



Oregon

Kate Brown, Governor

Department of Consumer and Business Services
Building Codes Division
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Electrical and Elevator Board

Meeting agenda includes an **outside of public meeting and executive session**

Thursday, January 25, 2018, 9:30 a.m.

Conference Room A

Board meetings are temporarily

Not available via the [Internet](#)

I. Board business

- A. Call to order
- B. Roll call
- C. Approval of agenda and order of business
- D. Approval of the draft board meeting minutes of [November 16, 2017](#)
- E. Date of the next regularly scheduled meeting: March 22, 2018
- F. Farewell to member Timothy Frew (Vice-chair and member of the CIEB)
- G. Welcome new member Jon Flegel, journeyman electrician
- H. Board vote on vice-chair position
- I. Board vote on membership to the Construction Industry Energy Board for a member who has practical experience in the electrical industry

II. Outside of public meeting and executive session

(Break to clear audience from room for deliberations during outside of public meeting)

- A. Outside of public meeting pursuant to [ORS 192.690\(1\)](#) to deliberate on Proposed Order issued by Administrative Law Judge Andrew Holmes-Swanson for Gary Knight II., Case No. C2017-0149
- B. Outside of public meeting pursuant to [ORS 192.690\(1\)](#) to deliberate on Proposed Order issued by Administrative Law Judge Joe L. Allen for Madden Industrial Craftsmen Inc., Case No. C2016-0162

(Break to allow audience back in room. No votes were taken during outside of public meeting)

- A.1. Consideration of Amended Proposed Order in the matter of [Gary Knight II., Case No. C2017-0149](#)
- B.1. Consideration of Proposed Order in the matter of [Madden Industrial Craftsmen Inc., Case No. C2016-0162](#)

(Break to allow audience from room for executive session)

- C. Executive session to consider information or records that are exempt from disclosure by law, including written advice from your attorney [ORS 192.660\(2\)\(f\)](#)

(Break to allow audience back in room. No votes were taken during executive session)

III. Public comment

*This time is available for individuals wanting to address the board on **non-agenda items only**. The board will not take action on non-agenda items raised under public comment at this meeting. Testimony on agenda items will be heard when the item is called. (See "Issues to remember when addressing board" at the end of this agenda).*

IV. Reports

- A. [Consideration of Final Order](#) in the matter of Duane Robert Snyder, dba High Desert Plumbers and dba High Desert Plumbing and Remodeling Case No. C2017-0265
- B. [Consideration of Final Order](#) in the matter of CMB Solutions Inc., Case No. C2017-0273
- C. [Consideration of Final Order](#) in the matter of Justin Stalford Case No. C2017-0271
- D. [Consideration of Final Order](#) in the matter of Douglas A. Jones Case No. C2017-0083
- E. [Summary](#) of enforcement actions previously taken by the division outlined on the enforcement board report (*No board action required*)
- F. [Suspension, revocations and conditioned licenses](#) previously taken by the division outlined on the enforcement board report (*No board action required*)
- G. Elevator program update
- H. Electrical program update

V. Communications

Update on [Appeal No. 2018-01](#) EL Field Fabrication

VI. Appeals – None

VII. Unfinished business - None

VIII. New business

- A. William A. Gray Jr. requests the board to consider issues regarding the [reinstatement of a signing supervisor's license](#) after expiration
- B. Eugene Water & Electric Board is asking the board to [consider adopting an exemption](#) according to ORS 479.540(10) of the UL-approved, Global Power Products Generlink meter-mounted transfer switch
- C. Review and approve committee recommendations for [new continuing education course and instructor applications](#)
- D. Request received from EC&M for [retroactive approval](#) of course 2017 National Electrical Code change conference
- E. Request received from Oregon Solar Energy Industries Association for [retroactive approval](#) of course 2017 code change
- F. Board appointment of a [cost analysis subcommittee](#)

IX. Announcements - None

X. Adjournment

Issues to remember when addressing the board:

- All public participation is subject to the discretion of the board chair for order of testimony, length and relevance.
- Speakers are generally limited to five minutes.
- Please register on the attendance registration form and on the public testimony registration form, listing the appropriate agenda item.
- The board chair will call you to the front testimony table.
- Please state your name and the organization you represent (if any).
- Always address your comments through the chair.
- If written material is included, please provide 20 three-hole-punched copies of all information to the boards administrator prior to the start of the meeting and, when possible, [staff](#) respectfully requests an electronic copy of materials 24 hours prior to the meeting.

Interpreter services or auxiliary aids for persons with disabilities are available upon advance request. Persons making presentations including the use of video, DVD, PowerPoint, or overhead projection equipment are asked to contact boards coordinator 24 hours prior to the meeting. For assistance, please contact [Debi Barnes-Woods](#) at 503-378-6787.

Please do not park vehicles with "E" plates in "customer only" spaces.

Note: For information regarding re-appointments or board vacancies, please visit the Governor's [website](#).

DRAFT
State of Oregon

Agenda Item I.D.

Electrical and Elevator Board
Meeting minutes
November 16, 2017

- Members present:** Heather Miller, journeyman electrician, chair
Timothy Frew, journeyman electrician
Tom Kyle, electrical contractor
Scott Hall, electrical equipment supplier
Warren Jackson, building official
Vern Palmrose, power and light industry
Joseph Pugh, public member
Robert Pyne, journeyman elevator installer
Randy Smith, electrical inspector
James Totten, owner or manager of a commercial office building
- Members absent:** Thomas Faires, elevator manufacturing representative
Steven Trapp, electrical contractor
Vacant, commercial underwriter
Vacant, electrical equipment manufacturing rep
Vacant, industrial plant employing electricians
- Staff present:** Mark Long, Administrator, Building Codes Division
Shane Sumption, interim manager, Policy and Technical Services
Keith Anderson, electrical program chief, Policy and Technical Services
Andrea Simmons, enforcement manager, Enforcement Services
Alana Cox, senior policy advisor, Policy and Technical Services
Warren Hartung, elevator program chief, Statewide Services
Roseanne Nelson, assistant manager, Statewide Services
Sarah Blam-Linville, contested case representative, Enforcement Services
Todd Smith, policy analyst, Policy and Technical Services
Richard Baumann, policy analyst, Policy and Technical Services
Linda Rabe, supervising executive assistant, Management Services
Holly Tucker, manager's assistant, Policy and Technical Services
Debi Barnes-Woods, boards administrator, Policy and Technical Services
- Guests present:** Nathan Philips, NECA
Randy Carmony, Local 23
Bill Wilcox, electrical inspector, Lane County
Don Meier, NW Code Professionals
Dave Baker, CJATC
Steve Shepherd, Bear Electric
Greg Creal CJATC

I. Board business

A. Call to order

Chair Heather Miller called the Electrical and Elevator Board meeting of November 16, 2017, to order at 9:30 a.m. The meeting was held at the Building Codes Division in Conference Room A, 1535 Edgewater Street NW, Salem, Oregon.

B. Roll call

Thomas Faires and Steven Trapp were excused. Robert Pyne was connected by teleconference.

The Electrical and Elevator Board has three vacancies: commercial underwriter, electrical equipment manufacturer representative, and industrial plant representative.

C. Approval of the agenda and order of business

Chair Miller **RULED** the agenda and order of business approved.

D. Approval of the board meeting draft minutes of September 28, 2017

Chair Miller **RULED** the board meeting draft minutes of September 28, 2017, final.

E. Date of the next regularly scheduled meeting: January 25, 2018.

II. Public comment - None

III. Reports

A. Consideration of final order in the matter of Guillermo Gonzales

Andrea Simmons, manager, Enforcement Services, said the division issued a Notice of Proposed Assessment of Civil Penalty to Guillermo Gonzales for allegedly performing work without a journeyman or supervising electrician's license in violation of ORS 479.620(3). Mr. Gonzales requested a hearing in which the Administrative Law Judge issued a Proposed Order finding that Mr. Gonzales did violate the electrical licensing law.

Motion by Vice-chair Timothy Frew to adopt the proposed order and issue a final order for Guillermo Gonzales.

Motion carried unanimously.

B. Summary of enforcement actions previously taken by the division outlined on the enforcement board report. (No board action required)

Manager Simmons was available for questions on the summary report.

