

BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

IN THE MATTER OF:

CONSENT ORDER

**IMAGINE ENERGY, LLC,
A DOMESTIC LIMITED LIABILITY
COMPANY,**

RESPONDENT.

BCD CASE C2015-0190

INTRODUCTION

The Building Codes Division (Division) conducted an investigation on behalf of the Electrical and Elevator Board of the State of Oregon (Board) and determined that Imagine Energy, LLC (Respondent) violated certain provisions of the Division's statutes and administrative rules as identified below.

The parties agree to resolve this matter without a hearing. Respondent understands that Respondent has the right to a contested case hearing under the Administrative Procedures Act, Oregon Revised Statutes (ORS) chapter 183, and Respondent fully and finally waives the right to a hearing and any judicial review therefrom by the signing of this Consent Order.

FINDINGS OF FACT

1. The Division issued Respondent electrical contractor license C872 on August 8, 2012.
2. Respondent's signing supervising electrician left the company, and Respondent therefore allowed its electrical contractor license C872 to expire on July 1, 2014.
3. Since July 1, 2014, Respondent has made at least forty-one (41) renewable energy installations. This work includes the installation of solar photovoltaic modules, inverters, and associated wiring and conduit.
4. Since July 1, 2014, Respondent restricted its journeyman electricians to direct current (DC) electrical work on systems rated at less than 25 kilowatts. Respondent also began to include

1 the name of a licensed electrical contractor on permits obtained. These electrical contractors
2 would perform all alternating current (AC) electrical work. Accordingly, Respondent's
3 journeyman electricians would complete all DC electrical work, and Respondent's electrical
4 subcontractors would complete all AC electrical work. Respondent erroneously believed that
5 this arrangement was permitted under the Oregon Electrical Safety Law.

- 6 5. On August 28, 2015, upon discovering that its practices were not permitted under the
7 Oregon Electrical Safety Law without a contractor license, Respondent applied for a limited
8 renewable energy contractor license.
- 9 6. Respondent has been cooperative throughout the Division's investigation of its activities and
10 has provided timely responses to document requests and questions.

11 APPLICABLE LAW

- 12 1. The terms used in this document may be defined in ORS 183.310(1)-(10), ORS 455.010(1)-
13 (10), ORS 479.530(1)-(23), ORS 479.905(1)-(5), OAR 918-001-0005(1)-(4), OAR 918-030-
14 0010(1)-(11), and OAR 918-251-0090(1)-(43).
- 15 2. Under ORS 479.530(10), "Electrical installations" means the construction or installation of
16 electrical wiring and the permanent attachment or installation of electrical products in or on
17 any structure that is not itself an electrical product.
- 18 3. Under ORS 479.620(1), a person who does not hold an electrical contractor license may not
19 engage in the business of making electrical installations, advertise as or otherwise purport to
20 be licensed to make electrical installations or purport to be acting as a business that makes
21 electrical installations.
- 22 4. Under OAR 918-282-0033, a limited renewable energy contractor may engage in the
23 business of making electrical installations limited to 25 kva and 600 volts nominal or less
24 and must continuously employ at least one general supervising electrician, general
25

1 journeyman electrician, or limited renewable energy technician to act as signing supervising
2 electrician to obtain and sign permits and to supervise the electrical installations.

- 3 5. OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630, and any
4 other license regulated by ORS chapter 455, "engaging in the business" means to advertise
5 or solicit, contract or agree to perform, or to perform work for which a license or permit is
6 required under Oregon law, including but not limited to a single instance.

7 CONCLUSIONS OF LAW

- 8 1. The renewable energy installations described above constitute electrical installations under
9 ORS 479.530(10).
- 10 2. The foregoing electrical installations require a limited renewable energy contractor license
11 under OAR 918-282-0033 or an electrical contractor license under ORS 479.620(1).
- 12 3. Performing or agreeing to perform the foregoing electrical installations constitutes engaging
13 in the business of an electrical contractor under OAR 918-030-0010(8).
- 14 4. By engaging in the business of an electrical contractor without holding an electrical
15 contractor license, Respondent violated ORS 479.620(1).

16 ORDER

- 17 1. The Board hereby assesses a total civil penalty of \$123,000 against Respondent for violating
18 ORS 479.620(1) on forty-one (41) occasions (\$3,000 per violation) as follows:
- 19 a. \$112,750 of the total civil penalty will be suspended for a period of five years if
20 there is compliance with all other terms of this Consent Order.
- 21 b. Respondent agrees to pay the remaining \$10,250 of the civil penalty. Respondent's
22 payment shall be postmarked no later than the 25th day of the month following the
23 month in which this Consent Order becomes a final order. (*An invoice will be*
24 *included with Respondent's copy of the final order after the Director signs it.*)
25 Payment shall be mailed to Department of Consumer and Business Services, Fiscal

1 Services Section, P.O. Box 14610, Salem, OR 97309-0445.

2 c. Respondent understands the suspended civil penalty (\$112,750) will be considered
3 satisfied five years after this Consent Order becomes a final order, provided
4 Respondent complies with its terms and has not committed any further violations of
5 the Division's statutes and rules within that five-year period. Respondent
6 understands and agrees that if Respondent does not comply with the terms of this
7 Consent Order or if Respondent commits any further violations of the Division's
8 statutes or rules within the five-year period, then the entire civil penalty, including
9 any suspended amount, will become immediately due and payable. Failure to comply
10 with this Consent Order includes, but is not limited to, failure to pay the civil penalty
11 amount due by the due date.

12 2. If Respondent obtains a limited renewable energy contractor license from the Division at
13 any time, Respondent agrees that it will abide by all applicable statutes and rules governing
14 the work that may be performed by a limited renewable energy contractor, including but not
15 limited to ORS chapter 479 (including but not limited to ORS 479.630(15) and (16)) and
16 OAR section 918 (including but not limited to OAR 918-282-0033, OAR 918-282-0205,
17 and OAR 918-282-0400).

18 3. Respondent agrees to fully cooperate with the Division's enforcement efforts in other cases
19 that rely on the facts underlying this case. Cooperation may include, but may not be limited
20 to, making sworn statements or testifying in administrative hearings.

21 4. Respondent understands that further enforcement action may be taken for any violation of
22 the Division's statutes or rules not alleged in this Consent Order, whether committed before
23 or after the execution of this Consent Order, and/or for any violation of the terms of this
24 Consent Order.

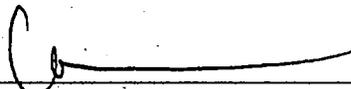
25 5. Respondent understands that failure to comply with this Consent Order may be used as a

1 basis for the denial of future license, certificate, registration, or other applications, or for the
2 refusal to renew the same; for the suspension, revocation, or conditioning of a license,
3 certificate, or registration issued by the Division or other state agencies; and/or for any other
4 reason provided for in law.

5 6. Respondent understands that this Consent Order is a public record.

6 7. Respondent has read and fully understands the terms of this Consent Order, freely and
7 voluntarily consents to the entry of this Consent Order without any force or duress, and
8 expressly waives all rights to hearing or judicial review in this matter.

9 8. Respondent understands that, upon signature of all parties, this Consent Order will be a
10 Final Order.

11  It is so agreed this 20 day of October, 2015.

12 Jonathan Cohen,
13 Member, registered agent, and authorized representative
14 Imagine Energy LLC

15  for It is so agreed this 22 day of October, 2015.

16 Chair
17 Electrical and Elevator Board
18 State of Oregon