbro paid



1 ESSG to pay the electricians. So the money flows
2 through ESSG, but the ultimate responsibility for
3 the work resulted with Loenbro.

4 BOARD MEMBER NORD: But they were not
5 employees of Loenbro?

6 DEBBIE KITE: Correct.

7 BOARD MEMBER NORD: They were employees of
8 ESSG. So ESSG would be responsible, legally, for
9 any of their actions?

10 DEBBIE KITE: Correct.

11 BOARD MEMBER NORD: Okay. So their actions
12 in acting as electricians in Washington State on a
13 project without an electrical permit and without the
14 oversight of an electrical administrator, which is
15 required by law, makes their work invalid under
16 their licenses also. They have no administrator
17 they are working under.

18 DEBBIE KITE: I think, if I'm understanding
19 you correctly, the responsibility for their
20 electrical work was with the electrical contractor.
21 ESSG was merely supplying labor to an electrical
22 contractor.

23 BOARD MEMBER NORD: I disagree. I
24 disagree, ma'am. Because they are employees of
25 ESSG. They are not employees of Loenbro. They are



1 not working for an electrical contractor. They are
2 not working under an electrical administrator as
3 required by law. Which then puts a validation
4 problem to their licenses performing work in this
5 state. They are not working for a valid electrical
6 contractor under a valid electrical permit. All
7 work done is illegal.

8 DEBBIE KITE: So the inspector even said
9 that if Loenbro had been properly licensed, then
10 there would be no issue. So ultimately our stance
11 is that the responsibility was with Loenbro to be
12 properly licensed and secure the proper work
13 permits.

14 BOARD MEMBER NORD: Once again, they are
15 your employees, not Loenbro employees.

16 The employer of the employees has the
17 responsibilities to fulfill the laws in Washington
18 State, as far as licensing and permitting, not
19 someone else. If you are the employer, you are the
20 one charged with the responsibility of conforming to
21 all of the electrical laws, making sure you have an
22 electrical administrator, and you have all of the
23 proper training and expertise to know how to get
24 those permits, how to have those electricians work
25 properly. You are paying them. They are your



1 employees, not Loenbro's. Loenbro has no
2 responsibility for these employees. You do.

3 DEBBIE KITE: I would disagree. I think
4 Loenbro does have ultimate responsibility as the
5 electrical contractor who bid the work for the site,
6 and they were on the site and directing the work.
7 They were the ones that were engaged in all of the
8 electrical work on the site.

9 And further, our stance is that ESSG is not
10 an electrical contractor. Even though they supply
11 the temporary laborers, they still don't have to be
12 a licensed electrical contractor.

13 BOARD MEMBER NORD: Well, and you just
14 brought up a good point. You're not a licensed
15 electrical contractor. As a result, you cannot hire
16 electricians as your employees to perform electrical
17 work because you are not an electrical contractor.
18 If Loenbro had hired these employees directly by
19 themselves, then they are working for a licensed
20 electrical contractor and their licensing is valid.
21 They have permits. They are doing the work
22 properly. That did not happen here.

23 You acted as, or your client acted as, an
24 employer. Your client acted going out and secured
25 electricians to do electrical work in Washington



1 State without an administrator, and without
2 electrical contractor license, and without permits.
3 So you are operating as an unlicensed contractor.

4 The key here is, you employed the
5 contract -- you employed the employees. Not the
6 other person. You are responsible for the actions
7 of those employees.

8 DEBBIE KITE: I understand we were paid by
9 Loenbro to supply those. So we feel, our stance, is
10 that Loenbro was the ultimate one responsible for
11 all of the permits and making sure that they were a
12 licensed contractor. As the inspector himself said,
13 if Loenbro was licensed, there would be no problem
14 with ESSG. So I don't understand how it makes sense
15 that Loenbro can be licensed and then ESSG is okay.
16 But if ESSG is unlicensed and Loenbro is unlicensed,
17 that's where they are saying there is a problem.
18 Loenbro was cited for their mishaps in this, and we
19 believe they are the correct entity that should be
20 cited.

21 BOARD MEMBER NORD: Well, they are your
22 employees. It is my belief that the Department
23 should be granted the relief that it is seeking, and
24 the OAH decision should be overturned, and citations
25 against ESSG should be upheld. They are your



1 employees.

2 DEBBIE KITE: I will just finish with
3 saying we were paid by Loenbro to supply those
4 employees. So we believe that Loenbro holds the
5 ultimate responsibility.

6 BOARD MEMBER NORD: Once again, by your own
7 admission, they are your own employees that you are
8 responsible for.

9 DEBBIE KITE: We did do payroll for those
10 employees, yes.

11 BOARD MEMBER NORD: Okay. So you are
12 responsible for those employees.

13 DEBBIE KITE: For payroll. We do not admit
14 responsibility we were electrical contractors or had
15 to be licensed electrical contractors.

16 BOARD MEMBER NORD: I have no further
17 questions, Mr. Chair.

18 CHAIR JENKINS: Thank you. Looks like
19 Gregory Johnson is next.

20 BOARD MEMBER JOHNSON: Yeah. Since Mike
21 touched upon this partially, but if you refer to
22 page 329 of the Board packet, which is ESSG's appeal
23 letter, point No. 1, just the first and last
24 sentence reading that was, ESSG was not an
25 electrical contractor. ESSG was and was acting as a



1 labor supplier temporary agency, which is what you
2 iterated in your verbal oral arguments. So since
3 that is your argument, I must ask, why do you
4 believe that the legal doctrine of vicarious
5 liability would not apply to ESSG in this situation?

6 DEBBIE KITE: I think the legal doctrine of
7 vicarious liability applies to Loenbro since they
8 were the ones that paid ESSG for the electricians
9 that were on-site. So I think that liability flows
10 up to Loenbro correctly.

11 BOARD MEMBER JOHNSON: Simply put,
12 vicarious liability, for those who are not
13 attorneys, which I'm not either, but essentially in
14 my summary, it's you're responsible for what your
15 employees are doing unless you can show it is a
16 boondoggle and they are not acting as an agent of
17 the company. So in my interpretation, if your
18 employees are performing electric work, and I think
19 we have established that you guys are paying them,
20 they are employees, then your company is doing
21 electrical work. Unless you can show in either
22 evidence statute or administrative rule that somehow
23 vicarious liability does not apply in the situation
24 for staffing agencies. Is there an exempt you can
25 point me to in the WAC that specifically mentioned



1 staffing agency?

2 DEBBIE KITE: No, there is no exemption
3 that I can point you to. I think under the
4 definition, the supply in RCW 19.28 as an electrical
5 contractor, I don't think ESSG fits that. Even
6 through the vicarious liability theory that you have
7 proposed, ESSG never did any of the things that the
8 statute contemplates someone needs a license for.

9 BOARD MEMBER JOHNSON: So then, I would
10 switch horse a little bit. There is a discrepancy,
11 I believe, in the record on page 9 of the Board
12 packet, which is ALJ's finding of facts, finding of
13 facts 4.21, that says that there is no evidence in
14 the record that ESSG had any relationship with the
15 owner or general contractor of the project being
16 constructed and never received any money from them.
17 However, Exhibit 1, on page 274 of the Board packet,
18 which is a signature sheet for a staffing agreement
19 that includes billing rates, shows the signatures
20 between Loenbro and ESSG. I think you even
21 mentioned in your oral comments that you received
22 money from Loenbro for this work.

23 So would it be fair to say that that
24 finding of fact is incorrect? There was a
25 relationship, and you guys did receive financial



1 benefit from this?

2 DEBBIE KITE: I think the finding of fact
3 is correct. Loenbro was the electrical contractor.
4 They were not the owner of the site. So we have no
5 relationship with the owner of the site. They are
6 the electrical contractor. They bid the work to the
7 owner of the site. We had nothing to do with that.
8 We definitely have a relationship with Loenbro.

9 BOARD MEMBER JOHNSON: It said or general
10 contractor. Was Loenbro not a contractor on the
11 site? Are you arguing they are not the general
12 contractor?

13 DEBBIE KITE: Yes, I believe they were not
14 the general contractor. They were the electrical
15 contractor.

16 BOARD MEMBER JOHNSON: I'm confused by why
17 general contractor is even a moot point. Loenbro
18 was a contractor on site. So it should be changed
19 to refer you did have a relationship with a
20 contractor on the site.

21 DEBBIE KITE: The electrical contractor,
22 correct.

23 BOARD MEMBER JOHNSON: I'm going to state
24 that, just my opinion is, if you guys are
25 financially benefiting, and in the contract, if you



1 look through specifically what it lists for the
2 billing rates, it specifically lists their billing
3 rates as electrical workers. So they had electrical
4 foremen. This is page 275, which is part of the
5 agreement. So it says electrical foremen.
6 Electrical Montana licensed journeymen. Electrical
7 nonlicensed field journeymen. Electrical three to
8 four-year apprentice and instrumentation lead
9 journeyman tech. So based on that billing rate, a
10 reasonable person is going to assume that the
11 workers are doing electrical work because you are
12 calling out specifically electrical functions.

13 So to have ESSG claim that they were not
14 responsible for these folks when they knowingly are
15 providing electrical workers to do electrical work,
16 I find that hard to believe. I believe they were
17 performing their job duties. They were in the
18 course of their employment. Vicarious liability, I
19 think, totally does apply. That's all my questions
20 and statements.

21 CHAIR JENKINS: Thank you very much.
22 Sorry, Chair Jenkins. So Secretary Wayne
23 Molesworth.

24 SECRETARY MOLESWORTH: Thank you, Chair
25 Jenkins. I have a question for Ms. Kite.



1 Was Loenbro a licensed contractor or
2 weren't they?

3 DEBBIE KITE: They were not.

4 SECRETARY MOLESWORTH: Okay. So we need to
5 stop talking about them as an electrical contractor.
6 Because they were not an electrical contractor.
7 They were an illegal contractor acting and doing
8 electrical work.

9 The next question I have for you, was there
10 an agreement between ESSG and Loenbro that
11 transferred the employee responsibilities to create
12 an employee/employer relationship with Loenbro for
13 those employees of ESSG?

14 DEBBIE KITE: I'm not sure I totally
15 understand your question. Are you asking me --
16 sorry, go ahead.

17 SECRETARY MOLESWORTH: Sorry. So in most
18 relationships with labor suppliers, they move their
19 responsibility, because normally you're not an
20 employer. They find labor, they transfer that labor
21 to the contractor, they take those employees on as
22 their own employees, and then they pay a percentage
23 or they pay a certain amount of money to the labor
24 contractor for finding them labor. In this case,
25 the employees, ESSG is an illegal electrical -- or



1 an illegal contractor because they did engage in the
2 work because when their employees engage in
3 electrical work, that is the responsibility of that
4 particular contractor. That particular entity.

5 So they instantly become, you know, illegal
6 when their staff actually engages in electrical
7 work. Even in some cases if they are not even aware
8 their people are engaged in that work. They are
9 still held accountable.

10 So in this case, what we would do is we
11 look at and follow the money. We've got an
12 employee/employer relationship with ESSG. Their
13 people went out and did he work. And so for those
14 reasons, very simply, ESSG was engaged in the
15 electrical contracting and their employees did do
16 the work. And, therefore, they were cited
17 correctly, in my opinion.

18 CHAIR JENKINS: All right. Chair Jenkins
19 here. Any other Board Members that would like to
20 speak again, make comments? Looking at the list of
21 hands up. Seeing none, the Chair will invite a
22 motion. Board Member Gregory Johnson.

23 BOARD MEMBER JOHNSON: I will motion that
24 we reverse the ALJ's finding. And also in addition
25 to that reversal, that finding of fact 4.20 and 4.21



1 are incorrect and not supported by the evidence
2 record. And then conclusion of law 5.6 contradicts
3 itself and is incorrect also.

4 CHAIR JENKINS: So I hear a motion to
5 reverse the ALJ's decision with some corrections in
6 the finding of facts. Is that correct?

7 BOARD MEMBER JOHNSON: That is correct.
8 And so to be clear, that means that the ESSG would
9 be engaged in electrical work and they violated. So
10 that the issues -- so I think -- is that fairly
11 clear for everyone else?

12 CHAIR JENKINS: I think we've got that.
13 Motion. Do we have a second?

14 BOARD MEMBER NORD: Board Member Nord,
15 second.

16 CHAIR JENKINS: Motion and second. Any
17 discussion? Hearing none, all in favor of the
18 motions, indicate by saying aye.

19 (Chorus of ayes)

20 CHAIR JENKINS: Any opposed?

21 BOARD MEMBER COX: Nay from Board Member
22 Cox.

23 CHAIR JENKINS: So any other Board Members
24 with nay? Hearing none, motion passes. All right.
25 So give me one second, please. Thank you.



1 The Board made its decision. Will the
2 Department get in contract with ESSG counsel and see
3 if you can reach an agreement that best reflects the
4 decision of the Board?

5 Please be advised, if you do not reach a
6 decision today, the matter will be automatically set
7 for presentment at the next regular scheduled Board
8 meeting. If an agreed order has not been received
9 by that date, parties will be expected to file their
10 proposed orders to appear and advise why their
11 proposed order best reflects the Board's decision.
12 Hopefully, this will not happen and we will be able
13 to reach an agreement as the forum of the order
14 before the next meeting. Please forward this to the
15 Secretary of Board's Office, and they will ensure it
16 gets signed and provide copies to the departments.
17 Are there any questions?

18 ANGELA ZURLINI: No.

19 DEBBIE KITE: No questions. Thank you.

20 CHAIR JENKINS: Thank you, very much.

21 Appreciate your time.

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KVA Electric & Kevin Duncan
EHESO00372, EHESO00373, EHESO00374, EHESO00375, EHESO00376

CHAIR JENKINS: Moving on to our next item, which is KVA Electric and Kevin Duncan. The next matter before us today is an appeal of the matter of KVA Electric and Kevin Duncan, Docket Nos. 1120 -- I will repeat that. 112024LI02302.

This hearing is being held pursuant to due and proper notice to all interested parties and proceeding via Zoom on October 30, 2025 at approximately 10:55 a.m.

This is an appeal of the initial order issued by the Office of the Administrative Hearings on August 6, 2025. It is my understanding the decision is dismissed. Citation Notices EHESO00372, EHESO00373, EHESO00374, EHESO00375, and EHESO00376 issued by the Department of Labor and Industries on July 26, 2024.

It is further my understanding the Department has timely appealed the decision to the Electrical Board. Is there a representative for the Department here this morning?

LEAH VU: Yes, my name is Leah Vu. Spelled L-e-a-h. Last name spelled V, as in Victor, u. I'm



1 the Assistant Attorney General representing the
2 Department in this appeal.

3 CHAIR JENKINS: Thank you very much. Is
4 there a representative from the firm?

5 TIMOTHY STEEN: Yes, Your Honor. Timothy
6 Steen here for Respondents KVA Electric and Kevin
7 Duncan. My name is spelled Timothy, T-i-m-o-t-h-y.
8 Steen, S-t-e-e-n.

9 CHAIR JENKINS: Thank you. All right.
10 Did you hear the presentation from the
11 procedure before this meeting here, before this
12 appeal?

13 TIMOTHY STEEN: Yes, Chairman.

14 CHAIR JENKINS: Does it need to be
15 repeated?

16 TIMOTHY STEEN: No, I do not believe so,
17 Chairman.

18 CHAIR JENKINS: Okay. At this time here,
19 the Department, you have the floor. You may again.

20 LEAH VU: Thank you. The Department would
21 like to start with a preliminary issue. The
22 Department would like to move to strike the letter
23 submitted by KVA Electric to the Electrical Board
24 yesterday. The letter from the Electrical Board,
25 which was sent to the parties on September 3rd,



1 plainly states that all filings and documents for
2 any matter before the Board are due at least 45 days
3 prior to this meeting. So the Department would like
4 to move to strike that letter on the grounds that it
5 is untimely.

6 CHAIR JENKINS: Mr. Steen, can I get your
7 response, please?

8 TIMOTHY STEEN: Yeah. The unusual
9 circumstance we are presented with is the Department
10 has filed a motion for summary judgment in violation
11 of the WACs that not only allow this to be appealed,
12 but the WACs that provide for summary judgment
13 motion at the appellate level. Because Secretary
14 Molesworth's letter set a deadline that precluded
15 the Respondents for responding to that motion for
16 summary judgment raising this issue, because the
17 deadline for filing documents had passed, it was
18 necessary to preserve the objection to those
19 improper summary judgment requests by the
20 Department. Accordingly, the Respondents did not
21 file a brief. They just filed a document
22 necessarily to preserve their objection so it wasn't
23 construed as a waiver.

24 CHAIR JENKINS: Thank you.

25 LEAH VU: Chairperson Jenkins, may I



1 respond?

2 CHAIR JENKINS: Yes, you may.

3 LEAH VU: The OAH prehearing conference
4 orders that a response deadline of May 23rd, which
5 is when the Department filed its response, under
6 Impecoven versus Department of Revenue, a defending
7 party may seek summary judgment as part of its
8 response to a motion --

9 TIMOTHY STEEN: Objection, Your Honor.
10 This is argument for the summary judgment motion.
11 Is the Board going to entertain the summary judgment
12 motion and argument on it now?

13 CHAIR JENKINS: One second, please.

14 So Chair Jenkins here. I deny the motion
15 to strike the letter.

16 I have a question for Mr. Steen through our
17 counsel.

18 ATTORNEY BLOHOWIAK: I'm counsel for
19 Washington State Electrical Board. And the Chair's
20 question to you, Mr. Steen, is the Electrical Board
21 sits de novo in reviewing these appeals from the
22 Office of Administrative Hearings. The Department
23 raised this summary judgment issue in its response
24 to your motion for summary judgment. Why can it not
25 now, sitting de novo, review that motion?



1 TIMOTHY STEEN: There are several reasons.
2 First of all, the motion wasn't properly raised
3 below. There is a deadline to file a motion for
4 summary judgment, which they missed. The pending
5 motion filed by the Respondents down below was a
6 summary judgment on single issue of an affirmative
7 defense. It was not on the liability and overall
8 facts of the case.

9 For purposes of that motion, the facts
10 weren't contested, but they weren't conceded for the
11 entire case. So the Department brought an entirely
12 new motion asking for a determination on liability.
13 It was not an issue before the Judge. The Judge
14 didn't rule on it.

15 And yes, it is true that the Board does sit
16 in de novo, but that provision of the RCW provides
17 that unless there is a provision otherwise provided
18 by law that prevents them from doing so, in this
19 case there are two WACS that are provisions of law
20 preventing them from doing so.

21 The first is the allowed scope of appeal.
22 And that WAC provides that the allowed scope of
23 appeal are those matters that are ruled on by the
24 Administrative Law Judge. Summary judgment motion
25 is not one of those.



1 Second, the other provision of law that
2 prevents the de novo review is the summary judgment
3 fact before the Board. That required the Department
4 to notify the Chair at least 45 days in advance of a
5 hearing so a briefing schedule may be set and that
6 motion decided at least 14 days before the hearing.
7 None of that has happened. That motion can't be
8 before the Board.

9 Third, Respondents have a due process right
10 to be able to respond to that briefing. It is not
11 happening. It wasn't possible because of the filing
12 deadlines created by Secretary Molesworth's letter.
13 Unintentionally, of course. But the effect is, all
14 pleadings have to be filed 45 days prior to the
15 hearing, and no further pleadings were allowed.

16 As a result, when the Department filed its
17 motion without notice to anyone, the Respondents
18 were deprived the opportunity to file responsive
19 briefing and inform the Court of not only these
20 issues but also why summary judgment motion cannot
21 and should not be granted.

22 ATTORNEY BLOHOWIAK: Thank you, Mr. Steen.
23 Ms. Vu, on behalf of the Chair, looking at the
24 Notice of Order of Assessment that's on appeal, it
25 looks like Judge Nagle ordered and granted a motion



1 for summary judgment and dismissed the appeal,
2 making the ruling on the Department's motion at that
3 time. How is that motion properly before the Board
4 today?

5 LEAH VU: The motion for the Department's
6 motion for summary judgment is properly before the
7 Board -- was properly before the Board because a
8 defending party may seek summary judgment as part of
9 its response to a motion for summary judgment under
10 Impecoven versus Department of Revenue. The
11 Department's response was timely, and its cross
12 motion for summary judgment was, therefore, proper.