C. Suspension and conditioned licenses previously taken by the division outlined on the enforcement board report. (No board action required)

Manager Simmons was available for questions.

D. Elevator program update

Warren Hartung, elevator program chief, Statewide Services, reported on September and October accident and overdue reports.

E. Electrical program update

Keith Anderson, electrical program chief, updated the board on his delivery of code change training for electrical inspectors.

Mark Long, Administrator, Building Codes Division, discussed the [Executive Order No. 17-20](#) recently published by the Governor.

IV. Communications - None

V. Appeals – None

VI. Unfinished business - None

VII. New business

A. Review and consideration of proposed amendments to electrical minor installation label rules

Todd Smith, policy analyst, Policy and Technical Services, introduced this item before taking public comment.

William Wilcox, electrical inspector for Lane County, was concerned that the majority of the proposed changes may create safety hazards.

Don Meier, NW Code Professionals, said from the audience that he had the same concerns as Mr. Wilcox.

Chief Anderson clarified that 918-309-0220(1)(c) does not allow a service to be replaced, it is for the repair or replacement of components within an existing service. He said that the purpose of these proposed rules are to update and revise the scope of electrical minor installation labels.

Board member Warren Jackson, building official for Marion County, said he shared the proposed rules with Marion County. Mr. Jackson said he asked for input at the last quarterly business meeting of the Oregon Building Officials Association and received comments in support of the changes.

Todd Smith, policy analyst, Policy and Technical Services, explained the public hearing notice was filed October 27, 2017, and the hearing is scheduled for November 21, 2017. Mr. Smith said that the last day for public comment is November 27, 2017, at 5:00 p.m.

Shane Sumption, interim manager, explained that if the board has concerns with the proposed rules, the board could include in the motion that the rules come back to the board after the rulemaking hearing before final adoption, which would extend the effective date to April 1 instead of January 1, 2018.

Motion by Warren Jackson to approve the amendments to OAR 918-309-0210 and 918-309-0220 and forward to the Administrator for rulemaking and subsequent adoption.

Motion carried unanimously.

B. Review and consideration of proposed amendments to electrical licensing exemptions

Administrator Long said that an overview memo, Senate Bill 983, and a proposed rule that implements the discussion at the legislature related to the bill are referenced in the board packet.

Administrator Long outlined the issue:

- Licensed electricians in the State of Oregon perform electrical installations in structures

- Current electrical licensing laws apply to recreational vehicles, as well as traditional structures
- Oregon is proposing a change in electrical licensing regulations separating a vehicle from a structure

Administrator Long said that the bill repealed the obsolete limited maintenance electrician license statute, ORS 446.210, and created an exemption for electrical and plumbing work being performed on recreational vehicles. The State Plumbing Board will see this issue at its December 14 meeting. Administrator Long explained that the legislature, industry and the division agreed that certain manufactured structures should also receive the same license exemption for a period of two years to allow industry time to comply with licensing requirements.

Motion by Warren Jackson to approve the proposed rule, OAR 918-261-0033, and forward to the Administrator for rulemaking and subsequent adoption.

Motion carried unanimously.

C. Arthur Peterson requests the board to consider issues regarding the reinstatement of a signing supervisor's license after signing a Consent Order

Arthur Peterson said that he has since taken the required continuing education and asked that the board reinstate his signing supervisor's license so he can continue to work.

Andrea Simmons, manager, Enforcement Services, said Mr. Peterson paid his renewal fee August 12, 2016, but did not complete his required continuing education within the allowed time. Ms. Simmons explained the two options for the board:

1. Reinstatement of Arthur Peterson's signing supervisor's license
2. Direct the division to formally deny Arthur Peterson's signing supervisor's license and refunding his renewal fee

Motion by Timothy Frew to deny Arthur Peterson's request to reinstate his signing supervisor's license.

Motion carried.

Robert Pyne voted Nay.

D. Review and approve committee recommendations for new continuing education course and instructor applications

Rich Baumann, policy analyst, Policy and Technical Services, was available for any questions.

Motion by Thomas Kyle to approve committee recommendations.

Motion carried unanimously.

IX. Announcements - None

X. Adjournment

Chair Miller adjourned the meeting at 11:20 a.m.

Respectfully submitted by Debi Barnes-Woods, boards administrator/coordinator.

State of Oregon

Board memo

Building Codes Division

January 25, 2018

To: The Electrical and Elevator Board

From: Shannon Flowers, contested case representative, Enforcement Services

Subject: Final Order for Case No. C2017-0149, In the Matter of Gary Knight II

Action requested:

To consider the adoption of Amended Proposed Order and issue a Final Order.

Background:

On May 22, 2017, the Building Codes Division (Division), acting on behalf of the Electrical and Elevator Board (Board), issued a Notice of Proposed Civil Penalties (Notice) to Gary Knight II (Respondent). The Notice proposed to assess a total civil penalty of \$6,000.00 and alleged that Respondent made electrical installations without a valid permit, made electrical installations without a supervising or journeyman electrician license, and engaged in the business of making electrical installations without an electrical contractor's license.

On or about June 26, 2017, Respondent requested a hearing.

A telephone hearing was held on September 7, 2017, before Administrative Law Judge Andrew Holmes-Swanson (ALJ Holmes-Swanson). The Division appeared and was represented by Shannon Flowers. Testifying on behalf of the Division were Mike Weaver, a Division license enforcement person, William Keith Anderson, the State of Oregon's Electrical Program Chief and Andrea Simmons, Enforcement Services manager.

On October 23, 2017, ALJ Holmes-Swanson issued a Proposed Order, concluding that Respondent made electrical installations without a valid permit, made electrical installations without a supervising or journeyman electrician license, and engaged in the business of making electrical installations without an electrical contractor's license. ALJ Holmes-Swanson determined that the law supported the assessed \$6,000 penalty, but recommended that the Board assess only \$750.00 in civil penalties.

On October 23, 2017, ALJ Holmes-Swanson issued an Amended Proposed Order to correct typing errors found in the original order.

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
BUILDING CODES DIVISION**

IN THE MATTER OF:)	PROPOSED ORDER
)	
GARY KNIGHT II,)	OAH Case No. 2017-ABC-00727
RESPONDENT)	Agency Case No. C2017-0149
)	
)	

HISTORY OF THE CASE

On May 22, 2017, the Building Codes Division issued a Notice of Proposed Assessment of Civil Penalties. On June 26, 2017, Gary Knight II requested a hearing.

On June 30, 2017, the Building Codes Division referred the hearing request to the Office of Administrative Hearings (OAH). Administrative Law Judge (ALJ) Andrew Holmes-Swanson was assigned to preside at hearing. On July 19, 2017, the Office of Administrative Hearings mailed the parties a Notice of Telephone Hearing, scheduling a hearing for September 7, 2017, at 9:00 am.

A telephone hearing was held on September 7, 2017. Gary Knight II appeared without counsel and testified. The Building Codes Division was represented by Contested Case Representative Shannon Flowers. Mike Weaver, William Keith Anderson, and Andrea Simmons testified on behalf of the Building Codes Division. The record closed at the conclusion of the hearing.

ISSUES

1. Whether Respondent violated Oregon law by making electrical installations without a valid Oregon Electrical permit. ORS 479.550(1).
2. Whether Respondent violated Oregon law by making electrical installations without a supervising or journeyman electrician license. ORS 479.620(3).
3. Whether Respondent violated Oregon law by engaging in the business of making electrical installations without an Oregon Electrical Contractor license. ORS 479.620(1); OAR 917-030-0010(8).
4. Whether the Agency's proposed civil penalty of \$6000 is supported by law. ORS 455.895(1)(b); ORS 455.955; OAR 918-001-0036.

EVIDENTIARY RULING

Exhibits A1 through A6, offered by the Building Codes Division, and Exhibits C1 through C2, offered by Respondent were admitted into the record without objection.

FINDINGS OF FACT

1. Respondent is a retired electrician and does not intend to return to work as an electrician. (Test. of Knight.) He has held electrician licenses in Texas, New Mexico, Arizona, and Colorado. (Test. of Weaver; Ex. A1 at 2.) He has never been licensed with the Agency or the Construction Contractors Board (CCB) in Oregon. (Test. of Weaver; Ex. A1 at 2; Ex. A5.) A person who has been licensed in another state, must apply for an Oregon permit to perform electrical work in Oregon. (Test. of Anderson; test. of Simmons.)

