

1 **BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON**

2
3 **IN THE MATTER OF:**

4 **METRO SITE INC., AN UNREGISTERED**
5 **FOREIGN BUSINESS CORPORATION**

6 **RESPONDENT**

)
) **NOTICE OF PROPOSED**
) **ASSESSMENT OF A CIVIL PENALTY**
) **AND FINAL ORDER ON DEFAULT**

) **CASE NO. C2013-0243**
)

FINAL ORDER
As of: August 28, 2014

7 Under Oregon Revised Statutes (ORS) 455.895(1)(b) and Oregon Administrative Rules (OAR)
8 918-001-0036, the Oregon Electrical and Elevator Board (Board) proposes disciplinary action against
9 Respondent in the form of civil penalties totaling \$8,000 because Respondent violated Building Codes
10 Division statutes and rules as follows:

11 **FINDINGS OF FACT**

- 12 1. According to the Oregon Secretary of State's database, there is no record of a business
- 13 registration for Respondent.
- 14 2. At no relevant time did Respondent have a valid Oregon electrical contractor license.
- 15 3. Respondent failed to apply for and receive permits for the installations it made of stand-by
- 16 generators, automatic transfer switches, distribution panels, and control and monitoring
- 17 systems, at each of the following five locations, for the account of another:
 - 18 a. Cell tower no. 275427, site name Mount Vernon OR, US Hwy 395, Mt. Vernon, Grant
 - 19 County, Oregon.
 - 20 b. Cell tower no. 277938, site name Elgin OR, 71481 Hwy 82, Elgin, Union County,
 - 21 Oregon.
 - 22 c. Cell tower no. 277949, site name Riley OR, US Hwy 20, Riley, Harney County,
 - 23 Oregon.
 - 24 d. Cell tower no. 277956, site name Burns Butte OR, 28064 Radar Ln, Hines, Harney
 - 25 County, Oregon.

1 e. Cell tower no. 89490, site name Spring River, 16M S/SW of Bend, Bend, Deschutes
2 County, Oregon.

3 **APPLICABLE LAW**

- 4 1. ORS 479.530(10) defines an electrical installation as the construction or installation of
5 electrical wiring and the permanent attachment or installation of electrical products.
6 2. Under ORS 479.620(1), a person must have an electrical contractor license to engage in the
7 business of making electrical installations, including advertising or otherwise purporting to be a
8 business that makes electrical installations.¹
9 3. Under ORS 479.550(1), no person shall work on any new electrical installation for which a
10 permit has not been issued.

11 **CONCLUSIONS OF LAW**

- 12 1. Installing stand-by generators, automatic transfer switches, distribution panels, and control and
13 monitoring systems are electrical installations as defined by ORS 479.530(10).
14 2. By making electrical installations for the account of another without an Oregon electrical
15 contractor's license, Respondent violated ORS 479.620(1).
16 3. By making electrical installations without first obtaining a valid electrical permit, Respondent
17 violated ORS 479.550(1) on at least five occasions.

18 **ORDER**

19 Under ORS 455.895(1)(b) and OAR 918-001-0036, the Board assesses the following:

- 20 1. a \$3,000 civil penalty for violating ORS 479.620(1);
21 2. a \$5,000 civil penalty for violating ORS 479.550(1) on at least five occasions.

22 The assessed civil penalties total \$8,000.

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25 ¹ Pursuant to OAR 918-030-0010(8), for purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by
ORS chapter 455, "engaging in the business" means to advertise or solicit, contract or agree to perform, or to perform, work
for which a license or permit is required under Oregon law, including but not limited to a single instance.

1 **NOTICE OF RIGHT TO HEARING**

2 Respondent is entitled to a hearing as provided by the Administrative Procedures Act, Oregon
3 Revised Statutes, chapter 183. If Respondent requests a hearing, the request must be in writing and
4 filed with the Building Codes Division. The postmarked date on the request for hearing must be no
5 later than 20 days from the date the Notice of Proposed Action (Notice) was served on Respondent. If
6 this Notice was served to Respondent in person, the service date is the date Respondent received this
7 Notice. If this Notice was served through the mail, the service date is the day the Notice was mailed,
8 not the day Respondent received it. Mail hearing requests to Building Codes Division, Enforcement
9 Section, P.O. Box 14470, Salem, Oregon, 97309.

10 Respondent has the right to be represented by legal counsel. ORS 183.457 provides that a
11 corporation may be represented by an authorized representative at the hearing. If Respondent requests
12 a hearing, Respondent will be notified of the time and place of the hearing and be given information on
13 procedures, right of representation, and other rights of parties relating to the hearing before it begins.

14 **NOTICE TO ACTIVE DUTY SERVICE MEMBERS**

15 Active duty service members have a right to stay proceedings under the federal
16 Servicemembers Civil Relief Act. Contact the Oregon State Bar at 800-452-8260 or the Oregon
17 Military Department at 800-452-7500 for more information. If Respondent needs help finding legal
18 assistance, visit the United States Armed Forces Legal Assistance Legal Services Locator website at
19 <http://legalassistance.law.af.mil/content/locator.php>.

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NOTICE OF FINAL ORDER

If Respondent does not request a hearing within 20 days, withdraws a hearing request, notifies the Building Codes Division (Division) or the administrative law judge that they will not appear, or fails to appear at a scheduled hearing, the Division will issue a Final Order by Default. If the Division issues a Final Order by Default, it designates the file, including any materials submitted by Respondent that relate to this matter, as the record for purpose of proving a prima facie case.

Respondent is entitled to judicial review of any final order issued in the matter of this Notice of Proposed Assessment of a Civil Penalty. Judicial review may be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days after the Final Order is served. See ORS 183.482. If the Order was served in person, the service date is the date Respondent received the Order. If the Order was served through the mail, the service date is the day the Order was mailed, not the day it was received by Respondent. If Respondent does not file a petition for judicial review within 60 days, Respondent will lose the right to appeal. The phone number for the Oregon Court of Appeals is 503-986-5555.

Dated this 5th day of August, 2014

Roseanne Nelson for

Chair
Electrical and Elevator Board
State of Oregon