13 ATTORNEY BLOHOWIAK: One second, Mr. Steen.
14 Ms. Vu, Judge Nagle did not rule on that motion,
15 though. So there's been no determination by the
16 Office of Administrative Hearings. So can the
17 Electrical Board hear your motion today?

18 LEAH VU: The OAH did consider the
19 Department's motion for summary judgment, and
20 instead granted summary judgment to KVA Electric in
21 its ruling.

22 ATTORNEY BLOHOWIAK: Mr. Steen, did you
23 have a response?

24 TIMOTHY STEEN: Yes, two things, Your
25 Honor. First, the transcript is available. The



1 Administrative Law Judge made no mention and had no
2 discussion or examination of the Department's
3 improper request for summary judgment down below.

4 Further, the case of Impehoven mentioned by
5 Ms. Vu just a moment ago doesn't apply. That case
6 concerned whether an Appellate Court can grant
7 summary judgment, not whether a cross motion summary
8 judgment is proper at a Trial Court level.

9 Furthermore, it appears the Department is
10 relying on CR 56, the Court Rule regarding summary
11 judgments and when a court may grant summary
12 judgment to the nonmoving party. However, that rule
13 only applies when the case is not fully resolved by
14 the Court's order and trial is necessary.

15 In this case, the Judge fully resolved the
16 case. Trial wasn't necessary because the Judge
17 dismissed all citations. So the line of authority
18 and argument that the Department is relying on to
19 raise some proper summary judgment just is not
20 there.

21 ATTORNEY BLOHOWIAK: Thank you, Mr. Steen.

22 CHAIR JENKINS: Yeah. In lieu of this
23 situation, we are taking a 5 to 10-minute break
24 here. We will recess our meeting and be back at
25 10:20-ish.



1 (Recessed at 10:07 a.m.)

2 (Reconvened at 10:22 a.m.)

3 CHAIR JENKINS: This is Chair Jenkins. It
4 is 10:22. I would like to bring the Board back to
5 order.

6 Counsel will give a little explanation of
7 what we are going to do.

8 ATTORNEY BLOHOWIAK: Good afternoon. Or
9 good afternoon -- good morning, everyone.

10 And Ms. Vu, so having conferred with the
11 Chair, provided some counsel, the Board's
12 understanding of the issues before it this morning,
13 for this case, are whether or not KVA's motion for
14 summary judgment should have been granted by Judge
15 Nagle. And that is the only issue that the Board
16 will be looking at today.

17 We would ask that the parties, starting
18 with the Department as the appealing party, provide
19 10 to 15 minutes of argument on why the judge's
20 decision should be upheld or should be overturned
21 and sent back for a hearing on the merits.

22 With that, are there any questions for me
23 regarding the scope of what the Board will be
24 hearing this morning?

25 TIMOTHY STEEN: Yes, if I may. I



1 understand and would like to confirm that the
2 determination means the Department's summary
3 judgment motion is not being heard today. Is that
4 correct?

5 ATTORNEY BLOHOWIAK: Looking at the record,
6 the Board's determined that that issue is not
7 appropriately before it at this time, and that the
8 only issue is the one in Judge Nagle's order
9 granting summary judgment in favor of KVA.

10 TIMOTHY STEEN: Thank you for confirming.

11 CHAIR JENKINS: For the Department, this is
12 Chair Jenkins, you have the floor.

13 LEAH VU: Thank you. This appeal concerns
14 the Department's noncompliance citations issued to
15 KVA Electric and Kevin Duncan for installing a high
16 voltage transformer and remote switching system at
17 Skagit PUD without an Electrical Certificate of
18 Competency and electrical contractor's license,
19 electrical permit, and inspection. The electrical
20 laws contain a narrow exemption from licensing and
21 inspection requirement for contractors who are
22 employed by electrical utilities to work on the
23 electrical utility system.

24 Skagit PUD is not an electrical utility.
25 Therefore, the electrical installations performed by



1 KVA Electric are not exempt from electrical laws.
2 As a public utility, Skagit PUD may provide water,
3 sewer, electricity and/or broadband services.
4 Currently, Skagit PUD only provides water and
5 broadband services. The OAH confused the potential
6 ability to provide electricity with being an
7 electrical utility.

8 To become an electrical utility, the voters
9 of Skagit County would need to vote to authorize
10 Skagit PUD to construct or acquire electricity
11 facilities and infrastructure to transmit and
12 distribute power. Such a vote was put before the
13 voters of Skagit County in 2008 and failed. To
14 date, Skagit PUD does not own or control electrical
15 equipment or infrastructure to distribute
16 electricity to customers. The OAH erred in
17 concluding that Skagit PUD is an electrical utility.

18 The Skagit River Diversion, where KVA
19 installed a high voltage transformer and remote
20 switching system, is powered by Puget Sound Energy.
21 No hydroelectric pumps or other electricity
22 generating equipment is located at the Skagit River
23 Diversion. The facility diverts water from the
24 Skagit River to the Judy Reservoir where the water
25 is treated for Skagit PUD customers.



1 The transformer installed by KVA Electric
2 reduces the voltage of the electricity it receives
3 from Puget Sound Energy to operate the water
4 diversion pumps at the Skagit River Diversion.
5 Mr. Duncan's own declaration states the same.

6 The remote switching system installed by
7 KVA Electric allows Skagit PUD employees to operate
8 the transformer from a safe distance. Skagit PUD's
9 micro hydro units do not generate energy at the
10 Skagit River Diversion because they are not located
11 there. The units are located 10 miles down the
12 stream from the Skagit River Diversion. They are
13 located in Mount Vernon while the Skagit River
14 Diversion is located in Sedro-Woolley.

15 These units help to recover energy from
16 water pressure as it is treated from the Judy
17 Reservoir and flows downstream to customers. They
18 partially offset Skagit PUD's and Mount Vernon's
19 high school's energy consumption through a net
20 metering agreement with Puget Sound Energy. Skagit
21 PUD does not sell any electricity to Puget Sound
22 Energy or to customers. The electrical work
23 performed by KVA Electric at the Skagit River
24 Diversion bear no relationship to the micro hydro
25 units. Therefore, Puget Sound Energy is the only



1 electrical utility in this case.

2 The electrical laws do not exempt
3 electrical work performed on the supply side of the
4 point of contact. The point of contact is the point
5 where the customers electrical wiring makes contact
6 with the utility's supply of electrical service.
7 Here, the service point is between Puget Sound
8 Energy and Skagit PUD. Because the transformer and
9 remote system are on the customer side of Puget
10 Sound Energy's metering equipment, all electrical
11 installations performed by KVA Electric was on the
12 customer side or load side of the service point.
13 The electrical work performed by KVA Electric is,
14 therefore, not exempt from Washington's electrical
15 laws. The OAH, therefore, improperly granted
16 summary judgment to KVA Electric. Thank you.

17 CHAIR JENKINS: Thank you very much. Chair
18 Jenkins here. Mr. Steen?

19 TIMOTHY STEEN: Yes, thank you. Good
20 morning, again, Chairman and Board Members. Thank
21 you for being here today.

22 This matter arises from a dismissal of all
23 citations by ALJ Judge Brett Nagle because the work
24 allegedly performed by Respondents was exempt from
25 RCW 19.28 and the regulations cited thereunder



1 because the work was performed on the supply system
2 of an electric utility. Department appeals that
3 now, and as such has the burden to prove, by a
4 preponderance of the evidence, that, one, Skagit PUD
5 is not an electric utility, and, two, the alleged
6 work is not exempt under the electrical law for
7 which the Respondents were cited --

8 The Department cannot do this. The law and
9 the facts disprove the Department's contentions and
10 they cannot sustain their burden. As a result, the
11 Board must affirm the dismissal of the citations as
12 a result because the issues of being an electric
13 utility and work being exempt are dispositive. Any
14 other reference to errors in the findings of facts
15 or conclusions of law become immaterial if the Board
16 agrees that, one, Skagit PUD is an electric utility
17 and the work was exempt.

18 I'll explain further why the Board can't
19 meet the burden in this matter. But first, I would
20 like to provide a little bit of background or facts
21 so the Board is oriented for our discussions here
22 today.

23 First, Skagit PUD operates a pump storage
24 hydropower system. It does that by pumping water
25 from the Skagit River to the Judy Reservoir. The



1 discharge occurs, water flows from the Judy
2 Reservoir to two hydroelectric generating plants
3 that Skagit PUD owns. You may have seen the names
4 referenced, the Digby and Highland plants. The
5 Digby plant provides power to Skagit PUD to power a
6 system at the Digby plant. And the Highland plant
7 generates power supplying power directly to the
8 Mount Vernon School District. It provides all of
9 that behind the meter as a direct supply.

10 In exchange Skagit PUD is compensated by
11 being paid for its operation and maintenance
12 expenses, all its electric charges at that site.
13 And in exchange, the school district then has taken
14 over the meter and receives whatever net metering
15 benefit might result. However, that doesn't change
16 the fact this Skagit PUD is directly supplying power
17 to the school district.

18 Next, with the power that is generated in
19 excess at those two locations, the power is then
20 supplied to the shared power grid. The power
21 travels from that power grid as part of this
22 hydropower storage system. The power travels to
23 that power grid and is available for other users,
24 including the district, or including its citizens,
25 or others. It is a shared power grid.



1 The Board is likely familiar with how that
2 works. Skagit PUD then takes power out of the grid
3 at its Skagit River Diversion facility. Again,
4 that's the pumping system that pumps the power up to
5 Judy Reservoir where I started my explanation of
6 this power system. Skagit PUD can buy that power
7 off the grid from any number of suppliers or
8 generators off the system. It can buy power from
9 the Bonneville Power Administration. It just
10 happens to buy its power from the grid from Puget
11 Sound Energy. It then takes that energy and runs it
12 through conductors owned by Skagit PUD, high-powered
13 transmission lines, a substation, distribution lines
14 that lead from that substation to SRD.

15 In this matter, the instructor,
16 unfortunately, wasn't trained regarding electrical
17 substation, utility electrical substation, and,
18 unfortunately, cited KVA and Mr. Duncan for
19 allegedly installing transformer in that substation
20 at the SRD facility as well as a transformer control
21 switch. The inspector, unfortunately, didn't
22 realize that being an electrical utility, the work
23 was exempt.

24 KVA and Mr. Duncan have worked on
25 electrical substations for 51 years throughout the



1 northwest and more than 140 countries. They have
2 literally worked on thousands of substation
3 facilities and their transformers. At this time,
4 Mr. Duncan is one of the leading experts on
5 substations in our state.

6 The work that was allegedly performed is
7 not unregulated. That is not what the Respondents
8 are contending. The work performed on an electric
9 utility substation is highly regulated, as the Board
10 likely knows, under WAC 29645 and NESC. The issue
11 here is that the Respondents are exempt under the
12 laws for which they are cited. RCW 19.28 and WAC
13 296.46B.

14 Understandably -- or excuse me. The work
15 that was allegedly performed was meticulously
16 performed in compliance with the applicable
17 regulations of WAC 296-45 and the NESC.
18 Understandably, the Department has not cited
19 Respondents for violating those applicable
20 regulations because the work was meticulously
21 performed and in compliance with the regulations.

22 So with those background facts in mind, I
23 will now turn to why the Department cannot meet its
24 burden in this case. First, the exemptions provided
25 for electric utilities is quite broad. It is



1 provided in RCW 19.28.0101 -- excuse me, 01 -- 01,
2 where it provides that all wires and equipment that
3 are subject to NEC 90.2B(5), 1981 version, are
4 exempt. It goes on at RCW 19.28091, 1 and 5, and
5 exempts anyone who is performing work on those
6 exempt facilities from licensing.

7 Further, the statute goes on to also
8 exempt, to make it very clear, those facilities in
9 that exempt work from even being inspected, at least
10 under 19.28, that is. The work can be inspected
11 under current regulations, which is WAC 29645 in the
12 NESC.

13 So, importantly, 90.2B(5) is the exemption
14 we have to turn to, to see whether the alleged work
15 and equipment that was worked on is exempt. Now,
16 under 90.2B(5), it tells us that installations under
17 the exclusive control of electric utilities for the
18 purpose of communication, for metering, or for the
19 generation control transformation transmission and
20 distribution of electric energy located in buildings
21 used exclusively by utilities for such purposes or
22 located outdoor on property owned by such utilities
23 is an exempt scope of work.

24 Importantly, I call out to you, that one of
25 the uses that is identified by NEC 90.2B(5) has an



1 exempt type of work is transformation. Right?
2 That's working with the transformers. Like what
3 happened, allegedly, at SRD and its substation.
4 Installing a transformer is exactly dealing with
5 transformation. That is an exempt type of work
6 under 90.2B(5).

7 However, as this dispute came to light
8 between the Department and Respondents, a key part
9 of 90.2B(5) rose to the forefront as an issue of
10 dispute. And that's the electric utilities
11 reference in that exemption. Unfortunately, this
12 1981 version of the 90.2B(5) does not define
13 electric utility, nor does the statute 19.28, or WAC
14 296.46B. And it leaves it up to the parties, the
15 Court, and now the Board to come to a determination
16 as to what is an electric utility.

17 And I can tell you, that's a fundamental
18 reason why the Department can't meet its burden.
19 Because it cannot show, by a preponderance of
20 evidence, that Skagit PUD is not an electric
21 utility. The first primary reason and dispositive
22 reason for that is that the Washington State Supreme
23 Court has already determined that Skagit PUD is an
24 electric utility. That has been the law of the land
25 for nearly 80 years.



1 Our Supreme Court in Wylie, as mentioned in
2 our briefing, have the following statement: "The
3 primary purpose of the public utility district,
4 number one, i.e., Skagit PUD, is to furnish the
5 districts and the inhabitants thereof with electric
6 current." That is an electric utility. That's been
7 the law of our land for 80 years.

8 Our Supreme Court's determination is
9 binding. It governs this Board. It governs our
10 Courts. If the Department wanted to change that, it
11 is up to the Department to go to the Supreme Court
12 and get that authority reversed. But it hasn't done
13 that. It remains the binding authority.

14 Further, Skagit PUD was formed by a vote of
15 public in 1936. It was formed under the PUD Act for
16 what was known at the time as the District Power
17 Bill, a bill designed to bring electricity to rural
18 customers. As a result of forming Skagit PUD as a
19 Public Utility District, it was vested with all of
20 the functions created or allowed of a Public Utility
21 District.

22 Under the PUD, those functions are quite
23 extensive as an electric utility. They have the
24 ability under 54.16.010 to plan and study for
25 generating electricity and the transmission and



1 distribution thereof. Under 54.16.020 they have the
2 authority to acquire, construct, maintain and
3 operate plants and systems for generating
4 electricity. Under 54.16.030 Skagit PUD has the
5 authority to acquire, construct, maintain, operate
6 plants and systems for water power with the
7 authority to sell to others.

8 Importantly, water power is a key issue
9 here. But water in the hydropower system used by
10 Skagit PUD is, in fact, a water power system at its
11 most basic. Water flows through the discharge. It
12 turns a turbine and generates electricity that
13 Skagit PUD then uses for its own benefit, where it
14 serves electricity for itself, the school district
15 and benefits itself and the community at large.

16 In addition, Skagit PUD was granted the
17 authority under 54.16.040 -- excuse me, RCW
18 54.16.040 to acquire, construct, maintain, operate
19 electricity systems for generation, transmission,
20 and distribution of electricity for the district and
21 for sale to others.

22 Under 54.16.060 Skagit PUD was granted the
23 authority to connect its electric and distribution
24 system to other utilities via -- under 54.16.090 it
25 can contract with other entities or other utilities



1 for its powers including electric utility functions.

2 Finally, the Department -- or excuse me.
3 Skagit PUD was also granted electric function under
4 RCW 54.08.070. This is what the statute that the
5 Department alludes to. Continuing that in 2008,
6 there had to be a vote under the statute for Skagit
7 PUD to gain authority to sell electricity to
8 customers.

9 But in fact, that's not what that statute
10 provides. It simply is a requirement that if Skagit
11 PUD, and other PUDs like it, are going to acquire
12 certain new electric equipment, they have to first
13 go to the vote of the people. They don't even have
14 the right, as I mentioned, in the PUD Act to
15 construct, to maintain, to operate electric utility
16 systems to sell to customers.

17 This statute says, though, if they are
18 going to buy new equipment or acquire new equipment,
19 they have to go through a vote. It does not stand
20 for this statute, 54.08.070, does not stand for the
21 proposition that the Department sites.

22 They rely on a declaration from Skagit
23 PUD's general manager. He is a lay person. He is
24 not lawyer. He understood the statute to mean that
25 it was Skagit PUD first had to obtain authority



1 itself. He sense changed that opinion, and
2 acknowledged his error in a second declaration
3 provided to the Court. It's before the Board as
4 well. Saying he failed to consider the 1936 vote of
5 the citizens of Skagit County forming the PUD and
6 grant authority under the PUD Act. In fact,
7 Mr. Sidhu now states, we are what the Legislator
8 says we are. We have the authorities that they gave
9 us.

10 So as a matter of law in the Supreme Courts
11 rule, Skagit PUD is an electric utility. Washington
12 State Legislature has created it, Skagit PUD as an
13 electric utility. These are issues of law that
14 decide and are dispositive of the issue of whether
15 Skagit PUD is an electric utility. It is not
16 subject to factual dispute or interpretation. It is
17 a matter of law.

18 However, if the Board were so inclined to
19 consider further whether Skagit PUD is an electric
20 utility and can look into the facts, it will see
21 Skagit PUD is, in fact, operating as an electric
22 utility. As I mentioned, it maintains and operates
23 a pump hydropower storage system, electric system.
24 It operates two generating plants. It sells power
25 that it generates to PSE. It sells power that it



1 generates to Mount Vernon School District. It also
2 serves power to itself. And it uses that electric
3 generation to generally benefit its customers and
4 members of its district. Those are key utility
5 functions. Those are the utility functions that are
6 directly authorized by the PUD Act that I've
7 enumerated for you before.

8 Now, the Department wants to say because
9 Skagit PUD supposedly doesn't have any traditional
10 retail customers that it can't be an electrical
11 utility.

12 CHAIR JENKINS: Mr. Steen, can I interrupt
13 you just for a second? You are at your 15-minute
14 mark. I'll give you a few minutes to move on.

15 TIMOTHY STEEN: Very good. I will move
16 ahead briefly to whether the work is on the load
17 side or service side. I will leave the customer
18 issue by saying that is a red herring. There is
19 nothing that states there has to be a retail
20 customer of any kind. Whenever you see that
21 reference in pleadings from counsel, know that it is
22 a red herring. There is no authority for it.

23 The question of whether the work was
24 performed on the load side, the Department alludes
25 to somewhere between the PSE lines and SRD



1 substation that there is a service point. It never
2 gets to the point of telling the Board where that
3 is. That's a crucial point. The NEC exemption is
4 very clear that work performed on the supply side of
5 the service point is exempt. Right? And so, I'm
6 sharing with the Board a wiring diagram shared in
7 our briefing. You should see that on your screen.

8 This is the point where you have PSE lines,
9 underground lines, meeting at a meter cabinet. It
10 is not on the property of Skagit PUD. Right? Their
11 wires never meet the premises. Instead, the wires
12 from Skagit PUD's underground laterals carry the
13 power on to its property, to the electric
14 substation, through the transformer, and to the
15 service point here on the building. This is the
16 service entrance point under NEC 100 as you saw
17 referenced in Respondent's briefing. This is the
18 first point where there is fusing, breaker or
19 control switch that controls the premises wiring.

20 There is nothing like that in this entire
21 span. That is the service point under NEC 100 right
22 there. The work that is alleged to have been
23 performed was here on the substation. Now the
24 Department says a remote switch was installed. They
25 say, well there is a remote switch inserted in the



1 building that controls this transformer, and so,
2 therefore, work was performed inside the building on
3 the load side. That is incorrect. That transformer
4 control switch is not inside the premises wiring.
5 It does not control any of the switches or operation
6 inside the premise wiring. That switch only
7 controls the transformer. So therefore, it is not
8 on the load side of the service point.