2. Respondent was approached by Brenda Alonso to perform electrical work at 2533 7th Street, Malin, Oregon, a residence owned by Rosario Zamora. Respondent declined this request because he had retired from work as a contractor. Alonso contacted Respondent a second time after another contractor, who was not licensed, failed to correctly perform the work resulting in the residence's electrical system no longer working correctly. Because he was told that there was no longer light or heat in the home, that they could not afford an electrician, no one else was helping, and he had the skill set to assist with the problem, Respondent decided to provide assistance. Respondent also felt obligated, because of his training and experience, to make sure that the house was safe. Respondent never requested nor received compensation for this work. (Test. of Knight.)

3. Respondent went to the property on April 17, 2017. (Ex. A2 at 1.) Respondent found that a new 100 amp meter main, panel, and mask were installed incorrectly. (Test. of Knight; Ex. A2 at 1.) The ground wires were installed correctly, but the circuitry was incorrect. Respondent tracked the wires into the attic and was able to diagnose the problem. Respondent determined that the branch circuit going into the house was incorrectly wired. He switched the two hot legs, tied a neutral to the bus, and installed two #12 wires to the correct breakers. This included removing two wire nuts, installing the new wires to the breakers, screwing the new wires into the breakers, and installing the two wire nuts. (Test. of Weaver; Ex. A1 at 2; Ex. A2.)

4. On April 13, 2017, Rosario Zamora, the owner of the property, obtained a permit from Klamath County Building Department for a homeowner installation of a 100 amp meter, main, and panel in his name. (Test. of Weaver; Ex. A4; Ex. A1 at 2.)

5. Installing new wiring, the use of wire nuts, and connecting of wire to breakers constitutes electrical installation. (Test. of Anderson.)

6. Respondent has no violations prior to April 17, 2017. (Test. of Simmons.)

7. The Agency has created the Advisory Board Civil Penalty Matrix, Adopted 2017, (penalty matrix) as guidance to create uniformity in the penalties it assesses. (Test. of Simmons;)

Ex. A6.) The penalty matrix has nine lines for different violation types and increasing penalty amounts depending on if the violation is the first, second, or third with in the past five years. (Ex. A6.)

8. The first line of the penalty matrix is for the “Permit Violation” type of violations and has a maximum penalty assessed amount of \$1000 and minimum of \$250. (Test. of Simmons; Ex. A6 at 1.)

9. The second line of the penalty matrix is for the “Volunteer Who Has Violated Licensing Laws” type of violations and has a maximum penalty assessed amount of \$1000 and minimum of \$0 for a first violation. (Test. of Simmons; Ex. A6 at 1.) The clarifying language for this line states:

Above section applies to individuals who are not licensed or employed in one of the specialty trades listed above and who make an installation that requires a license for no remuneration or other benefit. Above section shall not apply to individuals who have been licensed by the Division or the Construction Contractors Board.

(Ex. A6 at 1.) The Agency did not apply the penalty amounts for volunteers because this portion of its penalty matrix is intended to apply to persons who are unfamiliar with state licensing processes. (Test. of Simmons.)

10. The third line of the penalty matrix is for the “Unlicensed Activities” type of violations and has a maximum penalty assessed amount of \$2000 and minimum of \$250 for a first violation. (Test. of Simmons; Ex. A6 at 1.) The clarifying language for this line states:

Above section applied to individuals or companies and includes working without a license and allowing an unlicensed individual to perform specialty work.

(Ex. A6 at 1.)

11. The sixth line of the penalty matrix is for the “Business” type of violations and has a maximum penalty assessed amount of \$3000 and minimum of \$250 for a first violation. (Test. of Simmons; Ex. A6 at 2.) The clarifying language for this line states:

Above section applies to individuals engaging in the business or of a contractor working in a trade that requires a specialty license.

(Ex. A6 at 2.)

CONCLUSIONS OF LAW

1. Respondent violated Oregon law by making electrical installations without a valid Oregon Electrical permit.

2. Respondent violated Oregon law by making electrical installations without a supervising or journeyman electrician license.
3. Respondent violated Oregon law by engaging in the business of making electrical installations without an Oregon Electrical Contractor license.
4. The Agency's proposed civil penalty of \$6000 is supported by law.

OPINION

The Agency seeks to enforce laws and rules regulating the electrical work in the State of Oregon. Specifically, it is seeking a monetary civil penalty in the amount of \$6000 for Respondent's violation of ORS 479.550(1), ORS 479.620(3), and ORS 479.620(1). ORS 497.550(1) states, "no person shall work on any new electrical installation for which a permit has not been issued." ORS 479.620(3) prohibits "mak[ing] any electrical installation without a supervising or journeyman electrician's license." ORS 479.620(1) states that a person may not, "[w]ithout an electrical contractor's license, engage in the business of making electrical installations, advertise as or otherwise purport to be licensed to make electrical installations or purport to be acting as a business that makes electrical installations." Finally, ORS 455.995 and ORS 455.895(1)(b) allow the Agency to issue civil penalties for violations of these laws and OAR 918-001-0036 provides for the Agency to create a matrix of penalties.

In a contested case hearing, the burden of proving a fact or positions rests on the proponent of that fact or position. ORS 183.450(2); *Salem Decorating v. National Council on Comp. Ins.*, 116 Or App, 170 (1990), *rev den* 315 OR 643 (1993). In the absence of legislation specifying another standard, the standard of proof in an administrative hearing is "the preponderance of the evidence," which means evidence sufficient to persuade the fact finder that the facts asserted are more probably true than not true. *Metcalf v. AFSD*, 65 Or App 761, 765 (1983); *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987). *Gallant v. Board of Medical Examiners*, 159 Or App 175, 180 (1999). The burden of persuasion is on the Agency to establish the violations and the appropriate sanctions (civil penalties) alleged in its Notice.

Work Without a Permit

ORS 479.550(1) states, "Except as provided in ORS 479.540, no person shall work on any new electrical installation for which a permit has not been issued." OAR 918-309-0000(3) mandates a permit prior to the start of electrical work. ORS 479.530(10) defines "Electrical installations," in relevant part, as:

* * * the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product. "Electrical installation" also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. * * *

Respondent engaged in this activity when he replaced #12 wires, connected them to a breaker box, and installed wire nuts. Although the Zamora may have obtained a permit for the work Respondent performed, OAR 918-309-0000(5) states that electrical permits are not transferable. The evidence supports the Agency's finding that Respondent performed work without a permit.

Work Without a License

ORS 479.620(3) prohibits a person from "mak[ing] any electrical installation without a supervising or journeyman electrician's license." As discussed above, Respondent engaged in an electrical installation. Respondent was not licensed in Oregon. Although Respondent has been licensed in other states, Respondent must still have applied for and received a license through Oregon's reciprocity process if he wanted to lawfully work as an electrician in the state.¹ Therefore, Respondent was not licensed

Business of Electrical Installations

ORS 479.620(1) states that a person may not,

[w]ithout an electrical contractor's license, engage in the business of making electrical installations, advertise as or otherwise purport to be licensed to make electrical installations or purport to be acting as a business that makes electrical installations.

As discussed above, Respondent engaged in an electrical installation. Respondent credibly testified that he is not attempting to start working in Oregon as an electrician. He did

¹ ORS 918-030-0045 states:

- (1) The purpose of these rules is to assist the citizens of Oregon and reciprocating states with substantially similar electrical and plumbing licensing criteria to obtain a license without examination.
- (2) For the purposes of this rule the following definitions apply:
 - (a) "Reciprocal Applicant" means a person applying for a reciprocal license.
 - (b) "Reciprocal License" means a license issued by Oregon to a person who qualifies under these rules.
 - (c) "Reciprocal State" means a state with a reciprocal licensing agreement with Oregon.
 - (d) "Work Experience" refers to work experience obtained through a registered apprenticeship program. Work experience may also refer to work experience verified in the manner established by OAR 918-030-0040 or 918-030-0050.
- (3) To qualify for a license under these rules, a reciprocal applicant must prove that they:
 - (a) Possess an equivalent or higher license from the reciprocal state that is current and active with no violations or conditions attached within the past three (3) years;
 - (b) Qualified for the equivalent or higher license from the reciprocal state through required work experience and by passing an examination in the reciprocal state with a score of 75 percent or better;
 - (c) Have worked a minimum of six (6) months (1,000 hours) under the license in the reciprocal state;
 - (d) Have not taken and failed the Oregon examination within the past two (2) years for the license type they are applying to reciprocate.

not solicit the work that is at issue and he was not paid for that work. However, OAR 918-030-0010(8) defines “engaging in the business” to mean:

* * * 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.