9 The Department alludes to the idea of there
10 being a customer, a customer side. But what the
11 Department fails to understand, and why it is an
12 opposite to argue there has to be a customer side on
13 the utility exemptions, is because there are many
14 types of entities that might be on a load side. And
15 just because there happens to be or not be a retail
16 customer on that load side, it doesn't determine
17 whether Skagit PUD, or other utilities like it, are
18 an exempt utility.

19 We can look at it, for instance, with PSE.
20 We don't dispute PSE is an electric utility.
21 However, PSE itself purchases power from Bonneville
22 Power Administration. It purchases power from 35
23 different generators for almost 1900 megawatts.

24 CHAIR JENKINS: This is Chair Jenkins. You
25 are over time. Do you have one statement to leave,



1 because we are over time.

2 TIMOTHY STEEN: Yes. If PSE and other
3 utilities lose their exemption just because they
4 acquire electricity from another supplier, then the
5 RCW 19.20.010 exemption is rendered nonsense,
6 nonsensical. And our electric utilities in the
7 state of Washington, almost all of them, would lose
8 their exemption status.

9 That's not correct to argue that the work
10 was performed on the load side. The code disputes
11 it. The facts dispute it. The law disputes it.
12 The Department can't meet its burden of proof. The
13 ALJ should be affirmed. Thank you.

14 CHAIR JENKINS: Thank you, very much. One
15 second, please. Board Member Gregory Johnson?

16 BOARD MEMBER JOHNSON: Yeah. If we go to
17 page 5, the order summary where it lists the issues,
18 so on the issue 1.1.1, the ALJ says, is Skagit PUD
19 an electric utility exempt. And order 2.1, it says,
20 yes, sir, electric utility. And so thus for, he
21 dismissed it. But there is a big error. The error
22 is, the electric utilities do not receive a blanket
23 exemption from RCW 19.28. So that error is, is
24 limited in scope. And Mr. Steen, you even read the
25 National Electrical Code 90.2B(5), which lists out



1 that limitation scope only in certain areas.

2 Even in page 11 of your brief, you showed
3 the -- you include a little diagram. And it's also
4 on page 526 of the Board packet. That diagram
5 clearly states, shows, it is only electrical
6 infrastructure that's exempt, not nonelectrical
7 infrastructure.

8 So because the ALJ just found that you guys
9 were an electric utility and dismissed it, I believe
10 that was improper dismissal because we first have
11 to -- the question is not whether Skagit PUD was an
12 electric utility or not. That is more of a moot
13 point for that question. The bigger question is,
14 was the specific location and the specific system
15 being operated in accordance with WAC chapter
16 296-45, which is the electric power generation
17 transmission distribution section, as governed by
18 the National Electric Safety Code.

19 Or was this operated in accordance to WAC
20 chapter 296-46B, which is electrical safety
21 standards and administration installations, which is
22 governed by the National Electrical Code. They
23 didn't have an evidentiary hearing. We don't know
24 what was submitted to the record. We don't know --
25 there was no evaluation on what point of the system,



1 how it was being operated. Was it a utility system
2 or a nonutility system.

3 So, I mean, I think we -- it is still
4 worthwhile for the Board to consider whether Skagit
5 PUD was an electric utility or not. That is still
6 relevant. But regardless of what that decision is,
7 I believe the dismissal was improper because it was
8 dismissed on proper grounds.

9 I don't know if you guys have a response
10 for the attorneys.

11 TIMOTHY STEEN: Yes, absolutely.

12 The Department and the Board has this in
13 the Board packet. All the documents and authorities
14 and facts were submitted to the Board on this issue
15 of where the work was performed. And the Court
16 evaluated that information.

17 You see, for instance, in the analysis
18 under 5.17, the Court gets into that Skagit PUD is a
19 public utility performing electric functions at the
20 SRD facility. Right? The Court is considering
21 specifically what is happening at SRD. It is not
22 saying there is a blanket exemption just because
23 they are an electric utility.

24 The Court goes on at 5.17. The substation
25 question, which is not powered by PSE, is completely



1 within the control of Skagit PUD. Again, that's
2 evaluating 90.2B(5) and its requirement as to
3 whether control of the facility exists by the
4 utility.

5 Now, the Court said, which in that finding
6 says, which is not powered by PSE. But the Court
7 again is referring to the service versus load
8 distinguishment there. And the Court correctly
9 found that PSE is not powering the facility, that it
10 is Skagit PUD as the serving utility. So the Court
11 is weighing, in fact, whether there is control,
12 where the work is performed, i.e. load or service
13 side.

14 The Court goes on to evaluate, saying
15 substation regulates generation of electricity to
16 power a pump that benefits Skagit PUD customers. So
17 again, the Court is looking at 90.2B(5) and
18 observing whether generation is involved. And it is
19 because it is part of a closed loop system
20 effectively, but is a pump storage hydropower.

21 And then it says, since the facility does
22 not rely on PSE power to operate, again, that is
23 service versus load and understanding where the work
24 was performed. It cannot be said to be on the load
25 side of the PSE system. Again, the Court is



1 referring to where the work was performed. And
2 understanding the exemption applies to the service
3 side and not simply a blanket exemption.

4 BOARD MEMBER JOHNSON: Okay. Can I stop
5 you for a minute for clarification from Ben? You're
6 referencing items in the evidence record. But are
7 the items in the evidence record, can we consider
8 those? Because there is no evidentiary hearing that
9 actually evaluated whether or not they are proper or
10 not.

11 ATTORNEY BLOHOWIAK: This is Ben. Board
12 Member Johnson, yes. You're limited to the issues
13 the Board decided, or the OAH decided, and that is
14 to grant summary judgment in favor of KVA Electric.
15 However, you render that decision de novo. So you
16 do get to look at all of the evidence created as
17 part of that initial motion in determining whether
18 or not that motion was correctly granted.

19 BOARD MEMBER JOHNSON: So what is part of
20 the evidentiary record? The whole Board packet is
21 accepted?

22 ATTORNEY BLOHOWIAK: It would be, as I
23 understand it, KVA Electric's motion for summary
24 judgment, its respected exhibits, attachments, the
25 arguments that were had, along with the Department's



1 response, any exhibits or attachments to that, and
2 any reply and in addition to any of the arguments
3 created at the Board. That would be my
4 understanding.

5 BOARD MEMBER JOHNSON: Thank you. You can
6 continue, Mr. Steen. Sorry for the interruption.

7 TIMOTHY STEEN: No, no. I welcome the
8 question. Because this was an issue argued at
9 length before the ALJ. The transcript is available
10 in the record. If you wish, you would be able to
11 review what was argued before the Judge in oral
12 argument.

13 But it is a detailed complex issue that ALJ
14 struggled with as seen by his assessment of a very
15 technical issue. But because the Board reviewed
16 this issue de novo, the Board can make -- can also
17 make its determination about whether there was an
18 electric utility and whether Skagit PUD is a utility
19 and whether orders should be affirmed.

20 I strongly suggest the Board does have that
21 information and law available to it to make the
22 determination, its own determination, as to Skagit
23 PUD being an electric utility.

24 BOARD MEMBER JOHNSON: So I would like to
25 shift a little bit. I did review the record.



1 The problem I have, is when I was reviewing
2 the record, I saw errors throughout the whole thing.
3 I believe both attorneys submitted, in your briefs,
4 you took issues with some of the findings of fact
5 and some of the conclusions. So my assessment is
6 that nobody is a hundred percent happy with that.

7 And also, I notice some errors in the
8 briefs. So to go in, I will just state, so is
9 Skagit PUD an electric utility. So jumping into
10 that concept. I would argue that having the vested
11 right to an electric utility means that you are an
12 electric utility. Whenever you're choosing to
13 exercise that vested right and operate in accordance
14 as an electric utility in accordance with WAC
15 chapter 296-45. So I would argue that you guys are.

16 But the question that we have to understand
17 is, are you operating in accordance to the electric
18 utility at that specific location. And I don't
19 believe it is in the evidence record it is clear,
20 because there wasn't really an evidence hearing on
21 that. And my feeling is that this needs to be sent
22 back to ALJ to hold the full evidence hearing.

23 And also another point on that is, Ms. Vu,
24 in your guys' argument, you said because they don't
25 have customers they are not a utility. That's not



1 the definition of a utility. So BPA, you even
2 reference BPA in your argument, BPA doesn't have any
3 retail customers either. Everyone knows that BPA is
4 a utility. There are others in Washington State.
5 Avangrid, they don't have customers. They are a
6 generation-only utility in there also.

7 If you look at 90.2, the definition of a
8 utility would be, just to be clear, there is
9 multiple parts. One has to be -- so for being
10 excluded, one has to be under exclusive control of
11 electric utility. That's part one of the test.
12 Second part is, it has to be for the purpose of -- I
13 will skip the first few, go to generation,
14 transmission, or distribution of electrical energy.

15 Then also going back, it lists
16 communications, metering, control, and
17 transformation. So the first three I picked out or
18 the key functions of a utility usually. You don't
19 have to do all of them. You have to do just one of
20 those. Generation, transmission, distribution are
21 key items. And then communication, metering, and
22 control, and transformation are supporting.

23 One interesting note, in the 1981 version
24 of the National Electric Code, one item that is
25 absent that is in there today is energy storage. So



1 the RCWs don't list energy storage. 2017 version
2 of the National Electrical Code does include the
3 storage. That creates an interesting point to be
4 deferred and discussed later. Because the WACs do
5 adopt the later version.

6 In looking at your diagram, one of you
7 arguments is probably going to be energy storage.
8 So how does that work? One of the missed errors in
9 the record is there is a note multiple places where
10 it said it generates more electricity than it used.
11 That's incorrect, because that would be a perpetual
12 motion machine, which violates the first and second
13 law of thermal dynamics. That's an important thing
14 to note there.

15 So I'm going on a long time, but I'm seeing
16 errors in the record. And what I would suggest,
17 when we send it back to the ALJ for a hearing, I
18 would suggest that we give some guidance on what
19 issues the ALJ should be considering. In
20 particular, does KVA Electric, do they work on
21 installation under the exclusive control of electric
22 utility. That is the first part of the test. If
23 that's true, then we need to consider the
24 requirements of WAC 295-45 -- or 296-45. And that
25 would be specifically, what physical access controls



1 were in place to rent unauthorized access to
2 energized facilities. They may be locked, secured,
3 inaccessible placement of energized products in or
4 on cabinets, enclosures, buildings, fences, poles,
5 barriers. And those are all excerpts from the
6 National Electric Safety Code, NESC, which defines
7 the term "exclusive control of facilities." That
8 needs to be considered.

9 Also, what policies and procedures were in
10 place for -- who was qualified to access the
11 facility in accordance with 296-45. So that would
12 also need to be considered.

13 And then, when it comes to installation
14 purpose, that's the next part of the test, is for
15 what purpose was the system. Did KVA work on it for
16 the purpose of either communications, metering,
17 generation control, transformation, transmission, or
18 distribution of electrical energy. I omitted the
19 one energy storage, which you could bring in and
20 argue yea or nay. That's the second part of the
21 test.

22 The third part of the test that has to be
23 considered is, was all of the work that KVA Electric
24 performed located in a building used exclusively by
25 utilities -- in bracket. It should electrical



1 utilities -- for such purposes, or located outdoors
2 or on property owned or leased by utilities or
3 public highways, streets, roads, etc., or outdoor
4 establishment uprights on property.

5 So those, I believe, we should bring --
6 send it back with those questions that the ALJ needs
7 to answer at an evidentiary hearing.

8 TIMOTHY STEEN: If I may respond.

9 BOARD MEMBER JOHNSON: Sure.

10 TIMOTHY STEEN: Okay. So I appreciate the
11 comment about electric storage in the more recent
12 version of 90.2B(5). The problem with that is, the
13 Legislature has adopted the 1981 version only. We
14 aren't allowed to expand the RCW 19.28.01 exemption
15 until the Legislature acts and adopts that new code
16 for purposes of exemption.

17 So it would be helpful, and as attorney
18 representing Respondents I would sure like to make
19 that argument. I'm constrained, as is the Board
20 constrained, by the Legislature in 19.28.010 and its
21 requirement for the 1981 version.

22 Second, I point out, an evidentiary hearing
23 is not required. The ALJ has heard the evidence and
24 made a decision. That's why summary judgment is
25 allowed. The ALJ determined that a trial was not



1 necessary because, as a matter of law, the work was
2 exempt. Now. Now, you referenced 296-45, and KVA
3 and Mr. Duncan would love to argue about 296-45.
4 However, they weren't cited under 296-45. They were
5 cited under 296 -- excuse me. 46B in 1928. Not
6 NESC.

7 The Department citation is based upon those
8 regulations, and the Department has to prove that
9 those regulations were violated. Bringing up the
10 NESC and 296-45 is outside of that analysis and
11 doesn't show us whether the regulations that were
12 cited under were violated.

13 So we send that back to an ALJ for an
14 entirely new issue that isn't pertinent to
15 citations, respectfully. Again, as I said,
16 Respondents would love to argue that. This is their
17 area of expertise. The work was fully compliant
18 with the applicable regulations under NESC 296-45.
19 But whether a qualified person accessed the
20 property, whether it is under exclusive control
21 under NESC, are just not the issues that establish
22 whether the citations are valid.

23 The Court did determine that the work was
24 under the exclusive control of Skagit PUD. That
25 was, I believe, in section 5.17 I previously



1 mentioned. That determination has been made.

2 Lastly, you did reference a determination
3 about whether the work was located in the building
4 that was used for these purposes. I would point out
5 that 90.2B(5) is another part. It is located
6 outdoors or on property owned or leased by the
7 utility. This substation is outdoors. Its controls
8 switch regulates that outdoor facility. It not
9 inside the premises wiring. And so the Court did
10 make a determination in its order that the work is
11 performed exclusively on PUD property outside the
12 building. So those determinations have been made --

13 And I don't think there's been a challenge
14 of that by the Department. The Department only
15 wants to quibble about whether the control switch
16 that was installed in the building is on the load
17 side or service side. Under NEC 100, it was on the
18 service side as a matter of code and as a matter of
19 law.

20 BOARD MEMBER JOHNSON: I disagree that the
21 WAC 296-45 is not relevant. It is very relevant,
22 because in order to show you're not governed by
23 296-46B, which they are cited under, you have to
24 show you were operating under a different WAC
25 section. So if you can prove that you were



1 operating as a utility, and you meet the
2 requirements of operating under a utility, then we
3 know you're exempt from the code. If you can't
4 prove you are operating as a utility, then you are
5 fully governed by 296-46B. That's the point, is you
6 have to show it was operated as a utility and not as
7 a nonutility for that specific location.

8 I mean, I work for a utility, and we work
9 on different systems. There is areas that we are
10 operating as utility, and there is locations where
11 we are not operating as utility. And that
12 distinction is very important. I think that needs
13 to be pursued further.

14 TIMOTHY STEEN: You are correct, Member
15 Johnson. That is very important where the point of
16 contact is. Whether you are on load or service.
17 However, that misstates the burden not only at the
18 trial level but at this level as well. Respondents
19 are not required to prove that they are subject to
20 296-45 in order to defeat the citations against
21 them. It is the Department's responsibility, both
22 down below and here, to prove Respondents are
23 subject to 296-46B. We don't have the affirmative
24 duty here in this case. That completely misstates
25 the burden.



1 The exemption doesn't require the
2 Respondents to prove either they are subject to
3 296-45. Exemption is very clear under the statute,
4 under 19.28.010, it says, wires and equipment that
5 are exempt under 90.2B(5) are exempt. It doesn't
6 make any reference in any analysis or evaluation
7 under 296-45. That misstates, respectfully, the
8 burden and the exemption here.

9 My proof or reference to 296-45 be some
10 evidence of operating its utility? Perhaps.
11 Perhaps. But in this case, the law is clearly
12 established. The Supreme Court already ruled that
13 Skagit PUD is an electric utility. The state of
14 Washington Legislators already created them as an
15 electric utility. It is not a question of whether
16 or not they are a utility. That is pretty clear as
17 a matter of law. I think your sensitive point is
18 quite right. It is whether they perform either
19 service side versus load side. Looking at the code,
20 there is no way that that transformer work at that
21 substation could be on the load side.

22 BOARD MEMBER JOHNSON: So you're right that
23 the preponderance of evidence is on the Department.
24 That still doesn't mean the fact that that shouldn't
25 be considered and that doesn't need to be argued.



1 And then, last thing I will go before I
2 hand it over to other Board Members, your diagram
3 you pulled up and shared on the screen, page 4 of
4 your brief, where it notes the service point, there
5 is, I suspect if that is the service point according
6 to the drawing. If you read through the contracts
7 that were included in the Board packet, the
8 ownership of the outdoor substation is Skagit PUD.
9 So that is suspect. I would think .0 would be more
10 likely the service point.

11 That doesn't mean, regardless of the
12 service point -- so if you were to define service
13 point where you have it defined, what you are
14 basically saying is that pump building is --
15 everything upstream of that pump building is owned
16 by PSE, which would be not appropriate. Or you
17 would be saying that -- the second option you could
18 be saying is that Skagit PUD has two different
19 divisions. They have the electric utility division
20 and water utility division. And that's where you're
21 saying that's the demark between the two divisions.
22 In which case, I need to see some proof of that or I
23 mean, showing how they have actually segregated
24 that.

25 One thing to note is, just because the



1 voltage is not what defines a utility system. There
2 is lots of entities out there who are primary
3 metered who accept medium voltage, which is like
4 13,200 volts or 12.47KV. So 12,470 volts as their
5 voltage. And accepting a medium voltage, same
6 voltage as on the overhead power lines, doesn't make
7 them a utility. I can name a ton of entities who
8 accept that voltage. They still have to pay in
9 permits to work on that. Unless they have an
10 agreement with the utility for the utility to work
11 on it for them.

12 I wouldn't get caught up on what the
13 voltage is. The voltage is not the definition. It
14 is a matter of whether you are using it as those
15 functions.

16 Those are all questions to be investigated
17 further that I don't believe we can answer today.

18 TIMOTHY STEEN: Respectfully, those are
19 already argued and the code was presented to the
20 Judge. For your reference, on page 15 of
21 Respondent's briefing, you will see the applicable
22 NEC, which determines where the service point is.
23 It says, "The necessary equipment usually consisting
24 with circuit breaker, or switch, or fuse and their
25 accessories located near to the point of entrance of



1 a supply conductor, the building, or other
2 structure."

3 So the uncontroverted evidence is that the
4 very first instance of the circuit breakers,
5 switches, or fuses that control the premises wiring
6 is that circuit breaker as identified on the contact
7 point. You said it might be the cabinet outside the
8 property. There is no fusing. There is no circuit
9 breaker or switches in that cabinet. That is
10 admitted in the record in the declarations. There
11 is no evidence to suggest that.

12 That cabinet does not control the premises
13 wiring. Now, you've indicated wires leading up to
14 that circuit breaker, that contact point, which
15 happen to be PSE equipment, that's not the case. We
16 have a utility here. We have Skagit PUD as an
17 electric utility.

18 You reference they have to have a separate
19 department. But the PUD Act doesn't require them to
20 bring their functions into separate departments. It
21 allows them to if they wish. It allows them also to
22 combine utility functions with other utilities. But
23 the PUD Act doesn't require them to have separate
24 departments. They operate as a PUD with all of its
25 functions, including electric functions granted to



1 them by the Legislature.

2 BOARD MEMBER JOHNSON: One thing to clear
3 up. Service plan, I'm very familiar with that
4 section you referred to on the figure you quoted,
5 the 100-11. That service point can be defined by
6 the utility and customer at different locations. If
7 you read further for the definitions, and you read
8 further in that whole chapter, you will see while
9 those are two examples they gave, a circuit breaker
10 and a fuse is not what defines service point.

11 It is very common for utilities to define
12 the service point to be the primary meter point with
13 no circuit breaker. Also, secondary sign of
14 transformers is oftentimes will have a freestanding
15 metering cabinet out there. Usually, the service
16 point is the demarcation between who owns what. So
17 while those are two examples, overcurrent protection
18 is not the definition of serve point.