This definition includes more than simply performing work for profit and can include work performed without compensation. Therefore, Respondent engaged in the business of making electrical installations. Upon review of ORS 479.540, none of the exceptions in that law apply to Respondent’s situation.

Penalty

ORS 455.895 and 479.995 allow the Agency to impose civil penalties for violations of ORS 479.620 and 479.550. Under OAR 918-001-0036(6) the Department is authorized to create a “penalty matrix” for the purpose of “promot[ing] equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.” The Agency considered the nature of the violations and that these were Respondent’s first offenses in applying the guidelines of the matrix to determine the penalty amounts. Failing to obtain a permit clearly falls into the first line of the matrix which provides for a \$1000 penalty.

The Agency used the third line of the matrix, for unlicensed work, to assess a \$2000 penalty for Respondent’s electrical installation while not licensed. Respondent argued that he received no compensation for his work, that he was performing the work for charitable rather than business reasons, and that he was unaware that there was no exception to Oregon’s licensing requirements for this type of work. The matrix’s second line is titled “Volunteer Who Has Violated Licensing Laws” and contains clarifying text stating:

Above section applies to individuals who are not license or employed in one of the specialty trades listed above and who make an installation that requires a license for no remuneration or other benefit. Above section shall not apply to individuals who have been licensed by the Division or the Construction Contractors Board.

On its face, this provision appears to apply to Respondent’s work – he was volunteering, was not license or employed, and had not been licensed by the Agency or the CCB. However, at hearing, the Agency provided testimony clarifying the intent of this portion of the matrix, stating that it was intended for volunteers who did not have sufficient contact with the electrician profession such that they would be reasonably unaware of the licensing requirement. The Agency asserted that Respondent’s experience in other states gave him sufficient knowledge of the electrician profession to know that a regulatory structure governed these sorts of activities. Although Respondent may not have been aware of Oregon’s specific laws and rules governing performing electrical installations, his experience working as a licensed electrician in other states make it reasonable for him to know that a regulatory system exists in this state and that he should

obtain information about that regulation before performing electrical work. Therefore, it is reasonable for the Agency to apply the third, rather than the second line of the matrix to Respondent's violation and assess a \$2000 penalty.

Finally, the Agency applied the sixth line of the matrix, labeled "Business," to Respondent's engaging in the business of performing electrical installations. The clarifying text for this line states, "Above section applies to individuals engaging in the business or of a contractor working in a trade that requires a specialty license." As discussed above, Respondent credibly testified that the work at issue was not performed in the course of a business or as his working as a contractor. The definition provided in OAR 918-030-0010(8) states that the definition is "[f]or the purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by ORS chapter 455 * * *." The civil penalty associated with ORS 479.620 is part of the purpose of that law. Therefore, that definition might reasonably be applied to the Agency's penalty matrix and Respondent's work – even though it may more accurately be described as being that of a volunteer using plain language of the penalty matrix and its clarifying language – and the Agency may apply a \$3000 penalty.

For the above reasons, I find that the law supports the assessed \$6000 penalty. However, considering that Respondent was volunteering his time to remedy a potentially dangerous electrical situation impacting the livability of a residence that was the result of work by an unlicensed contractor, I find that it is appropriate for the Agency to reduce the amount of the penalty to *at least* the maximum penalty which would be assessed if he were considered a volunteer for the purposes of acting without a license. Furthermore, although the Agency's interpretation of the penalty matrix may be reasonable, the claimant's assertion that he was a volunteer is equally reasonable. If Respondent were considered a volunteer, he would be subject to a maximum \$1000 penalty for performing work without a permit and a maximum \$1000 penalty for being a volunteer who has violated licensing laws. A \$2000 penalty would be greater than the minimum penalty which may be assessed applying the penalty matrix as the Agency did when calculating the \$6000 penalty.

Considering further that Respondent is a trained electrician with the knowledge and expertise to safely correct work which was done improperly I find it appropriate to reduce the amount of the penalty further, to \$750, the minimum amount which may be assessed using the Agency's interpretation of the penalty matrix. I decline to reduce the penalty to the \$250 minimum penalty which would be apply if Respondent were considered a volunteer because Respondent, as a former electrician, reasonably should have known that Oregon regulates those working as electricians and thus should have known to investigate the rules in that system before performing work as a volunteer. For these reasons, I propose a penalty of \$750.

ORDER

I propose the Building Codes Division issue the following order:

The Department's May 22, 2017, Notice of Proposed Assessment of Civil Penalties is MODIFIED to reduce the amount of the assessed civil penalty to \$750.

Andrew Holmes-Swanson

Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division
Manager
PO Box 14470
Salem, OR 97309-0404

CERTIFICATE OF MAILING

On October 23, 2017 I mailed the foregoing PROPOSED ORDER issued on this date in OAH Case No. 2017-ABC-00727.

By: First Class Mail

Gary Knight II
PO Box 292
Malin OR 97632

By: Electronic Mail

Shannon Flowers, Agency Representative
Building Codes Division
PO Box 14470
Salem OR 97309

Alesia Vella for Lucy M Garcia
Hearing Coordinator

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
BUILDING CODES DIVISION**

IN THE MATTER OF:) **AMENDED PROPOSED ORDER**
)
GARY KNIGHT II,) OAH Case No. 2017-ABC-00727
RESPONDENT) Agency Case No. C2017-0149
)
)

HISTORY OF THE CASE

On May 22, 2017, the Building Codes Division issued a Notice of Proposed Assessment of Civil Penalties. On June 26, 2017, Gary Knight II requested a hearing.

On June 30, 2017, the Building Codes Division referred the hearing request to the Office of Administrative Hearings (OAH). Administrative Law Judge (ALJ) Andrew Holmes-Swanson was assigned to preside at hearing. On July 19, 2017, the Office of Administrative Hearings mailed the parties a Notice of Telephone Hearing, scheduling a hearing for September 7, 2017, at 9:00 am.

A telephone hearing was held on September 7, 2017. Gary Knight II appeared without counsel and testified. The Building Codes Division was represented by Contested Case Representative Shannon Flowers. Mike Weaver, William Keith Anderson, and Andrea Simmons testified on behalf of the Building Codes Division. The record closed at the conclusion of the hearing.

This Amended Proposed Order is being issued to correct errors found in the original order. Changes are indicated by **bold** typeface.

ISSUES

1. Whether Respondent violated Oregon law by making electrical installations without a valid Oregon Electrical permit. ORS 479.550(1).
2. Whether Respondent violated Oregon law by making electrical installations without a supervising or journeyman electrician license. ORS 479.620(3).
3. Whether Respondent violated Oregon law by engaging in the business of making electrical installations without an Oregon Electrical Contractor license. ORS 479.620(1); OAR 917-030-0010(8).

4. Whether the Agency's proposed civil penalty of \$6000 is supported by law. ORS 455.895(1)(b); ORS 455.955; OAR 918-001-0036.

EVIDENTIARY RULING

Exhibits A1 through A6, offered by the Building Codes Division, and Exhibits C1 through C2, offered by Respondent were admitted into the record without objection.

FINDINGS OF FACT

1. Respondent is a retired electrician and does not intend to return to work as an electrician. (Test. of Knight.) He has held electrician licenses in Texas, New Mexico, Arizona, and Colorado. (Test. of Weaver; Ex. A1 at 2.) He has never been licensed with the Agency or the Construction Contractors Board (CCB) in Oregon. (Test. of Weaver; Ex. A1 at 2; Ex. A5.) A person who has been licensed in another state, must apply for an Oregon **license** to perform electrical work in Oregon. (Test. of Anderson; test. of Simmons.)

2. Respondent was approached by Brenda Alonso to perform electrical work at 2533 7th Street, Malin, Oregon, a residence owned by Rosario Zamora. Respondent declined this request because he had retired from work as a contractor. Alonso contacted Respondent a second time after another contractor, who was not licensed, failed to correctly perform the work resulting in the residence's electrical system no longer working correctly. Because he was told that there was no longer light or heat in the home, that they could not afford an electrician, no one else was helping, and he had the skill set to assist with the problem, Respondent decided to provide assistance. Respondent also felt obligated, because of his training and experience, to make sure that the house was safe. Respondent never requested nor received compensation for this work. (Test. of Knight.)

3. Respondent went to the property on April 17, 2017. (Ex. A2 at 1.) Respondent found that a new 100 amp meter main, panel, and mask were installed incorrectly. (Test. of Knight; Ex. A2 at 1.) The ground wires were installed correctly, but the circuitry was incorrect. Respondent tracked the wires into the attic and was able to diagnose the problem. Respondent determined that the branch circuit going into the house was incorrectly wired. He switched the two hot legs, tied a neutral to the bus, and installed two #12 wires to the correct breakers. This included removing two wire nuts, installing the new wires to the breakers, screwing the new wires into the breakers, and installing the two wire nuts. (Test. of Weaver; Ex. A1 at 2; Ex. A2.)

4. On April 13, 2017, Rosario Zamora, the owner of the property, obtained a permit from Klamath County Building Department for a homeowner installation of a 100 amp meter, main, and panel in his name. (Test. of Weaver; Ex. A4; Ex. A1 at 2.)

5. Installing new wiring, the use of wire nuts, and connecting of wire to breakers constitutes electrical installation. (Test. of Anderson.)

6. Respondent has no violations prior to April 17, 2017. (Test. of Simmons.)

7. The Agency has created the Advisory Board Civil Penalty Matrix, Adopted 2017, (penalty matrix) as guidance to create uniformity in the penalties it assesses. (Test. of Simmons; Ex. A6.) The penalty matrix has nine lines for different violation types and increasing penalty amounts depending on if the violation is the first, second, or third with in the past five years. (Ex. A6.)

8. The first line of the penalty matrix is for the “Permit Violation” type of violations and has a maximum penalty assessed amount of \$1000 and minimum of \$250. (Test. of Simmons; Ex. A6 at 1.)

9. The second line of the penalty matrix is for the “Volunteer Who Has Violated Licensing Laws” type of violations and has a maximum penalty assessed amount of \$1000 and minimum of \$0 for a first violation. (Test. of Simmons; Ex. A6 at 1.) The clarifying language for this line states:

Above section applies to individuals who are not licensed or employed in one of the specialty trades listed above and who make an installation that requires a license for no remuneration or other benefit. Above section shall not apply to individuals who have been licensed by the Division or the Construction Contractors Board.

(Ex. A6 at 1.) The Agency did not apply the penalty amounts for volunteers because this portion of its penalty matrix is intended to apply to persons who are unfamiliar with state licensing processes. (Test. of Simmons.)

10. The third line of the penalty matrix is for the “Unlicensed Activities” type of violations and has a maximum penalty assessed amount of \$2000 and minimum of \$250 for a first violation. (Test. of Simmons; Ex. A6 at 1.) The clarifying language for this line states:

Above section applied to individuals or companies and includes working without a license and allowing an unlicensed individual to perform specialty work.

(Ex. A6 at 1.)

11. The sixth line of the penalty matrix is for the “Business” type of violations and has a maximum penalty assessed amount of \$3000 and minimum of \$250 for a first violation. (Test. of Simmons; Ex. A6 at 2.) The clarifying language for this line states:

Above section applies to individuals engaging in the business or of a contractor working in a trade that requires a specialty license.

(Ex. A6 at 2.)

CONCLUSIONS OF LAW

1. Respondent violated Oregon law by making electrical installations without a valid Oregon Electrical permit.
2. Respondent violated Oregon law by making electrical installations without a supervising or journeyman electrician license.
3. Respondent violated Oregon law by engaging in the business of making electrical installations without an Oregon Electrical Contractor license.
4. The Agency's proposed civil penalty of \$6000 is supported by law.

OPINION

The Agency seeks to enforce laws and rules regulating the electrical work in the State of Oregon. Specifically, it is seeking a monetary civil penalty in the amount of \$6000 for Respondent's violation of ORS 479.550(1), ORS 479.620(3), and ORS 479.620(1). ORS 497.550(1) states, "no person shall work on any new electrical installation for which a permit has not been issued." ORS 479.620(3) prohibits "mak[ing] any electrical installation without a supervising or journeyman electrician's license." ORS 479.620(1) states that a person may not, "[w]ithout an electrical contractor's license, engage in the business of making electrical installations, advertise as or otherwise purport to be licensed to make electrical installations or purport to be acting as a business that makes electrical installations." Finally, ORS 455.995 and ORS 455.895(1)(b) allow the Agency to issue civil penalties for violations of these laws and OAR 918-001-0036 provides for the Agency to create a matrix of penalties.

In a contested case hearing, the burden of proving a fact or positions rests on the proponent of that fact or position. ORS 183.450(2); *Salem Decorating v. National Council on Comp. Ins.*, 116 Or App, 170 (1990), *rev den* 315 OR 643 (1993). In the absence of legislation specifying another standard, the standard of proof in an administrative hearing is "the preponderance of the evidence," which means evidence sufficient to persuade the fact finder that the facts asserted are more probably true than not true. *Metcalf v. AFSD*, 65 Or App 761, 765 (1983); *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987). *Gallant v. Board of Medical Examiners*, 159 Or App 175, 180 (1999). The burden of persuasion is on the Agency to establish the violations and the appropriate sanctions (civil penalties) alleged in its Notice.

Work Without a Permit

ORS 479.550(1) states, "Except as provided in ORS 479.540, no person shall work on any new electrical installation for which a permit has not been issued." OAR 918-309-0000(3) mandates a permit prior to the start of electrical work. ORS 479.530(10) defines "Electrical installations," in relevant part, as:

* * * the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not

itself an electrical product. “Electrical installation” also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. * * *

Respondent engaged in this activity when he replaced #12 wires, connected them to a breaker box, and installed wire nuts. Although the Zamora may have obtained a permit for the work Respondent performed, OAR 918-309-0000(5) states that electrical permits are not transferable. The evidence supports the Agency’s finding that Respondent performed work without a permit.

Work Without a License

ORS 479.620(3) prohibits a person from “mak[ing] any electrical installation without a supervising or journeyman electrician’s license.” As discussed above, Respondent engaged in an electrical installation. Respondent was not licensed in Oregon. Although Respondent has been licensed in other states, Respondent must still have applied for and received a license through Oregon’s reciprocity process if he wanted to lawfully work as an electrician in the state.¹ Therefore, Respondent was not licensed

Business of Electrical Installations

ORS 479.620(1) states that a person may not,

[w]ithout an electrical contractor’s license, engage in the business of making electrical installations, advertise as or otherwise purport to be licensed to make electrical installations or purport to be acting as a business that makes electrical

¹ ORS 918-030-0045 states:

- (1) The purpose of these rules is to assist the citizens of Oregon and reciprocating states with substantially similar electrical and plumbing licensing criteria to obtain a license without examination.
- (2) For the purposes of this rule the following definitions apply:
 - (a) “Reciprocal Applicant” means a person applying for a reciprocal license.
 - (b) “Reciprocal License” means a license issued by Oregon to a person who qualifies under these rules.
 - (c) “Reciprocal State” means a state with a reciprocal licensing agreement with Oregon.
 - (d) “Work Experience” refers to work experience obtained through a registered apprenticeship program. Work experience may also refer to work experience verified in the manner established by OAR 918-030-0040 or 918-030-0050.
- (3) To qualify for a license under these rules, a reciprocal applicant must prove that they:
 - (a) Possess an equivalent or higher license from the reciprocal state that is current and active with no violations or conditions attached within the past three (3) years;
 - (b) Qualified for the equivalent or higher license from the reciprocal state through required work experience and by passing an examination in the reciprocal state with a score of 75 percent or better;
 - (c) Have worked a minimum of six (6) months (1,000 hours) under the license in the reciprocal state;
 - (d) Have not taken and failed the Oregon examination within the past two (2) years for the license type they are applying to reciprocate.

installations.