19 TIMOTHY STEEN: Under NEC 1981, the version
20 we have to use, it is. It is. I believe you are
21 referring to more recent versions of the NEC, which
22 in this case isn't applicable. The Legislature
23 requires us to use the 1981 version. And there are
24 no agreements establishing service point otherwise.
25 That's not in the record. Whether that might be a



1 more modern practice, that's not the case here, and
2 there is no evidence of it. We are State bound by
3 NEC 100, 1981. And it does define the service point
4 as being that first circuit breaker, or switch, or
5 fuse.

6 CHAIR JENKINS: All right. Secretary,
7 Chief Wayne Molesworth, you're muted.

8 SECRETARY MOLESWORTH: Of course, I am.
9 Thank you, Chairman --

10 So this is really, to me, comes down to be
11 a little simpler. I agree with Mr. Johnson that
12 service point, ownership, does make a difference.
13 Just because that is a service point doesn't mean
14 that the rest of the installation isn't subject to
15 NEC, and WAC, and RCWs because it is owned by a
16 different entity. The problem we have here is
17 simpler. It is not whether or not they are a
18 utility. Utilities have a different exemption. I
19 think as you read that exemption, Mr. Steen, all of
20 those items were exempt and a lot to be done by the
21 utility if it was in the generation of power.
22 Right? So what is the purpose of this wellhouse?

23 TIMOTHY STEEN: Yes. No, the 90.2B(5)
24 doesn't say that all of these functions have to be
25 in support of the generation. That's not the



1 requirement. It is one of five things. Generation,
2 control, transformation, transmission, or
3 distribution. Not all generation.

4 SECRETARY MOLESWORTH: So tell me which one
5 this falls under.

6 TIMOTHY STEEN: Yeah. This is part of a
7 pump storage hydropower system. Right? This is a
8 system that produces power. Right? It is a
9 necessary component that pumps the water up to the
10 reservoir so it can then flow down and power the
11 generators.

12 SECRETARY MOLESWORTH: This doesn't
13 directly generate power. That's what that exemption
14 is for, is for the direct generation of power. The
15 inside of that generation power, inside the
16 hydroelectric plant, all of the equipment inside
17 that plant, all of the generation, all transformers,
18 all substations, that is in the generation of
19 distribution of power.

20 Moving water from one point to another is
21 not part of the generation of power. It is an
22 indirect use because the water -- because water
23 doesn't generate power. Water spins a turbine.
24 Right? It is not in the generation of the power.
25 The equipment itself that generates the power is



1 what we are talking about.

2 TIMOTHY STEEN: I respectfully beg to
3 differ. The PUD Act contemplates water power, which
4 is using water to spin the turbines, which is what
5 is happening here. It is not that each piece of
6 equipment has to be a generating piece of equipment.
7 For instance, if that were the case, then the
8 transmission lines between a substation and
9 generating plant, they don't generate electricity in
10 and of themselves. They are part of an overall
11 system. Right?

12 SECRETARY MOLESWORTH: There is an
13 exemption for that transmission.

14 TIMOTHY STEEN: Yes. Yes, there is. It's
15 90.2B(5), as there is an exemption for
16 transformation. You are looking at the SRD
17 facility. Where the work is actually performed is
18 at the substation, which is involved in
19 transformation. Right? That is a clearly protected
20 function of 90.2B(5).

21 SECRETARY MOLESWORTH: What we are not
22 understanding here is that that substation is solely
23 used, from what I can tell, solely used for
24 operating that pump house. It is not for the
25 distribution of power to customers or to anybody



1 else. It is used only for that pump house.

2 TIMOTHY STEEN: There is no requirement as
3 to where the distribution has to be. If you look at
4 90.2B(5), distribution of electricity, distribution
5 happens when the power leaves the transformer to the
6 underground laterals and goes to that pump house.
7 That's distribution of that transformer. That is a
8 protected function under 90.2B(5).

9 Notably, if you look at the interpretive
10 comment, 90.2B(5), which underlies the Department's
11 WAC on this, it specifically calls out substations.
12 There is a reason for that. It doesn't have -- the
13 substation is not part of a generating facility. It
14 doesn't say it is a substation that only has to do
15 with distribution. It says a substation that's
16 owned by a utility. That is part of what? The
17 transformation process. Just as we have here at
18 Skagit PUD.

19 SECRETARY MOLESWORTH: For me, I think this
20 does need to go back to the Administrative Law
21 Judge. It does need an evidentiary hearing to bring
22 out all of these points that maybe he was missing at
23 his determination.

24 I'm going to disagree with you,
25 respectfully, as well. This is -- you know, pumping



1 water into a reservoir, are there other uses for
2 that reservoir besides this? Do they take drinking
3 water out of it? Do they do other things? And it's
4 not even part of, you know, sole part of the
5 distribution or purpose.

6 And, again, I'll say that from my seat, I
7 do not think that moving of water is part of the
8 generation of power when you are moving it into a
9 reservoir itself.

10 CHAIR JENKINS: Wayne, thank you very much
11 for your time on this.

12 I want to add one thing here. When I went
13 to read this code section, it took a while to break
14 it down. When you read the code, it has
15 installation under exclusive control of utilities.
16 For the purpose of, and it says communication, or
17 metering, or generation control transmission and
18 distribution of electricity. It is not an "or"
19 statement there about distribution. So generation,
20 control, transformation, and transmission have to be
21 part of the distribution of electrical energy. It
22 is not "or" distributing. It is "and" distributing
23 electricity. This is not distributing electricity.
24 This is consuming.

25 You are taking power from a utility, that



1 is not even theirs, and sending it to a pump
2 station. At what point are you distributing
3 electrical energy? You're not. You're using
4 electrical energy. It is not a question to you,
5 Mr. Steen. More a comment to the Board. So my
6 whole problem with this is that it is an "and"
7 statement. Everyone keeps saying "or." This is
8 "and" distribution of electrical energy. So
9 generation has to be part of a distribution system,
10 which it is not. It is a system consuming energy at
11 their pump station.

12 Board Member Gregory Johnson?

13 BOARD MEMBER JOHNSON: I think I agree with
14 what Wayne said in the sense this needs to be
15 reevaluated at the Board. But one point to slightly
16 disagree is pumping can be included. It can be.
17 BPA has it in their Grand Coulee Dam. I guess
18 that's not BPA. But Department of Interior. But
19 Grand Coulee Dam has a bunch of pumping stuff that
20 relates to the dam. So it could be.

21 But this gets back to the tricky point that
22 we were, because pump hydro storage. Storage is not
23 included in the 1981 version. So you have to argue
24 that is part of the generation side. That is
25 something that definitely needs -- it could be. And



1 I'm not saying make a determination, because I don't
2 think there is enough evidence or it was even
3 evaluated fully during ALJ's summary dismissal. So
4 I don't believe there is enough evidence to really
5 make that decision. But you may be exempt, but you
6 may not be. I don't know. That's why this needs to
7 go back to evidentiary hearing.

8 CHAIR JENKINS: Any other members on the
9 Board have any questions, comments?

10 So my understanding is that the Chair can
11 entertain a motion on either affirming ALJ's
12 decision or sending it back to ALJ in order to have
13 an evidentiary hearing. So Chair to entertain a
14 motion. Gregory Johnson?

15 BOARD MEMBER JOHNSON: Before making a
16 motion, would it be proper to send instructions to
17 the ALJ on what we want them to consider when they
18 hold the evidentiary hearing?

19 CHAIR JENKINS: From our Counsel, that is
20 not required and not part of the return.

21 BOARD MEMBER JOHNSON: So would it be
22 proper or not -- or improper?

23 ATTORNEY BLOHOWIAK: The issues are
24 determined by parties appealing and making
25 arguments. The Board is tasked with determining



1 whether or not there is a genuine issue of material
2 fact at issue here that necessitates sending this
3 back for evidentiary hearing, or determining there
4 is not and affirming the ALJ's decision.

5 BOARD MEMBER JOHNSON: So then I will make
6 a simpler motion.

7 My motion would be that we affirm the
8 portion of the ruling that Skagit PUD is an electric
9 utility, but we find that the dismissal was improper
10 because it never considered the system and location.
11 And, therefore, it needs to be sent back for
12 evidentiary hearing.

13 CHAIR JENKINS: One second. Talking with
14 Counsel.

15 So after talking with Counsel, before you
16 finish your motion, you may want to consider making
17 it more simplistic and returning it with -- how do I
18 phrase it?

19 ATTORNEY BLOHOWIAK: Board Member Johnson,
20 I would just caution against being too granular in
21 the motion you make and doing this in a piecemeal
22 sort of fashion. It would be my advice that a
23 motion be made along the lines of, I will make a
24 motion to reverse the ALJ's decision because there
25 is a genuine issue of material fact as to whether or



1 not the exemption as identified in the NEC apply to
2 the Skagit PUD in this case, and stop there.

3 That would be my advice to the Board, to
4 try and keep this as straight forward as possible to
5 the decision that the Board is actually making today
6 and to not do a piecemeal sort of decision.

7 Also, I believe those two to be two
8 separate motions if you are going to affirm part and
9 reverse part under the rock ridge rules.

10 CHAIR JENKINS: Board Member Johnson?

11 BOARD MEMBER JOHNSON: Would it be better
12 to divide the question and have the first motion
13 being what Ben just said. And second motion that we
14 do affirm Skagit PUD as an electric utility but
15 divide the question. Would that be proper?

16 ATTORNEY BLOHOWIAK: That would be fine.

17 CHAIR JENKINS: Okay.

18 BOARD MEMBER JOHNSON: Okay. So the first
19 question is exactly -- motion is exactly what Ben
20 just stated. Sending it back to have an evidentiary
21 hearing.

22 CHAIR JENKINS: There is a motion on the
23 Board to send this back for an evidentiary hearing.
24 Do we have a second?

25 BOARD MEMBER NORD: Board Member Nord,



1 second.

2 CHAIR JENKINS: Board Member Nord second.
3 Any discussion?

4 BOARD MEMBER COX: This is Board Member
5 Cox. Thank you.

6 Actually, as long as we are in discussion,
7 I just want to comment that I so appreciate Board
8 Member Johnson pouring through this, the materials,
9 being so well versed in utility.

10 My question for Board Member Johnson, as
11 you were pouring through this, was there anything in
12 that record, in the argument for summary judgment,
13 that stated that the utility had a wholesale
14 agreement in place with PSE for that power?

15 BOARD MEMBER JOHNSON: There were records
16 noted that they buy and sell power. The agreements
17 were not in the record, but it is noted. I can just
18 tell you from practice, I mean, there is a lot of
19 buying and selling power on the market. You
20 wouldn't think that utilities are registered to --
21 like Amazon, they buy and sell power on the open
22 market and have agreements like that, too. So
23 that's, I would say, is more of a moot point. In
24 the sense of, I don't think that is necessarily
25 relevant. Even though they did have contracts with



1 PSE, that isn't germane to the decision.

2 BOARD MEMBER COX: My question of
3 relevance to Board Member Johnson, especially in
4 your expertise in this area, is if they have that
5 wholesale agreement in place -- again, this is way
6 above my pay grade. I'm telecom and I.T. But my
7 question here is, if they have that wholesale
8 agreement in place, the moment that they receive the
9 power, for lack of a better term, from PSE, did that
10 power, if they had a wholesale agreement in place --
11 and again, if this is in the record of the argument
12 for summary judgment, if they had that agreement in
13 place when they received that power from PSE,
14 assuming they have a wholesale agreement, then would
15 not the PUD own the power that they are utilizing or
16 performing the work through this transformer?

17 Again, I don't know, Greg, if that makes
18 sense or not. That is why I just need
19 clarification.

20 BOARD MEMBER JOHNSON: Yeah. I will give
21 you -- I mean, some of the terms about wholesale
22 agreements, kind of used loosely. I can give you a
23 couple of examples.

24 Washington State University, they have a
25 distribution system. What they do is contract back



1 to their local utility to actually maintain it for
2 them. They are getting a better rate on a different
3 rate schedule. Not necessarily wholesale.

4 Kaiser's aluminum plant. They were having
5 a wholesale agreement to buy things on the open
6 market. And when they switched to a retail
7 customer, they had a medium-voltage system also.

8 There is a lot of nuances that I don't
9 think really -- none of those, the wholesale
10 agreement, or whether -- and using your terms, that
11 isn't referenced or noted in the WAC sections that
12 we are talking about. And so that is why I say this
13 is not really -- and it is also not referenced in
14 the 90.2 of the National Electric Code, which is
15 referenced. That is not part of the test.

16 BOARD MEMBER COX: Okay. Thank you.

17 That helps me in my determination of your
18 motion.

19 Thank you, Board Member Johnson.

20 BOARD MEMBER GRAY: Chair, this is Bobby
21 Gray.

22 CHAIR JENKINS: Yes.

23 BOARD MEMBER GRAY: Thank you, Mr. Chair.
24 I stand in opposition to the motion on the floor. I
25 think there are -- I think KVA made the case they



1 are, in fact, a utility. And I think they
2 established a proper service point for that.

3 The portion of whether or not they are
4 distributing power, I think it comes down to, are
5 they allowed to distribute power to themselves? And
6 the answer is clearly, yes. And if they supply
7 power to a facility that's not part of the
8 transmission, distribution, or the generation of
9 that power, however, would fall under the premise
10 wiring rules in the NEC or WAC.

11 But nothing would prohibit them from
12 supplying power to those facilities that they own,
13 for example. It is just that rules regarding
14 installations would change. So I think, clearly,
15 they have made their case that they are a utility,
16 and an electric utility, and they meet the
17 requirements for the exemptions.

18 Thank you, Mr. Chair.

19 CHAIR JENKINS: Thank you.

20 Secretary Wayne Molesworth, you have your
21 hand up.

22 SECRETARY MOLESWORTH: Thank you,
23 Mr. Chair.

24 I'm still in favor, and I will just say
25 this one more time. Then my comment was actually



1 for the next motion that might come up. But I don't
2 think this is an issue for whether they were or were
3 not a utility. It is about what was being -- what
4 the electricity was being used for. And does that
5 meet the exemption.

6 There are a lot of times when utilities
7 can't do their work. Right? Even on their own
8 premises. For example, an office building. A
9 utility company does not fall under the exemption
10 for an office building. So my contention is that
11 using it for a pump that pumps water into a
12 reservoir is not the generation of power. That is
13 really the question here is, was what they were
14 wiring falling under the NEC, and RCW, and WAC.

15 And if it wasn't for generation
16 distribution, by the way, distribution is more than
17 supplying to one location. Distribution is
18 distributing to many locations. So when we look at
19 this, I think it has to go back for evidentiary
20 hearing so everyone can understand exactly the
21 elements of the entirety.

22 We are being distracted by whether or not
23 they were a utility. I don't think that's really
24 the issue here. The issue is did they fall under
25 the utility exemption when they installed the switch



1 for the pump. And was the pump, did that fall under
2 any of those exemptions?

3 The other comment I was going to make
4 about, that may come up in the next motion is, I
5 think the only thing we are here to do today is just
6 to decide whether or not this goes back for an
7 evidentiary hearing and override his previous
8 decision, and really not to say that we recognize
9 them as a utility. That would be up to them during
10 the evidentiary hearing if that came up and if that
11 became an issue with the parties.

12 So I think it is just whether or not we are
13 sending it back to them to have an evidentiary
14 hearing. Thank you.

15 CHAIR JENKINS: Thank you.

16 Board Member Byron Allen.

17 BOARD MEMBER ALLEN: Thank you. Board
18 Member Allen. I did not hear a second to this
19 motion. Am I correct on that? Or was there a
20 second?

21 CHAIR JENKINS: Yes, there is. There was a
22 second.

23 BOARD MEMBER ALLEN: All right. Thank you.
24 I was going to question whether all of this
25 discussion was appropriate. I just did not hear it.



1 Who was it that we had the second from?

2 CHAIR JENKINS: Again, can I ask the court
3 reporter, can you look back -- I could have sworn we
4 had a second, but maybe I was mistaken.

5 (Discussion with Court Reporter)

6 CHAIR JENKINS: Did that answer your
7 question?

8 BOARD MEMBER ALLEN: Yes, it did. Thank
9 you very much.

10 CHAIR JENKINS: Thank you. Any more
11 discussion on the motion?

12 (No response)

13 CHAIR JENKINS: Hearing none, all in favor
14 of the motion, indicate by saying aye.

15 (Chorus of ayes)

16 CHAIR JENKINS: Any opposed?

17 BOARD MEMBER COX: Nay from Board Member
18 Cox.

19 BOARD MEMBER ALLEN: And Board Member
20 Allen.

21 CHAIR JENKINS: So let's do this one more
22 time.

23 All in favor -- okay, I take it back.

24 BYRON ALLEN: I call for a roll call,
25 please.



1 CHAIR JENKINS: Thank you, very much.
2 Board Member Cox, yea or nay?

3 BOARD MEMBER COX: Nay.

4 CHAIR JENKINS: Board Member Erick Lee?

5 BOARD MEMBER LEE: Yea, Board Member Lee.

6 CHAIR JENKINS: Board Member Jack
7 Nottingham?

8 BOARD MEMBER KNOTTINGHAM: Board Member
9 Nottingham, yea.

10 CHAIR JENKINS: Thank you. Board Member
11 Mike Nord?

12 BOARD MEMBER NORD: Board Member Nord is
13 yea.

14 CHAIR JENKINS: Board Member Isaacson.

15 BOARD MEMBER ISAACSON: Board Member
16 Isaacson, aye.

17 CHAIR JENKINS: Board Member Bobby Gray.

18 BOARD MEMBER GRAY: Board Member Gray, nay.

19 CHAIR JENKINS: Board Member Johnson?

20 BOARD MEMBER JOHNSON: Yea.

21 CHAIR JENKINS: Board Member Byron Allen?

22 BOARD MEMBER ALLEN: Nay.

23 CHAIR JENKINS: 5 for yea. 3 for nay.

24 Motion passes.

25 So moving on. Board Member Gregory



1 Johnson, you want to present a second motion?

2 BOARD MEMBER JOHNSON: Yeah. Second motion
3 is Skagit PUD having the vested right to be an
4 electric utility means they are an electric utility
5 whenever they choose to exercise that vested right
6 and operate in capacity as an electric utility in
7 accordance with WAC chapter 296-45.

8 ATTORNEY BLOHOWIAK: Board Member Johnson,
9 I would advise that you, again, simplify your
10 motion. And that you are going to -- your motion is
11 to affirm the Judge's decision, as far as finding
12 that Skagit PUD is an electrical utility as a matter
13 of law.

14 BOARD MEMBER JOHNSON: Okay. I change my
15 motion to be exactly what Ben advised.

16 CHAIR JENKINS: We have a motion. Do we
17 have a second?

18 BOARD MEMBER COX: Board Member Cox,
19 second.

20 CHAIR JENKINS: We have a motion and a
21 second. Any discussion?

22 (No response)

23 CHAIR JENKINS: Hearing and seeing none,
24 all in favor of the motion? I will begin by saying,
25 yea.



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(Chorus of yeas)

CHAIR JENKINS: Any opposition?

(No response)

CHAIR JENKINS: Motion passes.

So we are at a point here -- oh, sorry.

The Board made its decision. Can the Department please get in contact with Mr. Steen and reach an agreement that best reflects the decision of the Board?

Please be advised today that if you do not reach an agreement today, this matter will be automatically set to be presented at the next regularly scheduled Board meeting.

If an agreement order has not been received today, parties will be expected to file their orders to appear and advise why their proposed orders best reflect the Board's decision.

If you are able to reach an agreement as to the form of the order before the next meeting, please forward it to the Secretary of the Board's office, and they will make sure it gets signed and provided to both parties.

Is there a hand up from AAG Wilson Sosa Padilla?

WILSON SOSA PADILLA: Yes. Good morning,



1 Chair. Wilson Sosa Padilla representing the
2 Department. I'm here right now to talk about
3 General Construction Company. This is a case from
4 back in 2023, that the Board directed the parties,
5 the Department of General Construction, to settle
6 the case. I filed a settlement with the Secretary,
7 Wayne Molesworth, two days ago, and I want to know
8 how the Board will proceed.

9 If you want, I don't know if you want to
10 address this after the recess. I'm not sure when
11 you want to address it.