As discussed above, Respondent engaged in an electrical installation. Respondent credibly testified that he is not attempting to start working in Oregon as an electrician. He did not solicit the work that is at issue and he was not paid for that work. However, OAR 918-030-0010(8) defines “engaging in the business” to mean:

* * * 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.

This definition includes more than simply performing work for profit and can include work performed without compensation. Therefore, Respondent engaged in the business of making electrical installations. Upon review of ORS 479.540, none of the exceptions in that law apply to Respondent’s situation.

Penalty

ORS 455.895 and 479.995 allow the Agency to impose civil penalties for violations of ORS 479.620 and 479.550. Under OAR 918-001-0036(6) the Department is authorized to create a “penalty matrix” for the purpose of “promot[ing] equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.” The Agency considered the nature of the violations and that these were Respondent’s first offenses in applying the guidelines of the matrix to determine the penalty amounts. Failing to obtain a permit clearly falls into the first line of the matrix which provides for a \$1000 penalty.

The Agency used the third line of the matrix, for unlicensed work, to assess a \$2000 penalty for Respondent’s electrical installation while not licensed. Respondent argued that he received no compensation for his work, that he was performing the work for charitable rather than business reasons, and that he was unaware that there was no exception to Oregon’s licensing requirements for this type of work. The matrix’s second line is titled “Volunteer Who Has Violated Licensing Laws” and contains clarifying text stating:

Above section applies to individuals who are not license or employed in one of the specialty trades listed above and who make an installation that requires a license for no remuneration or other benefit. Above section shall not apply to individuals who have been licensed by the Division or the Construction Contractors Board.

On its face, this provision appears to apply to Respondent’s work – he was volunteering, was not license or employed, and had not been licensed by the Agency or the CCB. However, at hearing, the Agency provided testimony clarifying the intent of this portion of the matrix, stating that it was intended for volunteers who did not have sufficient contact with the electrician profession such that they would be reasonably unaware of the licensing requirement. The Agency asserted that Respondent’s experience in other states gave him sufficient knowledge of

the electrician profession to know that a regulatory structure governed these sorts of activities. Although Respondent may not have been aware of Oregon's specific laws and rules governing performing electrical installations, his experience working as a licensed electrician in other states make it reasonable for him to know that a regulatory system exists in this state and that he should obtain information about that regulation before performing electrical work. Therefore, it is reasonable for the Agency to apply the third, rather than the second line of the matrix to Respondent's violation and assess a \$2000 penalty.

Finally, the Agency applied the sixth line of the matrix, labeled "Business," to Respondent's engaging in the business of performing electrical installations. The clarifying text for this line states, "Above section applies to individuals engaging in the business or of a contractor working in a trade that requires a specialty license." As discussed above, Respondent credibly testified that the work at issue was not performed in the course of a business or as his working as a contractor. The definition provided in OAR 918-030-0010(8) states that the definition is "[f]or the purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by ORS chapter 455 * * *." The civil penalty associated with ORS 479.620 is part of the purpose of that law. Therefore, that definition might reasonably be applied to the Agency's penalty matrix and Respondent's work – even though it may more accurately be described as being that of a volunteer using plain language of the penalty matrix and its clarifying language – and the Agency may apply a \$3000 penalty.

For the above reasons, I find that the law supports the assessed \$6000 penalty. However, considering that Respondent was volunteering his time to remedy a potentially dangerous electrical situation impacting the livability of a residence that was the result of work by an unlicensed contractor, I find that it is appropriate for the Agency to reduce the amount of the penalty to *at least* the maximum penalty which would be assessed if he were considered a volunteer for the purposes of acting without a license. Furthermore, although the Agency's interpretation of the penalty matrix may be reasonable, the claimant's assertion that he was a volunteer is equally reasonable. If Respondent were considered a volunteer, he would be subject to a maximum \$1000 penalty for performing work without a permit and a maximum \$1000 penalty for being a volunteer who has violated licensing laws. A \$2000 penalty would be greater than the minimum penalty which may be assessed applying the penalty matrix as the Agency did when calculating the \$6000 penalty.

Considering further that Respondent is a trained electrician with the knowledge and expertise to safely correct work which was done improperly I find it appropriate to reduce the amount of the penalty further, to \$750, the minimum amount which may be assessed using the Agency's interpretation of the penalty matrix. I decline to reduce the penalty to the \$250 minimum penalty which would be apply if Respondent were considered a volunteer because Respondent, as a former electrician, reasonably should have known that Oregon regulates those working as electricians and thus should have known to investigate the rules in that system before performing work as a volunteer. For these reasons, I propose a penalty of \$750.

ORDER

I propose the Building Codes Division issue the following order:

The Department's May 22, 2017, Notice of Proposed Assessment of Civil Penalties is MODIFIED to reduce the amount of the assessed civil penalty to \$750.

Andrew Holmes-Swanson

Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division
Manager
PO Box 14470
Salem, OR 97309-0404

CERTIFICATE OF MAILING

On October 31, 2017 I mailed the foregoing AMENDED PROPOSED ORDER issued on this date in OAH Case No. 2017-ABC-00727.

By: First Class Mail

Gary Knight II
PO Box 292
Malin OR 97632

By: Electronic Mail

Shannon Flowers, Agency Representative
Building Codes Division
PO Box 14470
Salem OR 97309

Alesia Vella for Lucy M Garcia
Hearing Coordinator

State of Oregon

Board memo

Building Codes Division

January 25, 2018

To: The Electrical and Elevator Board

From: Sarah Blam, Contested Case Representative, Enforcement Services

Subject: Final Order for Case No. C2016-0162, In the Matter of Madden Industrial Craftsmen, Inc.

Action requested:

To consider the adoption of the Proposed Order and issue a Final Order.

Background:

On October 18, 2016, the Building Codes Division (Division), acting on behalf of the Electrical and Elevator Board (Board), issued a Notice of Proposed Civil Penalties and Notice of Final Order on Default (Notice) to Madden Industrial Craftsmen, Inc. (Respondent). The Notice proposed to assess a total civil penalty of \$4,000.00 and alleged that Respondent made electrical installations without a permit and without an electrical contractor's license at two separate properties; a residential property located at 7015 SE Boise Rd., in Portland, Oregon (Boise property) and a commercial property located at 2550 NW 25th Pl., in Portland, Oregon (25th property) .

On or about November 9, 2016, Respondent requested a hearing.

A telephone hearing was held on March 29, 2017, before Administrative Law Judge Joe L. Allen (ALJ Allen). The Division appeared and was represented by Anthony Estrada. Testifying on behalf of the Division were: John Jassmann, City of Portland Electrical Inspector; Daniel Wittekind, Field Investigator with the Division; William K. Anderson, Chief Electrical Inspector for the Division; and Andrea Simmons, BCD Enforcement Manager.

On August 17, 2017, ALJ Allen issued a Proposed Order, concluding that Respondent made electrical installations without a contractor's license and without a valid permit at the 25th property but not at the Boise property. ALJ Allen further determined that the law supported the assessed \$4,000 penalty, but it could be inferred from the record that the Division did not mean to impose the allowable maximum penalty and instead recommended that the Board assess half of what the penalty matrix prescribes for a total of \$2,000.00 in civil penalties.

The Division issued an Amended Proposed Order to withdraw the allegations for the 25th property according to ALJ Allen's order, and to correct the penalties to a total of \$4,000.00 in civil penalties per the penalty matrix.

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
BUILDING CODES DIVISION**

IN THE MATTER OF:) **PROPOSED ORDER**
)
MADDEN INDUSTRIAL) OAH Case No. 2017-ABC-00284
CRAFTSMEN, INC.) Agency Case No. C2016-0162
)

HISTORY OF THE CASE

On October 18, 2016, the Electrical and Elevator Board (Board) issued a Notice of Proposed Assessment of Civil Penalties and Notice of Final Order on Default (Notice). On November 9, 2016, Madden Industrial Craftsmen, Inc. (Appellant) requested a hearing.