12 CHAIR JENKINS: At this point, we are just
13 finishing up our discussion about KVA Electric. So
14 let me first excuse the two parties for the KVA
15 Electric.

16 Are there any questions or comments from
17 them?

18 LEAH VU: No further questions. Thank you.

19 TIMOTHY STEEN: One comment. Thank you to
20 the Board for the robust discussion on the record
21 and appreciate their examination of the issues.

22 CHAIR JENKINS: Thank you, very much.

23 I think this is a good point to possibly
24 look at taking a lunch. I'm sure the recorder has
25 probably really been taxed this morning. So I'm



1 thinking a half hour. Does anyone have any
2 opposition to a 30-minute lunch?

3 (No response)

4 CHAIR JENKINS: Hearing none, I will-make
5 it 12:30. So at this point here, we will recess
6 until 12:30. Thank you, much.

7 (Hearing recessed at 11:46 a.m.)

8 (Hearing in session at 12:32 p.m.)

9

10 SLATERCOM-WCD, MICHAEL SLATER, GRANT SLATER

11 ELYOD03658 & ELYOD03659

12

13 CHAIR JENKINS: It is now 12:32. We are
14 back and on to letter e for Slatercom-WCD, Michael
15 Slater and Grant Slater.

16 Next item before us today is the appeal for
17 the matter of Slatercom-WCD, Michael Slater and
18 Grant Slater, Docket Nos. 12-2024LI-02311,
19 12-2024LI-02312, and 12-2024LI-02313.

20 This hearing is being held pursuant due to
21 proper notices and to all interested parties and
22 proceeding via Zoom on October 30, 2025 at
23 approximately 12:32.

24 This is an appeal from an initial order
25 issued by the Officer of Administrative Hearings on



1 June 12, 2025. It is my understanding that the
2 decision was set aside. Citations Notices
3 ELYOD03658 and ELYOD03659 issued by the Department
4 of Labor & Industries on August 16, 2024.

5 It is further my understanding the
6 Department handled the decision that went to the
7 Board. Is there representation from the Department
8 here this afternoon?

9 NATALIE ROBERTS: Yeah. Good morning.
10 This is Natalie Roberts.

11 CHAIR JENKINS: And is there representation
12 from Slatercom?

13 MICHAEL SLATER: Yes, Michael Slater. And
14 I'm representing myself and Grant Slater.

15 CHAIR JENKINS: Are you here for the
16 procedure for this, and do you understand the
17 procedure? Both parties?

18 NATALIE ROBERTS: Yes.

19 MICHAEL SLATER: No.

20 CHAIR JENKINS: Okay. I will go through
21 the procedure real quick.

22 The Board is legally authorized by the
23 Legislature not only to advise the Department
24 regarding the program but to hear appeals when that
25 department issues a citation or takes some adverse



1 action regarding license certification compliance.

2 The Board is a completely separate entity
3 from the Department and, as such, will independently
4 review the action taken by the Department. When the
5 Department issues penalties, the hearing is assigned
6 to the Office of Administrative Hearings to conduct
7 the hearing pursuant to the Administrative
8 Procedures Act.

9 The ALJ conducts that hearing and issues a
10 proposed decision and order. If either party
11 appeals, that is subject to review by the Board.
12 Keep in mind that while our view is de novo, in
13 other words we sit in the same position as a law
14 judge, and will review the entire record regardless
15 of whether a certain piece of evidence is referenced
16 by the ALJ. We are bound by the evidence on the
17 record and no new evidence can be submitted during a
18 hearing.

19 Each party will be given approximately 15
20 minutes to argue their merits of the case. Any
21 Board Member may ask questions and time be extended
22 at the discretion of the Board. At the conclusion
23 of the hearing, the Board will determine if findings
24 concluded by the ALJ are supported by the facts and
25 rules by the installations.



1 Are there any questions?

2 MICHAEL SLATER: No, not from me.

3 NATALIE ROBERTS: None from the Department.

4 CHAIR JENKINS: So looks like the
5 Department was the appealing party. I will give you
6 15 minutes to present your case.

7 NATALIE ROBERTS: Thank you, Chair.

8 Good morning, and hello, Board Members and
9 Chair. I am Natalie Roberts, Assistant Attorney
10 General, representing the Department of Labor &
11 Industries. This is a Department appeal from the
12 proposed decision and order from OAH that set aside
13 noncompliance citations ELYOD03658 and 3659 for
14 Michael and Grant Slater.

15 The evidence presented at the OAH hearing
16 showed that appellants Michael Slater and Grant
17 Slater, employees of Slatercom, performed electrical
18 work while working on the Kitsap County Fairgrounds
19 in Bremerton, Washington on June 25, 2024.

20 This is in violation of RCW 19.28.161,
21 which requires a person engaging in the electrical
22 construction trade to have a valid certificate of
23 competency or training certificate unless an
24 exemption, such as home owner exemption, would
25 apply. RCW 19.28.006 defines electrical



1 construction trade as, quote, includes, but not
2 limited to, installing or maintaining electrical
3 wire and equipment that are used for light, heat, or
4 power, and installing and maintaining remote
5 control, signaling power limited, or communications
6 circuit, end quote.

7 Here, both Michael and Grant Slater
8 performed electrical construction work without the
9 proper certification or training and did not fall
10 under any exemption. Michael Slater performed
11 electrical construction work when he uncreated
12 electrical equipment and assembled luminaires for
13 installation at Kitsap County Fairgrounds in
14 violation of RCW 19.28.161.

15 Here, Michael Slater did not have the
16 proper certification of competency to perform any
17 electrical work. As explained at the hearing, and
18 in his inspector statement, Michael and Grant Slater
19 had stated that they installed luminaires in the
20 strut in preparation for the electrical contractor,
21 Bull Run Electric, Inc.

22 However, Michael Slater explained that he
23 staged the area for new lighting fixtures by taking
24 the fixture boxes off the pallet, opening them,
25 pulling the visors out, and affixing the visors on



1 the fixture preparing the fixtures for installation.
2 While the Administrative Law Judge focused on
3 manipulating any electrical circuit component of the
4 definition, they failed to acknowledge the equipment
5 used for lighting portion, which matches that of
6 Inspector Lyon's definition.

7 Here, Michael Slater prepared a lighting
8 fixture specifically created for mounting the
9 luminaires on the poles for illumination. That
10 falls under the umbrella of the electrical
11 construction work as defined by statutes. Michael
12 Slater was not licensed to perform any electrical
13 work and work he performed did not fall into an
14 exemption.

15 Grant Slater performed electrical work when
16 he removed the old lighting fixtures and installed
17 mounts that were specifically designed to support
18 luminaires and did not have the proper certification
19 and competency -- or competency to perform any
20 electrical work. Grant Slater took down and removed
21 the old lighting and the old mounts.

22 RCW 19.28.161 references back to the
23 electrical construction trade, which still includes
24 installing or maintaining electrical wire or
25 equipment used for light. While the Administrative



1 Law Judge focused on, again, the electrical wire
2 component of the definition, they failed to
3 acknowledge the equipment used for light. This
4 would include lighting fixtures explicitly designed
5 for and support the luminaires.

6 Both Inspector Lyon and Merriam-Webster
7 Dictionary defines luminaires as the complete
8 lighting unit. Therefore, the work performed in
9 removing old lighting and old mounts was electrical
10 construction work that did not fall under the
11 demolition exemption and thus violated RCW
12 19.28.161.

13 Michael and Grant Slater did not have the
14 valid certificate of competency or training
15 certificate when the electrical construction work
16 was performed. Michael Slater performed electrical
17 construction work when he uncreated electrical
18 equipment and assembled luminaires, while Grant
19 Slater performed electrical work when he removed old
20 lighting fixtures and installed the mounts that were
21 specifically designed to support the luminaires.

22 Therefore, the Department respectfully
23 requests the noncompliance citations ELYOD03658 and
24 03659 and their associated penalties be reinstated
25 and affirmed. Thank you.



1 CHAIR JENKINS: Thank you, very much.
2 Michael Slater, the floor is yours.

3 MICHAEL SLATER: Thank you. Thank you,
4 Board, for hearing me out again.

5 Slatercom, we are just a DBA for Afcomm,
6 LLC. We have a general contractors license in the
7 state of Washington. And we are basically -- when
8 it comes to this work, we do lighting design and
9 supply, and then we help line out the project on
10 what the project needs component-wise.

11 And we are not electricians. We never ever
12 once ever advertised ourselves as such. That was
13 not disputed in the hearing. But the position with
14 the State that I just heard is actually incorrect.
15 Very misleading, which is exactly why Judge Nagle
16 reversed the order and basically acquitted us. So
17 the issue is that we never represented ourselves as
18 an electrical contractor.

19 Through this process, we have poured over,
20 and over, and over the RCWs that were mentioned
21 that the citations were based on. And Ms. Roberts
22 just read it to you. And it clearly said that if we
23 are handling installing luminaires or handling the
24 wires that were conductive for luminaires, then we
25 would need an electricians license. As you may



1 know, it is not uncommon for a general contractor to
2 do demo work.

3 I would like to start with the case of
4 Grant Slater. Because we did have an electrical sub
5 on us. This is really -- this keeps getting
6 ignored. We hired an electrical subcontractor.
7 They were on-site. They made sure the power was
8 killed. All we did is demolition. Grant Slater
9 just did demolition of the existing mounting,
10 including the fixtures. They were not going back
11 up. They were no longer carrying current. They
12 were going in the garbage, essentially, which is one
13 of the things we ended up doing at the end, is
14 cleaning up the site before leaving. Again, we had
15 an electrical subcontractor and doing the things we
16 know an electrical subcontractor needs to do.

17 Having been cited, the other misnomer, and
18 I made this very clear to Judge Nagle in the
19 administrative hearings process, what Inspector Lyon
20 said that we said was completely false. There is no
21 other way around it. There was a circle of us. I
22 can get statements if need be from the other
23 subcontractor. We were open with him. We never
24 tried to deny anything. But neither Grant Slater
25 nor myself said we installed lighting or cables.



1 Now, it turns out that another one of our
2 employees did. He was cited. We did not appeal
3 that. We felt like even that was a little bit of a
4 stretch. Because this is a little voltage up in the
5 air, and he was cleaning up cables. But we didn't
6 argue with that because of the wording of the RCW.

7 But Grant Slater or myself never did that,
8 and we never said we did. And Inspector Lyon said
9 an untruth when he put that in his report. And I
10 made that clear to Inspector Lyon. He was asked by
11 the Administrative Hearings Judge if he saw us doing
12 that, and he had to say no, because he didn't. So
13 there is some frustrations with that.

14 But really, what it comes down to, is the
15 wording of the RCWs and what we can and cannot do.
16 So we feel like we didn't -- Grant Slater, he was
17 just removing the old structure that was being
18 demolished and putting a new -- he put a new steel
19 structure up. But that is not the actual mount to
20 the light. The light fixture itself has its own
21 mount. This was just structure.

22 Now, in this process, I asked the Attorney
23 General's office, I said, please provide me with
24 more clear information and references as to why we
25 couldn't do what we were doing. They could not



1 provide me any. They provided me two items that,
2 one of them was a document on multijurisdictional
3 equipment. And it references two RCWs as well as
4 WAC 296-4a and WAC 296-41, I believe is what that
5 is. And it very closely matches the scenario that
6 we were in. And it says that -- and I'm quoting
7 from what I read "A license is generally not
8 required to assemble steel structures." This is
9 among other actions that were listed. That is the
10 one that most closely applied.

11 The poles were existing. We didn't do
12 anything with the poles. The mount have no -- they
13 had no part of grounding or anything like that. And
14 I bring that up because our electrical talked to
15 someone else with L&I who said, so long as the
16 mounting structure is not part of the grounding
17 system, there shouldn't be an issue, which is what
18 we thought all along.

19 And then, so there was an actual example
20 listed in the document that was sent to me. That
21 gave an example of a gas station canopy. Someone
22 has to build the canopy, lights attach to it. But
23 the GC can build the canopy, even if lights are
24 attached to it. That's what it said. I felt like
25 when I got that, well, that pretty much affirms what



1 I'm saying. And the thing is, is there was no
2 reference to even that document. I asked for it,
3 and none was ever provided. It was a copy of pages
4 but didn't list a reference.

5 There was a second document titled
6 what contractor status is required to set electrical
7 volts. We just simply didn't do anything in that
8 document. Nothing. Again, we asked for reference
9 of that and nothing came.

10 So anyway, we feel like there is rules
11 being made on the sly. Because I asked Inspector
12 Lyon during the administrator hearing, I said, where
13 does it state that we can't do this. His comment
14 was, and I'm paraphrasing, he said, well, we can't
15 just include everything in the RCWs. Then how is
16 a contractor like us supposed to work, you know?

17 If you build a wall and someone ends up
18 putting a light on the wall, you could fine anybody.
19 If Home Depot is assembling a light fixture in their
20 store, their employee should be fired. Where does
21 this stop? And, again, I was asking the Attorney
22 General's office early on, please provide me more
23 definitive references. Okay, fine. If you can show
24 me where it specifically says we can't do this, and
25 nothing could be provided.



1 So I feel like it is a case of inspector
2 maybe making rules on the fly. Interpreting rules
3 on the fly. And that's the reason we appealed.
4 This isn't right. And we felt like everything we
5 read in RCW 19.2.161 and even the ahead in 19.28 we
6 weren't in violation of any of that.

7 Now, me, let's talk about Mike Slater,
8 Michael. So we are a distributor for fixtures. The
9 way the fixtures comes in a box, they are completed.
10 I did not assemble a lighting fixture. It is
11 already assembled. What we did, is we ordered the
12 fixtures with an accessory visor. It is just a
13 physical visor that goes on the front of the
14 fixture.

15 So I unboxed the fixtures. I just screwed
16 the visors on. I set it back down. I didn't touch
17 wiring or anything. Electricians took the fixtures
18 and put them in. We have a responsibility as the
19 lighting distributor to provide the customer a
20 completed fixture. They come that way so the visor
21 and fixture doesn't get damaged in transit. But
22 again, it has nothing to do with assembling the
23 fixture. The visor isn't a necessary item, but it
24 dang sure doesn't have anything to do with
25 conducting power, or grounding, or anything like



1 that. Just an accessory item.

2 So our goal in doing the things we were
3 doing is just to help the electricians that we hired
4 be more efficient in the process. This was all
5 presented to Judge Nagle, and he set aside our
6 citations. He asked very good questions. I'm not a
7 lawyer. I certainly could have done a better job if
8 I was a lawyer presenting our case. But I think he
9 could see what we were saying. And he interviewed
10 Inspector Lyon and, you know, he vouched for the
11 things that we did and didn't do.

12 So I appreciate you letting me explain
13 this, and I would be glad to answer any questions.

14 CHAIR JENKINS: Thank you, very much.
15 Board Members, any questions or comments from Board
16 Members? Gregory Johnson?

17 BOARD MEMBER JOHNSON: Yeah. So
18 Mrs. Roberts, in both your oral remarks and also
19 your Department brief, you highlighted the most
20 relevant excerpt from the Electrical Construction
21 Trade definition provided in RCW 19.28.006
22 emphasizing the phrase "equipment" that are used for
23 light. But I was wondering, were you aware that the
24 word "equipment" is also a defined term in that same
25 statute?



1 And if so, if you have that statute up, I
2 would -- I will just read that, because "equipment,"
3 the definition of "equipment" is very relevant to
4 this case. Equipment means any equipment or
5 apparatus that directly uses, conducts, insulates,
6 or is operated by electricity. But does not mean
7 plug-in, and it continues on about plugging in
8 appliances and equipment.

9 So the question is, pertaining -- there is
10 a lot of different functions in this that were cited
11 that Slatercom performed. But pertaining just to
12 the mounts, just the mounts itself, what portion of
13 the -- if mounts are considered equipment, what
14 direct function would that qualify under? Is it
15 uses, conducts, or operated by electricity?

16 NATALIE ROBERTS: I'm reviewing my notes.

17 CHAIR JENKINS: While she is doing that,
18 Wayne Molesworth, did you have something that you
19 wanted to bring up that may not include Natalie's
20 information? You're muted, by the way.

21 SECRETARY MOLESWORTH: Natalie is looking
22 for that, that's fine. I can make my comments
23 afterwards about the fixture mounting brackets.

24 CHAIR JENKINS: Okay.

25 NATALIE ROBERTS: I will say, my



1 understanding, and, again, I'm an attorney, not an
2 electrician, so please give me grace, is that the
3 luminaire mounting system was specifically designed
4 for luminaires to be mounted on the pole.

5 BOARD MEMBER JOHNSON: But the statute
6 doesn't state what it is designed for. It states it
7 has to be direct, not indirect, which is a key term.
8 If it is an indirect, that would be different. But
9 if it directly uses, or operates, or conducts
10 electricity, that is a pretty important thing for
11 uses.

12 I mean, obviously we understand what the
13 use is. Conducts, which would be, I mean, wires are
14 predefined. But transfers energy or insulates,
15 which you can arguably call things like conduit,
16 which shields, as maybe grossly being insulated
17 because it keeps people -- for fronts or insulation
18 or if it is operated by electricity.

19 So if the mount is an integral part of the
20 fixture, the light fixture, then that would be,
21 could be, considered equipment. But if the mount is
22 a separate piece, and it is not even UL listed as
23 part of the fixture -- so if you look at the UL
24 listing of a device, and if it is UL listed as a
25 full unit, then you can make the argument. But if



1 it's not, if the mount, which in one place is a
2 unistrut, another place saying angle iron. Either
3 way, I can tell you neither of those are listed as
4 part of a light fixture. They are separate items
5 pertaining to the mount. There is more to unpack in
6 this case. There are much more functions that were
7 performed.

8 But just merely mounting a mount, I would
9 argue that portion is not necessarily electrical
10 work. But, I mean, there are other things we have
11 to unpack also.

12 CHAIR JENKINS: Okay. Looks like we are on
13 to Wayne Molesworth.

14 SECRETARY MOLESWORTH: I will just make an
15 equipment comment about the mounts.

16 Without the mount, the fixture doesn't stay
17 in place. And if you mount a fixture to a mount
18 that is not adequately secured, the fixture falls
19 off the pole. Right? And so part of the electrical
20 installation, and I agree with Mr. Johnson, that
21 there is a lot of light fixtures that come with
22 brackets that are designed for that. Is that
23 fixture designed to mount on any specific type of a
24 bracket, Ms. Roberts? It may not be. And then it
25 is up to the electrician to determine what is



1 satisfactory to be able to mount to. Right? So
2 that would be my understanding of when we are
3 talking about just the brackets.

4 The other part of this is that mounting the
5 diffusers to the -- or the shield, whatever it was,
6 to the light fixture, that is assembly of a light
7 fixture or components of the light fixture. And so
8 it is considered electrical work. And we have
9 supervised trainees that take part in that
10 electrical work everyday that are certified and
11 employed by licensed contractors.

12 As far as demolition work, I would like to
13 ask the contractor here, what is the exemption --
14 when does the exemption allow you to demo electrical
15 work?

16 MICHAEL SLATER: Yeah. I will respond to
17 that. Well, where is the prohibition to this whole,
18 you know, demolition of any structures that are
19 going to refuse. And it is just kind of -- it is
20 well known practice within contracting, within the
21 contracting world, that GCs often do demo on a
22 project. That is, essentially, what we were doing.

23 And their demo, I get told -- I have
24 electricians that I work with. And discussing this,
25 everyone was just shocked. Because they are like,



1 this happens everyday. Everyday GCs are doing
2 demolition. It is standard industry practice, I
3 guess is my answer to that. And if I may quickly
4 respond to the previous too, Ms. Roberts was asked
5 about the mount, if she knew if it was required.
6 The fixture comes with the mount. If we wanted to,
7 we could have bolted the fixture right to the wood
8 pole. We could have had the electricians bolt it
9 right to the wood pole. It's just a cleaner and
10 nicer look, anyway, if you have an interface that it
11 goes to. And, again, those have no grounding,
12 nothing to them.

13 There are cases when we have electricians
14 put up directly to a pole up there, depending on the
15 number of fixtures that need to go on it. They come
16 with their own mount. As far as the visor, again,
17 it is not even a required part. It has nothing to
18 do with the fixture function. It is an aesthetic
19 thing, too.