On January 26, 2017, the Building Codes Division (BCD or Division) referred the hearing request to the Office of Administrative Hearings (OAH). The OAH assigned Senior Administrative Law Judge (ALJ) Joe L. Allen to preside at hearing.

A telephone hearing was held on March 29, 2017. Appellant appeared through counsel Scott Schnuck. The Division appeared on behalf of the Board and was represented by Anthony Estrada. Testifying on behalf of Appellant were Kenneth Madden, Vice President of Appellant, and Shane Bird, Sales Representative for Appellant. Testifying on behalf of the Division were: John Jassmann, City of Portland Electrical Inspector; Daniel Wittekind, Field Investigator with the Division; William K. Anderson, Chief Electrical Inspector for the Division; and Andrea Simmons, BCD Enforcement Manager. The parties filed written closing arguments on May 12, 2017. The record closed upon receipt of the parties written closing arguments.

ISSUES

1. Whether Appellant engaged in the business of making electrical installations, as defined in OAR 918-030-0010(8), without an electrical contractor license in violation of ORS 479.620(1) on two separate occasions.
2. Whether Appellant performed electrical installations on one or more properties without a valid electrical permit issued by BCD. ORS 479.550(1).
3. Whether the Board may assess a civil penalty against Appellant for one or more of the alleged violations. ORS 455.895(1)(b) and OAR 918-001-0036.

EVIDENTIARY RULINGS

Exhibits A1 through A12, offered by the Division, were admitted into the record without

objection. Exhibits R1 through R12, offered by Appellant¹, were also admitted into the record without objection.

FINDINGS OF FACT

1. Appellant operates a temporary staffing service that provides skilled craftsmen and unskilled laborers to employers on a temporary, temp-to-hire, or direct hire basis. (Test. of Madden; Exs. R2, R3, and R4.)

2. Appellant provides staffing for a variety of trades including but not limited to carpenters, electricians, welders, mechanics, painters, millwrights, machinists, engineers, project managers, and general laborers. (Test. of Madden; Ex. R3.) On average, electricians account for less than one percent of all staffing orders filled by Appellant. (Test. of Madden; Ex. R5.)

3. Appellant also operates a *dba* known as Madden Fabrication that provides custom metal fabrication to clients. (Test. of Madden.)

4. In May 2016, Appellant was contacted by Luay Aljamal on behalf of DB Talak, LLC (Talak), a construction and engineering firm. (Test. of Bird; Ex. R8 at 1 through 3.) Talak completed an application and opened an account with Appellant to fill temporary staffing needs. At that time, Appellant informed Talak that Talak was responsible for ensuring compliance with all applicable laws and regulations and for pulling any necessary permits for the job(s). (Test. of Bird and Madden; Ex. R6.)

5. On or about May 11, 2016, Talak requested a journeyman electrician as well as sheetrock installers, laborers, and landscapers for a renovation project on a residential property, owned by Talak, located at 7015 SE Boise St., Portland, Oregon (the Boise St. property). (Test. of Bird; Exs. R11 at 1; R12.) At that time, Talak represented that it had hired an electrical contractor, identified as “Brandon”, to supervise the electrical renovations and had also pulled the required permits for the renovation work. (Test. of Bird.)

6. As part of its staffing services for Talak, Appellant assigned a licensed journeyman electrician, Melton Jackson, to assist with Talak’s renovations beginning May 16, 2016. (Test. of Bird and Madden; Ex. R11 at 1.) Jackson was assigned to perform electrical work at the Boise St. property from May 16 through 20, 2016. (Test. of Bird; Ex. R11 at 2.)

7. On or about May 23, 2016, Jackson contacted Appellant and informed them that he was unable to finish the work on the Boise St. property because certain members of the homeowner’s crew did not show up the prior week. Jackson also advised Appellant that he had informed Talak that he would not be able to return the following week due to a prior conflicting assignment. (Test. of Madden and Bird; Ex. R11 at 2.)

8. When Jackson arrived at the Boise St. property, the scope of work necessary was

¹ Appellant’s exhibits are referred to throughout closing briefs as Respondent’s (or Resp’t) exhibits. This order maintains the typical party designations used in hearings before the OAH and refers to those exhibits by letter designation “R” followed by the number assigned by Appellant.

unclear to him. Upon reviewing the existing work, Jackson determined that all the existing exposed wiring had to be torn out and brought up to code. Jackson also installed new ground fault interrupt (GFI) receptacles in the kitchen and bathrooms. (Ex. A6 at 3 and 4.)

9. On or about June 3, 2016, John Jassmann (Jassmann), an electrical inspector for the city of Portland, received a request for a final electrical inspection on the Boise St. property. After reviewing the request, Jassmann contacted Talak and informed Talak that it appeared the wrong permit was pulled for the residential job. Jassmann instructed Talak to pull the correct permit and inquired about the identity of Talak's electrical contractor. Talak erroneously informed Jassmann that Appellant was acting as his electrical contractor. (Test. of Jassmann and Madden; Exs. A8 at 2; R12 at 1.)

10. On or about June 6, 2016, Appellant learned that Talak had not pulled the proper permits and may not have employed an electrical contractor for the Boise St. property renovation project. Appellant also discovered that, after speaking with Jassmann, Talak contacted Jackson directly and attempted to have him return to the Boise St. property and act as the electrical contractor without Appellant's knowledge. Appellant advised Jackson that he was no longer authorized to provide services to Talak on behalf of Appellant. In addition, Appellant closed Talak's account and advised Talak that it would no longer provide staffing services for the Boise St. property or other job sites. (Test. of Madden and Bird; Ex. R12.)

11. On June 7, 2016, Jassmann filed two complaints against Appellant and Talak with the Division. In the complaint against Appellant, Jassmann asserted that Appellant was acting as an electrical contractor without a license and had performed electrical work without first obtaining an electrical permit. (Test. of Jassmann; Exs. A1 at 1; A8 at 2.)

12. Upon receiving Jassmann's complaint in June, the Division assigned Daniel Wittekind (Wittekind) to investigate the matter. As part of his investigation, Wittekind interviewed several individuals from Appellant on September 1, 2016, and Jackson on September 7, 2016. During his interview with Jackson, Wittekind learned that Appellant had assigned Jackson to perform certain electrical work at Madden Fabrication, located at 2550 NW 25th Place in Portland, during August and September 2016. The work performed by Jackson at 25th Pl. property included installing a new breaker, pulling wire, and installing new receptacles in the fabrication shop. (Test. of Wittekind; Exs. A6 at 7 and 8; R10 at 3 and 4.)

13. At all times pertinent to this matter, Appellant did not hold an electrical contractor license or employ a supervising signing electrician at either its main location or at Madden Fabrication. At all times pertinent to this matter, Appellant did not obtain a master permit for inspection under ORS 479.560(3) or a master individual inspection permit under ORS 479.565. (Test. of Madden and Wittekind.)

14. The investigation of Appellant was the first time Wittekind had investigated a temporary staffing agency. Based on the information obtained during the investigation, Wittekind determined Appellant was acting as an electrical contractor when it assigned Jackson to both the Boise St. and 25th Pl. properties and that it failed to obtain the proper permits before allowing Jackson to perform electrical work on both properties. (Test. of Wittekind.)

15. The Board has adopted a penalty matrix applicable to violations of ORS Chapter 479. According to the penalty matrix, BCD may impose a civil penalty of \$1,000 for the first instance of performing electrical installations without a permit and \$3,000 for the first instance of acting as an electrical contractor without a license. (Test. of Simmons; Ex. A10.)

CONCLUSIONS OF LAW

1. Appellant engaged in the business of making electrical installations, as defined in OAR 918-030-0010(8), without an electrical contractor license in violation of ORS 479.620(1) on one occasion.