20 SECRETARY MOLESWORTH: It is an additional
21 piece of electrical equipment that is attached to
22 electrical equipment as an alternate piece. So let
23 me go back. The fact that the industry isn't aware
24 that there are -- there is an exception, other than
25 for certified electricians and licensed contractors



1 to do demo work, does not allow you to do demo work.
2 Because you didn't know the exemption, I would say
3 that you really didn't pay attention.

4 The demo work can only be done if the wires
5 are removed from the power source. That does not
6 mean breakers turned off. That means it is removed
7 from the panel, from the circuit breaker, physically
8 so it can't be turned back on. That is actually
9 probably in Ms. Roberts notes, that that wasn't the
10 case, that they recognize that it was the breaker
11 may have only been turned off. But that doesn't
12 mean you can do the demo work.

13 MICHAEL SLATER: If I can respond quickly,
14 because I'm on my phone so I can't see where you are
15 at in your break point, but we were told by the
16 electricians we were good to do it, so we assume
17 everything is clear.

18 I disagree with the full premise of what
19 you are saying. I respect it, but I disagree with
20 it. We don't demolish live hot wires. All we did
21 is took the mounts down. They took the conduit.
22 They are the ones that did the rest of the
23 electrical installation. My point is, is that we
24 did have the licensed GC and we were working under
25 their direction on that.



1 SECRETARY MOLESWORTH: And I would be
2 curious, because if the light fixture was listed
3 with the mounting bracket, and listed that way,
4 using that bracket, that bracket has to be used. So
5 because it is listed to be mounted in that way. So
6 by not using that bracket, by determining that other
7 brackets would look better, I would say that is in
8 violation as well.

9 But that's all I was going to say about
10 that. I just wanted to know from the demolition
11 standpoint if you knew the exception and if brackets
12 are important to hold the light fixtures in place
13 correctly. That's why we use certified electricians
14 to do it.

15 MICHAEL SLATER: Okay. Final note from me
16 is that mount was not required to go with that
17 fixture. Nothing is mentioned in the manufacturers
18 guidelines on that. I can send them to whomever.

19 CHAIR JENKINS: Thank you, very much, Wayne
20 Molesworth. Now to Greg Johnson.

21 BOARD MEMBER JOHNSON: Wayne is correct on
22 the visor. The visor is listed on the fixture. On
23 that point assembling a visor, I know it may seem
24 simple. Though, it was noted in the administrative
25 hearing on page 74 in the Board packet that several



1 screws were used to assemble that. That is not just
2 a snap-in. That is a screw-on. One thing to note
3 is screwing on a visor, if that visor is listed as
4 part of the fixture, that would be considered
5 electrical work because it is listed as a full unit.
6 So that is one key point. So on that point, I
7 believe you guys are in violation.

8 Circling back to the mounts, and Ben, keep
9 me in check because I might borderline elicit new
10 testimony and testimony is closed, but it seems like
11 the mount came with the fixture. So that is -- if
12 the -- if that's an unknown, because that's the
13 first time that was noted and not in the record. So
14 I think if it came with the fixture as part of it,
15 it is listed as one unit. Then you would be in
16 violation. If it was just provided by the
17 manufacturer and listed as a separate component,
18 then you could be safe. I just mention that more
19 for your understanding. Not necessarily because in
20 the evidence record, there was no note that it came
21 with a fixture. It was just provided by you guys.

22 Moving on to the other work, so there is --
23 so the evidence record is a little bit sparse. It
24 doesn't have a lot in there. The hard part that
25 I'm -- so obviously, I think Michael Slater did do a



1 violation with the assembly. But the unknown on the
2 rest of it is, this is a case of even if there are
3 certain functions that you are doing that are okay,
4 you are kind of really going up against a line.

5 It is kind of like my 6-year-old daughter.
6 I give her a sucker and say, don't eat it until you
7 get home. She is like, I didn't eat it. I'm just
8 taking the wrapper off, and looking at it, and just
9 sniffing it. There is a point where then it is all
10 gone.

11 So I guess I will say that some functions I
12 think you crossed the line and some functions you
13 are going way up close to that line. So I would
14 caution you guys.

15 MICHAEL SLATER: Okay. Can I make a quick
16 response?

17 BOARD MEMBER JOHNSON: Sure.

18 MICHAEL SLATER: To answer your question.

19 CHAIR JENKINS: Go ahead.

20 MICHAEL SLATER: I was just going to say,
21 to answer your question about the mount, no, the
22 mount that we installed is not part of the fixture
23 assembly. The fixture comes with its own mount.
24 That gets affixed to the structural mount. And the
25 structural mount is just something we provide



1 separately. It is not part of the system.

2 My only other comment about the visor is
3 reading RCW on what we are cited upon, it is not
4 transmitting, conducting electricity, or any of the
5 things that I could read in that. So it makes it
6 confusing for a contractor to try to understand.

7 CHAIR JENKINS: Okay. Any other Electrical
8 Board members want to chime in?

9 Gregory Johnson?

10 BOARD MEMBER JOHNSON: I got one more thing
11 to add that I note. Not necessarily directly
12 applicable to this case, but inside the hearing
13 transcript, there was a note that you guys design
14 lighting systems. And I would just advise you to go
15 check with your attorney on that because designing
16 lighting is a regulated practice by the Engineering
17 Board. And so it is a licensed engineering
18 function. So not what we are deciding today. We
19 are a different entity. But I would advise you to
20 check with your attorney on that so you don't run
21 afoul.

22 MICHAEL SLATER: Okay. We do metrics. I
23 don't know if that crosses that line, but we can
24 check.

25 CHAIR JENKINS: Any questions or comments



1 from the Electrical Board? I will put my \$0.02 in
2 here.

3 Any type of fixture assembly, removal, and
4 reinstallation of fixtures is not demo work. If you
5 are actually removing the entire system, if you are
6 out there and they disconnect the cables, and you
7 are ripping out poles, and you are going to put new
8 poles in next week, that would be demo work. But to
9 remove and replace a fixture is not demo work.

10 And lastly, talking about different devices
11 and the mounts on the fixtures, something I think we
12 all need to be, you know, aware of, why we have
13 these in place anyway, I was looking at some of your
14 fixtures of the locations you were putting light
15 fixtures, and they are really high up in the air.
16 If you are competent, and I assume you all are, but
17 maybe other people are not so much, but if you are
18 confident and install it greatly, nothing will
19 happen. What happens when the light visor is not
20 quite screwed in and it falls on the crowd below?
21 Or if the fixture is doing something crazy and the
22 mount you put up there is not capable of supporting
23 the fixture?

24 All this stuff is why we have electrical
25 licensure and why we have the training we do.



1 That's why we pretty much say, don't do that stuff
2 out there. That is electrician work. And I'm not
3 saying you as a company, Slater, are more
4 installers, but we have to speak for the entire
5 state of Washington, not just to an individual
6 installer.

7 And it looks like we have AAG Natalie
8 Roberts.

9 NATALIE ROBERTS: Yes. Thank you, Chair.
10 I do want to make a clear record that Afcomm, who
11 has Slatercom as a subsidiary, is not a general
12 contractor in Washington at the time of the hearing.
13 And Slatercom was also not a general contractor or
14 an electrical contractor at the time of this hearing
15 or time of the violations.

16 CHAIR JENKINS: Thank you, very much. Any
17 other questions or comments?

18 MICHAEL SLATER: Yeah. This is Mike
19 Slater. We were a contractor. There's been stuff
20 happening. We had an active Washington GC license
21 for years that we've kept valid. That is a whole
22 different fight with the Department.

23 CHAIR JENKINS: Chair Jenkins here.
24 Anybody else that needs to speak?

25 (No response)



1 CHAIR JENKINS: Hearing none, the Chair
2 would entertain a motion.

3 BOARD MEMBER JOHNSON: Yeah, I'll make a
4 motion. I'll make a motion that regarding the
5 violation of ELYOD03658, issued to Michael Slater,
6 that we reverse that and say he was in violation for
7 assembling the light fixture in regard to the visor,
8 specifically.

9 And then, we would affirm Grant Slater did
10 not -- he did not do electrical work because there
11 is not sufficient evidence -- I mean, he may have or
12 may not, but there is not sufficient evidence to
13 show that he did. Just taking down light fixtures,
14 assuming that the conductors were removed, and just
15 putting up mounts does not qualify as electrical
16 work.

17 CHAIR JENKINS: To recap, the motion is to
18 reverse citation notice ELYOD03658 and to affirm
19 ELYOD03659. Is that correct?

20 BOARD MEMBER JOHNSON: That is correct.

21 CHAIR JENKINS: We have a motion. Do we
22 have a second?

23 BOARD MEMBER NORD: Board Member Nord,
24 second.

25 CHAIR JENKINS: We have a second. Any



1 discussion?

2 BOARD MEMBER KNOTTINGHAM: I'm sorry. Can
3 I ask to have these separate?

4 BOARD MEMBER COX: Board Member Cox will
5 second the motion to separate.

6 CHAIR JENKINS: We have a motion and second
7 to withdraw -- not withdraw, to separate the two
8 motions. All in favor? Or discussion?

9 (No response)

10 CHAIR JENKINS: Hearing none, all in favor,
11 say aye.

12 (Chorus of ayes)

13 CHAIR JENKINS: Any opposed?

14 (No response)

15 CHAIR JENKINS: That motion passes.

16 So going back to the original motion, would
17 you like to withdraw your motion to change it to two
18 motions?

19 BOARD MEMBER JOHNSON: Point of order, just
20 to clarify. I believe under Roberts rules that
21 doesn't require a vote. I believe the thing was
22 divide the question. All it takes is a single
23 member to say "divide the question" and then you are
24 required to vote on them separately.

25 Moot point probably because we are all in



1 agreement.

2 CHAIR JENKINS: So Board Member Johnson, do
3 you have a motion --

4 BOARD MEMBER JOHNSON: The first portion of
5 dividing the question is that we would reverse the
6 ALJ's ruling on Michael Slater, that is ELYOD03658.
7 And that is saying you would be in violation because
8 he assembled visors on a fixture.

9 CHAIR JENKINS: So the motion is sitting on
10 the floor now. The first motion is to reverse the
11 ALJ's decision on ELYOD03658. Do we have a second
12 in?

13 BOARD MEMBER NORD: Board Member Nord,
14 second.

15 CHAIR JENKINS: We have a motion and
16 second. Any discussion?

17 (No response)

18 Hearing none, all in favor, indicate by
19 saying aye.

20 (Chorus of ayes)

21 CHAIR JENKINS: Any opposed?

22 (No response)

23 CHAIR JENKINS: That motion passes.

24 Moving on to your second motion, is to
25 uphold ELYOD03659.



1 I'm assuming that's your motion?

2 BOARD MEMBER JOHNSON: It is to affirm the
3 ALJ's decision to dismiss that violation.

4 CHAIR JENKINS: Okay. Second?

5 BOARD MEMBER NORD: Board Member Nord,
6 second.

7 CHAIR JENKINS: Motion and second. Any
8 discussion? I see Bobby Gray. Do you have your
9 hand up for a reason? If it is, you are muted.

10 BOARD MEMBER GRAY: Yeah, sorry. I wish to
11 speak in opposition of the motion. Installing
12 supports is clearly covered under the National
13 Electrical Code. And so that would be part of an
14 overall installation. And so I think the appellant
15 did perform electrical work without an adequate
16 license. Thank you, Mr. Chair.

17 CHAIR JENKINS: Thank you, Bobby Gray. Any
18 comments? Looks like Board Member Johnson?

19 BOARD MEMBER JOHNSON: Yeah. That's a
20 great point to discuss. I will give you a good
21 example: Bridges. So in bridges, when they have
22 all of the conduits that pass bridges, they have --
23 usually, they have a joint shared bridge where the
24 unistrut attachments are used by multiple different
25 entities, not all electrical. They might have water



1 and stuff. Same thing happens in really large
2 commercial construction. They have a general
3 contractor install, shoot in the anchor points in
4 the concrete, and run the threaded rod and the
5 unistrut rack. Then you will have the plumber use
6 it and they put your stuff on it. You have the
7 electrician put it on there. You have a bunch of
8 other entities put it on that rack.

9 So being a joint unistrut system, I mean,
10 it would be ridiculous to say, well, yeah, you have
11 to be a licensed electrician to -- what about the
12 plumber? They are all sharing the same support.
13 And I don't see that in the RCWs. If I go back to
14 the definition, the support itself, how far would
15 you take it? You have to be a licensed electrician
16 to install a light pole? Usually, that's the
17 general contractor who does it, the light pole.

18 Or what about going as far as running
19 conduit being supported by rafters? And in wood
20 construction, those rafters are installed by a
21 general contractor. So that would be my argument on
22 saying, I don't think the supports quite meet the --
23 while it is common to have an electrician do it, I
24 don't believe the support meets that bar.

25 CHAIR JENKINS: Chair Jenkins here. I will



1 support our last, Bobby Gray's comment. When you
2 talk about fixture supports, I think it says it in
3 the name. A fixture support. When you talk about
4 unistrut of a wall, that there are multitrades that
5 are using, that is one thing. When you are talking
6 about the hangers used for all of our conduits, that
7 we run a rack of conduits down instead of the middle
8 somewhere. That wiring, hanger support that we put
9 in, that's electrical work.

10 Now, if the plumber attaches to it, it
11 wasn't originally meant for that, and a lot of times
12 we don't allow them to attach to it because it is
13 electrical installation. And so I disagree with the
14 idea that a fixture support that anybody can
15 install. It is because even its name is
16 specifically set to hang that fixture. It isn't set
17 to hang plumbing or any other item.

18 Wayne Molesworth?

19 SECRETARY MOLESWORTH: Yeah, I would just
20 echo that. These are specific to fixture support.
21 They are not a multiuse rack. They are specific to
22 that fixture installation. And I think that because
23 they are in the NEC. We adopt NECS for RCW and WAC.
24 So therefore, I find that they are part of the
25 electrical work and part of the electrical



1 installation.

2 CHAIR JENKINS: Any other comments from the
3 Electrical Board? The current motion we have on the
4 floor is to uphold the item ending in 3659.

5 Wayne Molesworth, you have your hand up
6 still? Just checking. All right. Hearing no
7 objection, all in favor, say aye.

8 BOARD MEMBER JOHNSON: Aye.

9 CHAIR JENKINS: Opposed?

10 (Chorus of opposed)

11 CHAIR JENKINS: Motion fails, ELYOD03659.

12 BOARD MEMBER KNOTTINGHAM: Board Member
13 Nottingham. I make a motion to overturn ALJ's
14 decision and affirm the citation ELYOD03659 for
15 Grant Slater performing electrical work by putting
16 up brackets for lighting.

17 CHAIR JENKINS: We have a motion. Do we
18 have a second? One person at time, please.

19 BOARD MEMBER NORD: Board Member Nord,
20 second.

21 CHAIR JENKINS: Motion and second. Any
22 discussion?

23 (No response)

24 CHAIR JENKINS: Hearing none, all in favor,
25 indicate by saying aye.



1 (No response)

2 CHAIR JENKINS: Nays?

3 BOARD MEMBER JOHNSON: Nay.

4 CHAIR JENKINS: Motion passes.

5 Natalie Roberts, please get a hold of
6 Michael Slater to reach an agreement that represents
7 the decision of the Board. If you do not reach an
8 agreement today, the matter will be automatically
9 set for the next regularly scheduled Board meeting.
10 If an agreed order has not been received by that
11 date, the parties will be expected to file their
12 proposed orders to appear and advise with their
13 proposed order what best reflects the Board
14 decision.

15 Hopefully, that is not necessary. If you
16 are able to reach an agreement to the form of the
17 order before the next meeting, please forward it to
18 the Secretary of the Board's office, and they will
19 get it signed and copies provided.

20 Thank you, very much, for your time.

21 NATALIE ROBERTS: Thank you, Board.

22 CHAIR JENKINS: All right. Moving on to
23 our next agenda item.

24 We are up to Certification/CEU Quarterly
25 Reports by Secretary Larry Vance.



1 CERTIFICATION/CEU QUARTERLY REPORT, LARRY VANCE

2

3

CHAIR JENKINS: Are you available?

4

LARRY VANCE: I am. Thank you, Chair

5

Jenkins.

6

My name is Larry Vance. I would like to

7

share with you today a document you've been provided

8

regarding a summary of pass rates by attempts.

9

Shows what people do as they approach the exam, if

10

they pass on the first attempt. Then, second

11

attempt, and so on and so forth. This is not one

12

particular group of people. It is a whole body of

13

people attempting the exam. So you may have someone

14

previously in an entire year that shows up on this,

15

and you may have someone that made their first

16

attempt on this. So it is not perfect, but it gives

17

you a good example of what is going on.

18

See if I can share this here. Here we go.

19

Here we go. So while electricians are the

20

most populous group, there is over 8,000 of them

21

certified in Washington. It's the largest group

22

that attempts the exam. And on the first time

23

attempt here, it is right around roughly 48 percent

24

there. And roughly 1,041 attempted the exam. That

25

does fluctuate over time. Sometimes when I run this



1 report, this report is for the previous year,
2 September previous one year. So that number does
3 fluctuate, but not greatly.

4 It is strange that a very down economy, the
5 number actually goes up sometimes. There is no
6 rhyme or reason for it. It is the economy of the
7 state that drives how many people are coming into
8 the state and then also how many people are employed
9 and get to reach qualification for the exam. That
10 is kind of the status of the exams, that 48 percent
11 is right within the norms.

12 Just for contrast, for contrast here --
13 where is my document? If we were to look down at
14 the -- this is the '02 residential specialty exam.
15 And here, it is a little different. It is roughly
16 27 percent first-time pass rate. And there is 669
17 first attempts. So it is not as good there. And in
18 the past, I have talked about possibly why isn't
19 this good. And this is a 4,000-hour training.
20 4,000-hour training requirement to qualify for the
21 exam.

22 And while there are a few apprenticeship
23 programs, most of these people are just learning on
24 the job. They have a requirement for 48 hours of
25 classroom training in order to qualify for the exam.



1 So there is just not -- it is not a high bar to
2 qualify for this exam, so to speak, on the education
3 side. So a lot of these people begin preparation
4 for the exam right at the time they are taking the
5 exam. And they may be taking a path that where they
6 are studying in preparation for the exam comes
7 through taking the exam. So that is why there could
8 be the number of attempts that there are here.

9 It is an open-book exam. You can bring in
10 any copyrighted material. It is just being familiar
11 with the material is the important part. With that,
12 are there any questions from anyone?

13 CHAIR JENKINS: Board Member Cox?

14 BOARD MEMBER COX: Thank you, Chair.

15 I know you have shown us this before.
16 There was attempt zero and one person passed. Can
17 you explain, again, what attempt zero is?

18 LARRY VANCE: Gosh, you will make me dig it
19 up.

20 BOARD MEMBER COX: Well, one person
21 passed -- is zero really the first attempt and one
22 is the second attempt?

23 LARRY VANCE: It's not. Anywhere in their
24 area of attempts -- in other words, it is something
25 that falls out and then the only way to put it back



1 in the system is the zero.

2 BOARD MEMBER COX: Okay, I know you
3 explained it before. Thank you for clarifying.

4 LARRY VANCE: Thank you.

5 CHAIR JENKINS: Okay. Next, I think this
6 is the exam provider update.

7 LARRY VANCE: Yes.

8

9 EXAM PROVIDER UPDATE, LARRY VANCE

10

11 LARRY VANCE: As we have reported to the
12 Board before, we have put the exam contract out for
13 bid. It is a no-key contract. We have received
14 proposals from three bidders.

15 One of the proposals simply stated that
16 they weren't going to bid on it. And then there was
17 two that submitted, that responded to the RFP. We
18 are in the process of evaluating those RFPs right
19 now, the responses. And we will be updating the
20 Board as we move through that process when we get to
21 the final selection process. We will, of course,
22 update the Board.

23 It is quite a lift looking at the number of
24 people that are in the exam system currently. To
25 transition exam providers is a big lift. One of the



1 bidders is the current exam provider. Whichever
2 direction the Department decides to go is a bit of
3 an endeavor. It may be easier to continue with the
4 exam provider. At the same time we deploy with the
5 successful bidder, we are going to be deploying the
6 exam base.

7 CHAIR JENKINS: Mike Nord, your mic is on.

8 LARRY VANCE: All right. So I don't know
9 right where I was, but essentially we will be -- we
10 are going to be updating the exam to be based on the
11 2023 National Electric Code. We have also got
12 rulemaking that we are going to brief the Board on
13 here in a few minutes that also affects the exam.
14 We are proposing some rules that make a little
15 difference in how the exam was administered. So it
16 is a big endeavor. But we're on the road to getting
17 there, to getting it done.

18 CHAIR JENKINS: Any questions from Board
19 Members to exam provider updates?

20 (No response)

21 CHAIR JENKINS: Hearing none.

22 Looks like I'm assuming you have no updates
23 also?

24 LARRY VANCE: I'm going to be providing
25 Update 1. I believe randy Barnes is providing



1 Update 2.

2

3

RULEMAKING UPDATES 1 & 2

4

5

CHAIR JENKINS: Looks like you're
6 up-to-date, then. No. 1.

6

7

LARRY VANCE: Yes. Let me get to another
8 document.

8

9

10

All right. Well, in our -- in the last
Board meeting we discussed that we were considering
11 rules on electric vehicle infrastructure.

11

12

Specifically, rules that apply to installation of
13 electric vehicle supply equipment. And those are
the result of Legislation that passed that required
14 a certification in addition to an electrician
15 certificate to install that equipment. That put us
16 in the position of needing to make rules.

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Those rules, that law, comes into effect on
January 1st of 2026. So it is cutting -- while it
does come into effect then, it is coming into effect
for projects awarded after that date. So the actual
time when you could be seeing this equipment
installed, there would be a little bit of a lag, of
course. Given the necessity to make rules there, we
also talked with the Board about maybe changing the



1 approach to the exam somewhat.

2 That is something we are able to group with
3 this rulemaking. So I can just dive right in. What
4 this is, you what are looking at, is you are looking
5 at nearly probably a final draft of the rule before
6 we file a 102. In other words, this is kind of a
7 final draft of the proposed rule but not a draft of
8 the proposed rule. Changes after this would be
9 probably quite minor. But we also have a period of
10 public input.

11 And this isn't the final rule. This is a
12 preliminary look at whether it could be the proposed
13 rule. So I don't want to misrepresent it in any way
14 that it is something we're going to enact. You will
15 see a draft all over it. I will leave it up to the
16 Board how in-depth they want to get. Again, it is
17 nothing more than a draft at this point.

18 CHAIR JENKINS: Board Member Gregory
19 Johnson?

20 BOARD MEMBER JOHNSON: Yeah, I don't see
21 anything in here about the homeowner exempts or
22 building owner exemption. So what is the sense of
23 how that would apply here? Like, would there still
24 be maintained an exemption for folks who own and
25 operate a building?



1 LARRY VANCE: Only on public works
2 projects. And public works are defined by the
3 statute that is referenced there. And when we get
4 to that part, I can dive into that a little further.
5 So this is publicly funded work that -- it doesn't
6 apply everywhere. Only on projects that are
7 publicly funded, public works projects.

8 BOARD MEMBER JOHNSON: Thank you for that
9 clarification. I scrolled through it and missed
10 that portion.

11 LARRY VANCE: So I will just start in here
12 and we will kind of -- there is a lot of
13 housekeeping in here.

14 Many of the changes here that I'm
15 displaying currently, just to -- these are
16 clarifications of terms, a little bit more clarity
17 around exactly more to match other sections of the
18 Washington Administrative Code. So it is just
19 important to have clear terminology. That's all
20 this is. We are also going to see a lot of style
21 changes regarding how numbers are displayed.
22 Whether the number is shown as a numeric value or an
23 Alpha numeric, you know, a word for the number.

24 So this goes into the change we talked
25 about. We talked about a change pertaining to how



1 an administrator approaches the exam. Right now
2 there is no qualifications for an administrator to
3 take the exam. It is contact the exam provider
4 directly. Once you pass your exam, you take your
5 passing score sheets. There is a certification fee.
6 You mail those score sheets and certification fee to
7 the Department. And this is your application for
8 certification of the Department. It is kind of
9 rudimentary. We don't know who is taking the exam
10 at any given time.

11 And the issue that we're really struggling
12 with is having the unique identifier for the
13 candidates, other than their Social Security number.
14 And there's been Legislation surrounding Social
15 Security number and government agencies using them.
16 We don't use those numbers. We created a system
17 where we don't ever get their Social Security number
18 as a result of any exam activity. But the exam
19 providers are using it. And we are getting pushback
20 from people.

21 We currently have a process where somebody,
22 electricians for instance, they contact the
23 Department with an application. They end up, when
24 their application is approved, with a unique exam
25 identifier. That is something the Department



1 generates from the computer system. We will do the
2 same thing for administrators. It is a no-fee
3 interface where all they do, they go to a website,
4 to an interface. They will put in the information
5 that is required under the rule that it is, that
6 will come up, and they will get an exam unique ID
7 number.

8 We will also transmit that exam unique ID
9 number to the testing -- the testing -- our testing
10 contractor. This just creates a system where it is
11 exactly like -- it is exactly like the electricians.
12 It also allows the testing provider to start the
13 clock and stop the clock, as far as when is enough
14 exam attempts enough.

15 In other words, we will talk about -- we
16 will talk about the interval of exam approval. And
17 currently, that is a year. This rule will propose
18 it to be two years. And the purpose of that is that
19 we don't see any value in someone having to reapply.
20 We also have rules in place that if you fail to pass
21 the exam three times within the exam approval period
22 or the exam period that we define, you are going to
23 go from being able to attempt the exam every two
24 weeks, to every two months. And the reason we are
25 going from, right now it is three months. Now we



1 are going to go to two months. We want to make sure
2 that the people have the ability to take the exam
3 that is available to them four times a year.

4 So I'm spending an awful lot of time
5 talking, and I'm not going to read this. I'm not
6 going to take -- I'm not going to read this to the
7 Board members here. But a lot of things we are
8 doing here is adding clarity around some things.

9 For instance, the rule alludes that an
10 electrical administrative assistant isn't someone
11 able to do electrical work. This section I'm
12 displaying right now further clarifies that. A
13 lot -- I jumped ahead. I want to make sure -- sorry
14 for the scroll here. Yes. So if you are a
15 telecommunications administrator, you can go out and
16 do all of the telecommunications work you want, for
17 instance. We make it clear here. There is an
18 exemption in the law for telecommunications work.
19 But if it is work that is regulated, you cannot do
20 that work. So more clarity than the rule.

21 So this is further clarity. It is very
22 interesting that the rule, for whatever reason,
23 never required somebody's full legal name on their
24 application. We have always asked for on the form,
25 but for some reason it is not in the rule. Here we



1 are making a reference to the unique candidate
2 identification number that we're implementing.

3 More clarification. We always struggle
4 with adding more words to something, but sometimes
5 when there is fewer words, we don't know what is
6 being -- what specifically is being addressed. So
7 part of this is -- part of this is -- is conveying
8 through the rule what happens. We have a lot of
9 rules that let people know what they can do, but the
10 rule doesn't say what happens if they do that.

11 Like as an administrator you can renew
12 late. We talk about that in the rule. We don't let
13 you know that, well, if you renew late, if you
14 expire, then you are unassigned from your
15 contractor, and that contractor is going to have to
16 reassign you.

17 We don't tell you that if you're unassigned
18 for more than 90 days that the contractor will
19 become suspended. These are all things that are
20 results of the allowance that's in the rule. So
21 what we've done is we've added that language. So
22 that when someone is reading that, they understand
23 that oh, I can renew late. But if I renew late,
24 this is what happens, and this is what I need to do.
25 I need to reassign and do that within 90 days,



1 otherwise my contractor that I'm assigned to becomes
2 suspended.

3 So we're adding this not just because we
4 think we need to. We are adding it because of
5 feedback from people that are regulated under these
6 regulations. They often comment, well, it says I
7 can renew late. Where does it say that this is
8 going to happen? Well, if you're not -- if you're
9 not renewed, you're expired. There is no provision
10 in the law to assign an expired administrator to a
11 contractor. So the result is, you're unassigned.
12 Long story short, this is just a lot of -- this is
13 just for the benefit of those who are regulated.
14 More words, but clearer.

15 For instance, there is a requirement here
16 that says if a certificate -- it is a requirement
17 presently in the law. Again, we've got a rule that
18 says, hey, you can renew late. But where does it
19 say that, how do I know reading the rule that I got
20 to pay twice the usual fee? Why? So more clarity.

21 This is more information about -- this is
22 more information about -- let's see. I'm on a
23 laptop screen, not a large monitor. So I'm
24 struggling like all the rest of us here. So this is
25 talking about -- this is talking about the ability



1 of an administrator to renew their certificate in
2 that status. It happens. So it's your birthday.
3 You haven't renewed -- you haven't completed your
4 education requirements. You want to avoid having to
5 retest. So you go ahead and renew inactive status.
6 So this is what these changes add clarity to. It is
7 simply just -- you can renew and be in active
8 status. It is going to cost you twice if you're
9 expired. It'll cost you twice the usual fee.

10 And to maintain the inactive status, you've
11 got to renew your certificate no longer than 90 days
12 after the application certificate. Let's say that
13 the only thing you are is an electrical
14 administrator. You're not an electrician or
15 anything. You don't want to go through the process
16 of completing your education. You can keep your
17 administrator certificate in active status
18 indefinitely as long as you renew it before the
19 expiration date.

20 If you want to just pay the straight fee,
21 certainly renew it within 90 days. Because if you
22 do not renew it within 90 days of the expiration,
23 you are going to have to retest. Because they are
24 all renewable if renewed within 90 days of the
25 expiration date.



1 When I went to work here 20-something years
2 ago, a chief inspector had his certificate framed
3 and on the wall. The reason was, he probably had a
4 great birthday, but he let his certificate lapse
5 more than 90 days. It was a master electrician
6 certificate. So he kept it on the wall so he didn't
7 forget the date.

8 This is just another, right here, more
9 information about what happens. So if you have an
10 unexpired active certificate, and you renew, it will
11 return to active status. Just another piece of
12 information that somebody makes a phone call to us
13 about and says, how does this work? So we put it in
14 the rule.

15 All of this struck-out language is being
16 put somewhere else in the rule. It is about you
17 have 90 days to send to the administrator, otherwise
18 you end up suspended. Here is the "d." D is letting
19 you know what happens. This is what happens. No
20 change. No change whatsoever. Just information.
21 This tells you, how do I restore. Then subsection
22 "f" addresses what you need to do if you reach that
23 point where you have an assigned administrator in 90
24 days and your contractor license becomes suspended.

25 We just want things to be clear in the



1 rule. That's the approach we are taking with this
2 section about adding the missing parts in. That is
3 the end of the change to that section. WAC
4 296-46B-935.

5 Now we will jump into the rules that are a
6 new section that pertain to electric vehicle
7 installation certification.

8 CHAIR JENKINS: Hold on one second. How is
9 the recorder doing? Do we need a break here? We
10 will recess the meeting until, let's go until 5
11 after.

12 (Recessed at 1:55 p.m.)

13 (Reconvened at 2:05 p.m.)

14 CHAIR JENKINS: It is now 2:05. I will
15 call the meeting back to order.

16 We are still with specialist Larry Vance.
17 The floor is still yours.

18 LARRY VANCE: Thank you, Chair Jenkins.

19 I just want to show the Board members the
20 law enacted during last session of the Legislature.

21 This is that RCW 19.28.285. And it applies
22 to electric vehicle supply equipment installation.
23 This has been an interesting law because it is
24 implemented at the federal level. It is a condition
25 of federal infrastructure Legislation funding. In



1 other words, the infrastructure acts that have been
2 recently enacted. Then from the federal level it
3 comes down to the state level, as far as funding.

4 So you will find in the Department of
5 Transportation bit document that there is that
6 condition in there for electric vehicle
7 infrastructure training program certification. Now
8 that requirement has come to the electrical law. So
9 this isn't something that us, as the electrical
10 program, have decided to implement. This is
11 something that Legislature implemented.

12 And there is something, the electric
13 vehicle infrastructure training program is kind of a
14 consortium of stakeholders in the electric vehicle
15 infrastructure. Everyone from electric utilities to
16 electric vehicle supply equipment, electrical
17 contractors, electricians, electrical equipment
18 supply vendors. So a large group.

19 And if anyone is interested, they have --
20 Google E-V-I-T-P, and you can find they have a
21 website there, and it will tell you an awful lot
22 about them. They also have the ability to look up
23 by name anyone that is certified. So that's what
24 they provide to people that enforce the
25 requirements.



1 So that's what our inspectors will be doing
2 when they encounter someone. So there is that
3 program. Then the allowance for other similar
4 nationally recognized programs. Essentially, the
5 rule is more about what is a similar nationally
6 recognized program. So with that, I will jump into
7 the rule here.

8 It will go pretty fast. Because this is
9 preliminary. But I'm pretty much going to
10 summarize, if that's all right. If anyone wants
11 more detail, we can go section by section.

12 This just parrots the law in the first
13 couple of sections. This is just parroting the law.
14 Section 2 parrots the law, essentially. Now, this
15 gets into explaining the repercussions of failing to
16 be properly certified by the -- let me just clarify
17 when I say "properly certified" in regard to this
18 rule. I'm talking about electric vehicle training.
19 You have to be an electrician, but you have to have
20 this extra certification. So if you are failing to
21 be certified, it is a violation. And we point out,
22 same thing for employee. Same thing for the master
23 electrician or administrator failing to ensure that
24 people are properly certified under this section.

25 This tells -- now in section 6, gets into



1 the similar national recognized programs. So who
2 are they? Just anybody? This section breaks that
3 down. They have to apply. They have to demonstrate
4 that they are similar and we break down what similar
5 looks like in this section. Similar means that your
6 curriculum is similar. It also means that the
7 collaborators of the program are similar in make-up.
8 In other words, if you are just one person that
9 wants to put forth a similar program, that is more
10 than likely going to be denied.

11 The Legislature set the bar at the EVITP
12 training program and our role respects their action
13 there. So could there be another program that is
14 like it? Yes, there could be. But there is a lot
15 of people involved in that program. This is just
16 the mechanics of how to, you know, of what your
17 application is. What your qualifications are.

18 Section 7 has some definitions that are
19 important, because it just has more clarity as to
20 what is being talked about. So that's all there
21 really is within the section, this particular new
22 section, new proposed section, WAC 296-46B.

23 As we go into WAC 296-46B-960 here, this is
24 everything about electrical administrators and
25 electrician exams. There is a little bit of -- this



1 is where we are getting into making changes to allow
2 a two-year exam period. There is a clench from our
3 current one-year exam period. It also implements a
4 two-year exam period based on the same format of the
5 electricians using a design.

6 Long story short, this section, there is
7 some reorganization and rewriting that just adds
8 clarity. There is really no subsequent change here
9 other than implementing the two-year exam period and
10 implementing the exam unique identifier for
11 administrators. So while there is a lot to kind of
12 go through here, I don't want to spend a tremendous
13 amount of time at this point where everyone will
14 have months here to look at this. We will go
15 through a public comment period. I just wanted to
16 get it out in front of the Board.

17 And this section c, for instance, is just
18 all of the mechanics of the administrator, how they
19 will acquire an exam ID number. I will speed
20 through this just a little bit, see if there is any
21 highlight here. If anyone else is reading through
22 this and they have a particular point or question
23 they want to make, we are certainly available for
24 that.

25 So, again, we are just changing from the



1 two-year exam, two-year exam period, that just
2 essentially makes it so someone doesn't have to
3 reapply and pay us money. All that happens when
4 they do is we will approve them again. There are
5 mechanics that happen between us and the testing
6 vendor and we can save this effort as well.

7 So it is just -- there is a lot of value
8 from the standpoint of the customer and the
9 Department. There was -- we did have some clarity
10 around the -- there's always been some questions
11 about how something read. But, essentially, what
12 happens, is now an electrician, for instance, if you
13 fail to pass the exam, if you fail to pass all
14 sections within your one-year exam period, the next
15 attempt when your exam period expires, your next
16 attempt you have to retake all sections of the exam.

17 And the way it is currently written, people
18 will argue, no, no, it says one-year period. Well,
19 that's another place where we decided to economize
20 on words. It is meant to say one-year exam period.
21 And we define one-year exam period, but because we
22 don't have clarity in the rule, people -- it is
23 contentious. So we are just direct now.

24 So that is pretty much the highlights of
25 this rulemaking. So we're nearing the 102 stage.



1 102 stage will consist of, here is the proposed
2 rules. And here is when the public hearing is set
3 for. We will take public input. We will respond to
4 that public input as we approach filing the
5 permanent rule, which consists of filing what is
6 known as a 103.

7 And at that time, that is probably going to
8 happen in March. So the Board will have another
9 look. And the Board will have another opportunity.
10 Of course, all stakeholders will have opportunity
11 for more public comment during the public comment
12 period. We have already taken preliminary comment
13 on the rules. So we really didn't get a lot of
14 comment on it. Not sure if we even got one comment
15 on it.

16 There is a draft of it posted that looks
17 different on the website currently. So we just want
18 to be very open and transparent about this process
19 and just want to give the Board a little, hopefully,
20 a quick little overview. Some want a lot. Some
21 want a little. And I guess the good news for some
22 is that I don't have anything more to offer on this
23 now.

24 With that, if there are any questions,
25 otherwise we can move on.



1 CHAIR JENKINS: Chair Jenkins here. I
2 assume we have Randy Barnes here. Are you
3 available?

4 RANDY BARNES: Yes, sir. This is Randy
5 Barnes, B-a-r-n-e-s, electrical technical specialist
6 for the Department.

7 I'm going to give you a quick update for
8 our second rulemaking. I'm going to focus first on
9 the critical dates. Then I'm just going to do a
10 fly-over of what the sections are, since the
11 language has been out there for quite a while. And
12 then if you have any questions, then we can drill
13 down on those questions.

14 Our CR 102 was filed on 9/2, September 2nd,
15 and a hearing was held on October 7. The hearing
16 had one comment. No other participants other than
17 L&I staff. CR 103 is scheduled to be filed on
18 11/18, and Larry just illustrated that CR 103 is the
19 final stage. With the rule, if approved, taking
20 effect on December 19. So with that, the sections
21 we are talking about amending WAC 296-46B-010. This
22 is the adoption of NFPA 70, the 2026 version. We
23 would adopt that on December 31, 2026.

24 We still go through the normal WAC process
25 that would start probably this February or March.



1 So we have our open rulemaking like we normally do
2 to address any WAC rules that have to do with that,
3 with the new code, with the new NEC.

4 So the second section that is being amended
5 is 296-46B-334. This has to do with adjusting the
6 temperature -- the ampacity for the temperature
7 range for NM-B cable. And so, essentially, we are
8 taking number 8 NM-B and moving it into the
9 75-degree column for ampacity. This would not
10 effect adjustments for things, such as temperature
11 derating, bundling derating or derating because of
12 terminations that they are landing it on.

13 The last section is 296-46B-942. And
14 really this section is a -- just reclarifying an
15 existing rule for the 180-day requirement for
16 trainees to report their affidavits of experience.
17 And was asked that we reclarify the rule and the
18 consequences that they lose hours if they don't get
19 those reported on time.

20 And, technically, the 180 days is the grace
21 period. They are late when they are supposed to
22 renew, when they renew their certificate. When
23 their certificate expires, excuse me. So really,
24 that's the quick high fly-over of the rules.

25 Like I said, the language has been posted



1 on our website for a pretty good amount of time.
2 Everybody has had a good chance to take a look at
3 the rules. I don't want to go word by word through
4 it. But if you have any questions, or some guidance
5 that you would like to provide, we would love to
6 hear it.

7 CHAIR JENKINS: Board Member Tumelson?

8 BOARD MEMBER TUMELSON: Hey, I wanted to
9 get clarification on the ampacity change on 334.
10 This is intended to be a Washington State amendment.
11 So we are opting to kind of deviate from the
12 national standard on the ampacity rating for NM-B
13 cable. Is that what I'm hearing?

14 RANDY BARNES: Yeah. Good statement. You
15 are correct. For number 8 and larger only. So,
16 essentially, feeders. Right? Not branch circuits.
17 That's the intent. And, yes, you are correct, we
18 would be deviating from the NFPA.

19 BOARD MEMBER TUMELSON: Have there been any
20 studies, or what is the rationale from that? Are
21 there other states doing this, or is this just a
22 Washington approach to NM-B?

23 RANDY BARNES: You know, I'm not aware of
24 studies one direction or the other. We have had
25 comments from some industry manufacturers and



1 representatives that supported this. And, actually,
2 requested that we propose an amendment to the NFPA
3 in the next cycle, which is open right now if anyone
4 is interested. And asked, hey, this is a pretty
5 good idea. Maybe you guys should propose this to
6 the actual NFPA. Right? So we have a public input
7 period right now.

8 BOARD MEMBER TUMELSON: I guess my concern
9 is deviating from a national standard. One state
10 choosing to do that. Sounds like not a lot of
11 substantive data to make that decision. That just
12 seems a little odd to me.

13 RANDY BARNES: We know the manufacturing
14 standard changed. Right? That is the inclusion of
15 changing from NM to NM-B. Essentially, it is
16 90-degree wire just like THHN, THWN. Manufactured
17 the same way. The outer jacket is probably a
18 75-degree. And, again, we are not talking about the
19 issues that we had with the original NM cable, which
20 was branch circuit wire. We are not overloading
21 branch circuit wire from heat or a number of lights
22 and receptacles all on the same circuit board. We
23 are talking about theaters in this instance.

24 And the limitation, if we were to take a
25 look at this, 334 is really limited by the devices



1 it terminated on. Right? So if we are looking at
2 receptacles, light switches, other than high temp
3 luminaires, which are 90-degree C now, most of them.
4 Those terminals are probably 60-degree C, for things
5 like receptacles, and light switches, and lights
6 themselves.

7 BOARD MEMBER TUMELSON: Appreciate the
8 comments and clarification, Randy. Thank you.

9 RANDY BARNES: Mr. Johnson?

10 BOARD MEMBER JOHNSON: Yeah. You mentioned
11 for theaters, but those wire sizes would be used for
12 EV chargers in homes and ranges. And because that
13 number 8 would be a big one, so they are using
14 number 6 instead of number 8. So there's been a lot
15 of reports of fires of EV chargers that I'm hearing
16 and seeing right now.

17 I don't have clarity yet if that is the EV
18 charging equipment itself, or if that is caused by
19 improper torque at the receptacle. Those are most
20 likely. But I wonder, is that a concern? Because
21 if you're going to have -- allow a smaller wire,
22 then someone happens to not torque it right at the
23 receptacle, I mean, you have a hotter running
24 conductor torqued improperly. Is that a concern?

25 RANDY BARNES: Sure, it's a concern. A bad



1 installation is always a concern. And I would echo
2 your sentiment that trying to discover what are the
3 issues with the EV charging receptacles. And we've
4 had a lot of comment period, and I think you just
5 touched on it. Are the receptacles a low-grade
6 receptacle? And now there is an EV-rated
7 receptacle. Probably, that's the industry
8 responding to we need a heavier grade receptacle
9 other than just the buck-05 one with the smaller
10 terminals.

11 And that's a real concern. As well as
12 unplugging and plugging in. Unplugging and plugging
13 in and things not being a tight receptacle with the
14 plug. So your concern is valid in that, at least
15 from my point of view, that if something is not
16 installed correctly, that is a problem. If people
17 aren't torquing their connections properly, that's
18 an issue. If people are overloading the circuit,
19 that's an issue.

20 But, again, we are talking about putting --
21 if you are talking about an EV receptacle, what are
22 those terminals rated for anyways, right? Going
23 back to what I'm saying, if you have a 60-degree
24 rated terminal, you're already there. Right? So
25 you still are limited by the rating of the terminals



1 that you are landing on.

2 Does that answer your question, Greg?

3 BOARD MEMBER JOHNSON: Yeah. Just a point
4 of discussion for consideration.

5 RANDY BARNES: Yeah. Again, we appreciate
6 your input. That's what we are looking for here for
7 sure.

8 Board Member gray?

9 BOARD MEMBER GRAY: Yeah. Thank you,
10 Randy. This is Board Member Bobby Gray.

11 I may have misunderstood you, but I thought
12 I heard you say that it will not effect the ampacity
13 adjustments for temperature number conductors. Is
14 that because you will still start with the 90-degree
15 value or --

16 RANDY BARNES: Correct.

17 BOARD MEMBER GRAY: That will be written in
18 the rule that tells people to do that?

19 RANDY BARNES: The only adjustment in the
20 rule, and the language, proposed language, is posted
21 on-site on CR 1 or 2. Hopefully, it was included in
22 your Board agenda. If not, I can send it to you.
23 The language we are adjusting is just the 310
24 language that talks about where the ampacity is
25 derived from 60-degree column or the 75-degree



1 column. And, again, only for number 8 and larger.

2 We turn around and include in the language,
3 you know, and say, hey, this does not affect
4 derating. Right? Whether derating is from
5 bundling, or temperature derating, location
6 derating.

7 BOARD MEMBER GRAY: All right. We will
8 look at it. But if your direction is to start at
9 the 75-degree column, that's a big difference than
10 if you start with 90-degree values to do your
11 adjustments.

12 RANDY BARNES: Right. And so the section
13 is 80 -- or excuse me, 8 subsection d, I believe.
14 Yeah, d. And we talk about rating and derating
15 right there in that.

16 BOARD MEMBER JOHNSON: I don't think I'm
17 seeing that. I mean, because you would have to
18 actually terminate it and secure it before you enter
19 it into a box, before you enter it into the conduit.
20 And no one does that, so no one runs it in conduit.

21 BOARD MEMBER GRAY: You could run it
22 through an ambient temperature that's high.

23 RANDY BARNES: This is Tech Specialist
24 Barnes again. Where do we run into derating?
25 Bundling. Right? We stick more than a couple of



1 NM-B cables through the same holes in insulation.
2 Then we would derate just like if we were in a
3 raceway. And just as Board Member Greg pointed out
4 a second ago, you can run it through an environment
5 it an attic that may cause you to derate. Or a
6 location, I don't know off the top of my head, but
7 you can run into a location where your temperature
8 adjustment factor would force you to derate.

9 BOARD MEMBER GRAY: Well, they usually
10 share the same hole in the insulation when talking
11 about branch circuiting, not for EV charger. You
12 only have like one of those by itself.

13 RANDY BARNES: Right. Well, we would still
14 have derating. Right? With multiple conductors
15 through the same, say, wood studs. You have
16 multiple cables, more than four cables, through the
17 same holes, more than 24 inches. Now you are forced
18 to derate. And what we see on homes currently, they
19 have to insulate both openings, the holes, as well
20 as the walls.

21 SECRETARY MOLESWORTH: A good example might
22 be the floor joists. So that is another example of
23 where you may have a large bundle of wires. And I
24 have seen large bundles of wires going through
25 I-joists, through the floor joists, which may cause



1 that bundling effect as well. And they can put
2 insulation on top of them and you can build heat.

3 LARRY VANCE: Randy, if I can. This is
4 Larry Vance with Labor & Industries. I just want
5 to, kind of, fall back to kind of the impetus for
6 this. And people involved in the industry saw type
7 SE cable follow the same path as the type NM cable.
8 In other words, concerned about the effects with
9 cables in insulation. This language in 334 mimics
10 the same language for another sheath cable that has
11 the same temperature rating on the conductors.

12 So kind of the idea here is that if it is
13 good for this cable, those are 90-degree conductors.
14 Why isn't it good for this cable? And it all comes
15 back down to something that happened back in the
16 '70s. If anyone has ever gotten into an old house
17 that has old type NM cable, not NM-B, NM cable, it
18 has conducted cables in it.

19 What they found back then -- and it is
20 actually some person that's name has been on the
21 front of the code book. His name is Mark Earley.
22 Mark Earley was the building official in the city of
23 Phoenix in 1970. And what they were finding was, is
24 that they were finding luminaires, wiring at
25 luminaires, in attics that were exposed, where the



1 wiring was exposed to the attic, where the
2 luminaires had incandescent lamps. And the attic
3 heat is that 60-degree insulation was failing. So
4 the code changed to require 90-degree rating. The
5 standard was updated. There was a line in the sand.
6 You could not use NM cable.

7 Manufacturers stopped because there was no
8 allowance for it anymore. Since that time, we have
9 been, to avoid that condition, to avoid that, you
10 know, that insulation failure that any service
11 electrician will run into when they are in an old
12 house, maybe, we recognize that requirement on the
13 old NM type cable.

14 But for the new type NM-B cable that came
15 out in the late '70s, when the standard changed to
16 90-degree wire, that that 90-degree wire is no
17 different than any other wire. That's the point we
18 made. That's why the national -- that's possibly
19 why the National Electrical Manufacturers
20 Association came back and said, hey, this all made
21 sense, you know. Essentially, they said this made
22 sense. That's why we are going forward with it.

23 Washington, in the past, has done things
24 like this where we kind of -- we've done it with
25 docks, with well casings, electrodes. There are



1 things that have come out of the Washington rules
2 that end up in the National Electric Code. So I
3 think I can say that there is a pretty good
4 confidence that we're not creating a hazard here.
5 This really has a basis and is just common sense.

6 I mean, 90-degree wire is good. 90-degree
7 wire is good. Not changing the fact you have to
8 apply the factors, and you are always limited by the
9 temperature rating of the equipment you wire that
10 you connect to. In other words, if the equipment is
11 rated 60 degrees, you can't use an ampacity more
12 than 60 degrees of the rating of that conductor. So
13 with that, I will just throw it back to Randy.

14 RANDY BARNES: Appreciate it, Larry.

15 Any more questions, comments, concerns?

16 Barring that, I appreciate your time. I
17 will pass it back to Jason. Thank you.

18 CHAIR JENKINS: Thank you.

19 This is Chair Jenkins. Thank you to both
20 of the tech specialists working on this.

21 It looks like we have No. 7, though, with
22 the Secretary's report. So Chief Wayne Molesworth.
23 Are you ready?

24 SECRETARY MOLESWORTH: I am, Chair Jenkins.
25 Thank you.



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SECRETARY'S REPORT, WAYNE MOLESWORTH

SECRETARY MOLESWORTH: So I will read the Secretary's report into the record. We will start with the budget.

The Department continues to have a revenue reporting discrepancy we are working on to resolve. When it is, we will be able to give a full account of the electrical fund balance and revenue. Data reported here is not complete, but we wish to share what we can with the Electrical Board at this time. The electrical fund balance on September 30, 2025 was \$11,775,134, which is about 4.4 times the average monthly operating expenditures. The average monthly operating expenditure for the first quarter of the physical year 2026 was \$2,729,212 compared to \$2,881,802 for the same period last year, which is a decrease of about 5 percent.

Average monthly revenue is the data we were missing, and we will report it to the Electrical Board as soon as we have accurate figures.

September 2025 customer service. 45,258 permits were sold last quarter. 98.5 percent, or 44,595, were processed on-line, which is the same from last quarter.



1 99.7 percent of contractor permits were
2 sold on-line, which is the same from the previous
3 quarter.

4 Homeowners on-line sales for this quarter
5 were 85.1 percent, which is a 1.4 percent increase
6 from the previous quarter.

7 On-line inspection requests are 78.3
8 percent, which is a .5 percent increase from last
9 quarter.

10 During this quarter, customers made 91.8
11 percent of all the electrical license renewals
12 on-line, which is a .7 percent increase from last
13 quarter.

14 I will go ahead and move on to key
15 performance measures. Be happy to answer questions
16 after we get through this.

17 So talking about our score card goals.
18 Number one, the percent of inspections performed
19 within 24 hours of request. And physical year 2025,
20 79 percent. And physical year 2026, it is 78
21 percent.

22 Percentage of inspections performed within
23 48 hours of request, the goal is 94 percent.
24 Physical year 2025 was 91 percent. Physical year 26
25 was 90 percent. Total inspections performed in



1 physical year 2025, it was 69,014. 2026, it was
2 69,097.

3 Virtual electrical inspections performed.
4 In physical year 2025, 13,995. Currently in
5 physical year 2026, 11,728.

6 Number focus citations and warnings,
7 contracting licensing, worker certification, no
8 permit, failing to supervise trainees. In 2025,
9 field inspectors wrote 285. E-CORE audit program
10 wrote 1,698. For a total of 1,983.

11 In 2026, field inspectors did 241, and
12 E-CORE wrote 547, a total of 788. A discrepancy
13 here is because we haven't processed the matrix
14 citations. They're not reported yet because our
15 citations section, because of understaffing, has not
16 been able to issue citations. And those citations,
17 until issued, none will show up on this report.

18 Inspection stops per inspector per day. In
19 2025, average 12. In 2026, they average 12.3.

20 Serious electrical corrections that would
21 result in disconnect. In 2025, there were 9,126
22 identified. In 2026, it was 8,552.

23 Turn around time for average plans at
24 review. The goal is 1.6 weeks. We have to change
25 that goal a little bit because in 2025, with the new



1 electronic plan review, we dropped it down to 1.5
2 days. And then the same for 2026, it's 1.5 days for
3 that planned review.

4 Plan review pages reviewed. In 2025, it
5 was 1,246. And in 2026, it was 1,259.

6 Percentage of warnings by focused violation
7 type. Licensing, there were zero warnings.
8 Certification, 15 percent. Per permit, 85 percent.
9 Trainees supervisions, zero percent. And all focus
10 0.25 percent.

11 Data above reflects citation warnings
12 issued from July 1, 2025 through September 30, 2025.
13 Citation processing has been delayed due to having
14 no staff in the citations desk for the electrical
15 program since December 2024.

16 I will make a comment here. I want a
17 special thanks to Jenn Dietrich and to Amber Bac who
18 both jumped in and had other jobs to do, but managed
19 to issue as many citations as they could during that
20 period of time. So thank you.

21 Electrical licensing citations amusement
22 rides and appeals. As of 10/23/2025, there are
23 approximately 1,265 items waiting to be processed by
24 the licensing team. The oldest item is dated
25 8/14/2025. About 1,090 of these items waiting to be



1 processed or affidavits.

2 The team has made great strides to decrease
3 the backlog, but the number continues to climb. In
4 addition to processing documents, licensing staff
5 are responsible for answering all incoming
6 electrical licensing phone calls. For the timeframe
7 between 7/1/2025 and 9/30/2025, they received 5,252
8 calls. This does not include inbound calls to their
9 direct lines or outbound calls made to customers.
10 This also does not include calls from our partners
11 in regional office locations that need help when
12 customers are in person with questions.

13 Currently, the citations amusement rides
14 and appeal positions remain vacant. We requested
15 and received an exception to move forward with
16 hiring for all three roles. The interview process
17 has been completed, and we are now in the review
18 phase of candidate selection.

19 In the meantime, Amber Bac, Jenn Dietrich
20 continue to collaborate to manage urgent tasks
21 across citations, appeals, and amusement rides.
22 However, response times are significantly delayed,
23 and some work streams have been temporarily paused
24 due to limited capacity.

25 This text is a little bit old. We actually



1 filled those positions and are moving into when
2 those positions will start and start the training
3 with them. Because it takes other staff to help
4 train, we may see a little bit of an increase in
5 backlog until people are trained up completely, in
6 which case we should see a pretty significant
7 decrease in backlog in a short time.

8 We have also been approved to backfill
9 those positions, because some of those positions
10 were hired from the licensing division. And we'll
11 be interviewing and selecting candidates really soon
12 for those as well.

13 Testing lab report. None to report at this
14 time. And we have not passed any of that
15 legislation yet. But there is nothing to report.

16 Other program updates. We talked about
17 this probably briefly the last meeting, but there's
18 going to be a divisional name change for the
19 division that the electrical program is housed
20 under. It used to be called Build Services and
21 Public Safety. Now it will be Customer Service,
22 Compliance and Public Safety. That's because we've
23 added other programs to the division. And so we
24 wanted a name that actually encompassed everybody in
25 the division. If you hear someone say CSCPS, that's



1 us.

2 Then we have another one we talked about,
3 doing the reorg. I know we talked with the Board
4 about the decision to reorganize the reporting
5 structure for the electrical program. And so wanted
6 to bring you up-to-date on that a little bit.
7 They've started phase 3 planning, which was when
8 electrical started that reporting structure. Date
9 for implementation is December 16th, and the
10 reporting structure is that from field inspectors,
11 you will have a straight reporting structure up
12 through the Chief.

13 There won't be any additional nontechnical
14 supervision in the program. It'll all be people
15 with technical ability supervising in the electrical
16 program. So a little change there to add some
17 efficiencies to what we do.

18 All right. That's it for the updates.

19 Any questions?

20 CHAIR JENKINS: Looks like you're looking
21 pretty clear. Look what time it is.

22 SECRETARY MOLESWORTH: I either put
23 everybody to sleep or --

24 CHAIR JENKINS: All right. One more time,
25 last call for any questions for the Chief here?

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1 Specialist Larry Vance?

2 LARRY VANCE: Wayne, did I miss anything in
3 your update about the potential for a one-on-one for
4 a fee increase for electrical fees?

5 SECRETARY MOLESWORTH: Oh, sure. Yeah. I
6 didn't have that in here, Larry. That is one of the
7 things I probably forgot.

8 But, yeah, we are putting together a
9 one-on-one. I let people know we will be putting a
10 rule through for fee increase, changing our fees by
11 6.34, which is the economic growth factor that we
12 use that accounts for inflation. So we aren't going
13 any higher than that at this time. That will take
14 effect, if everything goes right, it'll take effect
15 January 1 of 2026.

16 But the 101, is just the announcement that
17 we will enter into rulemaking for that purpose.

18 CHAIR JENKINS: All right. Any more
19 questions from the Electrical Board?

20 (No response)

21 CHAIR JENKINS: All right. Thank you very
22 much. I appreciate your information. Lots of stuff
23 going on.

24 And given that, it looks like we are on to
25 item 8 for public comment.



1 PUBLIC COMMENT REGARDING ITEMS NOT ON THE AGENDA

2
3 CHAIR JENKINS: So I will call it out about
4 three times. Is there anyone on-line that is
5 wanting to add to public comment? Going once.

6 Again, anybody on live that wants to do
7 public comment?

8 And last call, anybody -- oh, okay.

9 Our Counsel here is giving me a hard time.

10 All right.

11 So I want to add one thing before we get
12 out. We are likely to have a long January meeting.
13 Likely, it could be more than one day. So we have
14 an original meeting, and then we have a descent
15 stack of appeals that are currently in the queue.
16 It could change. It has changed in the past. But
17 heads-up. Forwarning on that. Might be a
18 double-day on January's meeting.

19 And after that, the Chair would entertain a
20 motion to end the meeting.

21 BOARD MEMBER NORD: Board Member Nord,
22 motion.

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

25 BOARD MEMBER LEE: Board Member Lee,



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second.

CHAIR JENKINS: Motion and second. Any discussion?

(No response)

CHAIR JENKINS: Hearing none, all in favor of ending the meeting.

(Chorus of ayes)

CHAIR JENKINS: Opposed?

(No response)

CHAIR JENKINS: Motion passes. Thank you very much.

(Meeting concluded at 2:53 p.m.)



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C E R T I F I C A T E

I, Michelle Brandt, a Certified Stenographic Court Reporter in and for the State of Washington, residing at Clark County, do hereby certify;

That the foregoing proceedings were taken before me and thereafter reduced to a typed format under my direction; that the transcript is a full, true and complete transcript of said proceedings consisting of Pages 1 through 184;

That as a CCR in this state, I am bound by the Rules of Conduct as Codified in WAC 308-14-130; that court reporting arrangements and fees in this case are offered to all parties on equal terms;

That I am not a relative, employee, attorney or counsel of any party to this action, or relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That upon completion of signature, if required, the original transcript will be securely sealed and the same served upon the appropriate party.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of November, 2025.



Michelle Brandt, CCR No. 3421
Certified Stenographic Reporter

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