2. Appellant performed electrical installations at one property without a valid electrical permit issued by BCD.

3. The Board may assess a civil penalty of \$2,000 against Appellant.

OPINION

BCD asserts Appellant engaged in the business of making electrical installations without an electrical contractor license and performed electrical installations without a permit. As the proponent of these positions, BCD bears the burden of proof. ORS 183.450(2); *Harris v. SAIF*, 292 Or 683, 690 (1982). BCD must establish by a preponderance of the evidence that Appellant engaged in the conduct alleged and that it is entitled to assess a civil penalty against Appellant for such conduct. ORS 183.450(2); *Harris v. SAIF*, 292 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on the proponent of the fact or position); *see also, Cook v. Employment Div.*, 47 Or App 437 (1980) (in the absence of legislation adopting a different standard, the standard of proof in administrative hearings is a preponderance of the evidence). Proof by a preponderance of the evidence means the fact finder is persuaded that the facts asserted are more likely true than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

1. *Applicable statutes and administrative rules regulating electrical installations.*

ORS 479.530 provides definitions applicable to ORS 479.510 to 479.945 and 479.995 and provides, in part:

As used in ORS 479.510 to 479.945 and 479.995, unless the context requires otherwise:

* * * * *

(10) “Electrical installations” means the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product. “Electrical installation” also means the maintenance or repair of installed electrical wiring and permanently

attached electrical products. "Electrical installation" does not include an oil module.

(11) "Electrical product" means any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.

(12) "Equipment" means any material, fittings, devices, appliances, fixtures, apparatus or the like that are used as part of or in connection with an electrical installation.

* * * * *

(16) "License" means a permit issued by the department under ORS 479.630 authorizing the person whose name appears as licensee thereon to act as an electrical contractor, supervising electrician, journeyman electrician, electrical apprentice or limited elevator journeyman as indicated thereon.

* * * * *

(20) "Permit" means an official document or card issued by the enforcing agency to authorize performance of a specified electrical installation.

ORS 479.550 prohibits electrical work without a permit² issued in accordance with the statutes and rules and provides:

(1) Except as provided in ORS 479.540, no person shall work on any new

² ORS 479.540(6) provides exemptions from the permitting requirement in ORS 479.550 and provides, in relevant part:

A permit is not required:

(a) For the repair or replacement of light fixtures, light switches, lighting ballast, electrical outlets or smoke alarms in a building used for housing purposes that is owned, leased, managed or operated by a housing authority; or

(b) For the repair, alteration or replacement of existing electrical products or electrical installations authorized by ORS 479.560 (3) at an industrial plant, a commercial office building, a building that is owned, leased, managed or operated by the state or a local government entity or other facilities designated by the Electrical and Elevator Board when the owner, operating manager or electrical contractor of the facility meets the provisions of ORS 479.630 (1) and (2) and:

(A) Obtains a master permit for inspection under ORS 479.560 (3); or

(B) Obtains a master individual inspection permit under ORS 479.565.

electrical installation for which a permit has not been issued.

(2) The Electrical and Elevator Board shall adopt by rule provisions to require a city or a county to issue a temporary permit to be used for emergency or unanticipated work which will be valid for seven days to a licensed electrical contractor prior to the start of an electrical installation to allow contractor response prior to purchase of the actual electrical permit.

(3) The board shall require a city or a county to revoke the temporary permit of the licensed electrical contractor who fails to comply with the Electrical Safety Law.

In addition, ORS 479.620 sets forth the requirements for certain electrical license's and prohibits electrical installations by unlicensed persons as follows:

Subject to ORS 479.540, a person may not:

(1) Without an electrical contractor's license, engage in the business of making electrical installations, advertise as or otherwise purport to be licensed to make electrical installations or purport to be acting as a business that makes electrical installations.

(2) Except as provided in ORS 479.630 (10)(c) and (11)(f)³, direct, supervise or

³ ORS 479.630 identifies the requirements for obtaining licenses and provides, in pertinent part:

If the person pays the applicable application fee required under ORS 479.840 and complies with ORS 479.510 to 479.945 and the rules adopted under ORS 455.117 and 479.510 to 479.945, the Department of Consumer and Business Services shall issue:

* * * * *

(10) A limited maintenance electrician's license to a person who qualifies under this subsection. A person licensed under this subsection is authorized to maintain, repair and replace electrical installations, including electrical components, required on the premises of industrial plants, and maintain, repair and replace electrical installations on systems that are less than 600 volts phase to phase, including electrical components, required on the premises of commercial office buildings, buildings occupied by the state or a local government entity or facilities designated by the board. The following apply to this subsection:

* * * * *

(c) A person licensed under this subsection may be employed directly by the owner, or owner's agent, of any government building or commercial office building. A building owner or owner's agent need not be licensed under this section to supervise a limited maintenance electrician.

* * * * *

control the making of an electrical installation without a supervising electrician's license.

(3) Except as provided in subsection (5) of this section, make any electrical installation without a supervising or journeyman electrician's license.

(4) Perform work on an electrical installation as an electrical apprentice without an electrical apprentice's license.

(5) Make any electrical installation on a single or multifamily dwelling unit not exceeding three floors above grade, as provided in ORS 479.630 (14), without a limited residential electrician's license.

(6) Permit or suffer any electrical installation on property that the person owns, controls, manages or supervises to be made by a person not licensed to make such an installation.

Finally, OAR 918-030-0010 provides definitions applicable to the alleged violations and provides in part:

As used in OAR chapter 918, division 30 and division 35, terms are defined as follows unless context requires otherwise:

* * * * *

(7) "Person" means individuals, corporations, associations, firms, partnerships, limited liability companies, joint stock companies, and public agencies. "Person" also means the owner or holder of a direct or indirect interest in a corporation, association, firm, partnership, limited liability company or joint stock company if:

(a) The interest allows the owner or holder to participate in the management of the business; and

(b) The owner or holder of the interest has either had a division issued license

(11) A limited building maintenance electrician's license to a person who qualifies under this subsection. The following apply to this subsection:

* * * * *

(f) A person licensed under this subsection may be employed by the owner of a commercial office building or the owner's agent. A building owner or owner's agent need not be licensed under this section to supervise a limited building maintenance electrician.

There is no evidence in the record showing Jackson held either a limited maintenance electrician's license under ORS 479.630(10) or a limited building maintenance electrician's license under ORS 479.630(11).

revoked or been the recipient of a notice of proposed civil penalty from the director or the appropriate board.

(8) For purposes of ORS * * * 479.620* * * 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.

(Emphasis added.)

2. *7015 SE Boise St. installations.*

BCD asserts Appellant engaged in the business of making electrical installations without an electrical contractor license when it assigned a temporary employee to DB Talak, LLC. Talak contacted Appellant and requested temporary employees, including a journeyman electrician and other skilled and unskilled laborers, to assist with a remodel of the Boise St. property. Talak represented to Appellant that an electrical contractor was on site supervising the work and that either Talak or the contractor had pulled an electrical permit for the work to be performed by the journeyman electrician.

At hearing, the preponderance of the evidence failed to establish that Appellant engaged in the business of making electrical installations, advertised as or otherwise purported to be licensed to make electrical installations, purported to be acting as a business that makes electrical installations, or that Appellant directed, supervised or controlled the making of any electrical installations without a supervising electrician’s license when it assigned Jackson to an employer, Talak, on a temporary basis.

There is no evidence in the record to show Appellant agreed to act as Talak’s electrical contractor. To the contrary, the uncontroverted evidence indicates Appellant was informed by Talak that it had pulled the necessary electrical permits for the renovation and that it had already employed an electrical contractor to supervise the work. The evidence in the record demonstrates that those representations by Talak were false. Nothing in the record indicates that Appellant was aware of Talak’s deception with regard to either of these issues prior to June 6, 2016. By that time, Jackson had already moved on to another job site and did not perform further work for Talak on behalf of Appellant. Upon learning of Talak’s deception, Appellant closed its account with a notation that no service would be provided in the future.

The record does not support a finding that Appellant engaged in the business of making electrical installations, in violation of ORS 479.620(1), by assigning a temporary employee to a client who purported to have an electrical contractor overseeing the job. Nor does the record support a finding that Appellant, rather than Talak bore the responsibility for pulling the necessary permit(s) for the electrical work in issue. Rather, the best evidence indicates that Talak and/or Jackson, rather than Appellant, are responsible for any unpermitted and unlicensed work performed at the Boise St. property.

3. 2550 NW 25th Place installations.

Next, the Division asserts Appellant violated ORS 479.620(1) when it assigned Jackson to perform electrical work, including installing new breakers, pulling electrical wiring, and installing new receptacles at its 25th Pl. property. In addition, the Division argues that Appellant violated ORS 479.550(1) by allowing Jackson to perform electrical work on the 25th Pl. property without first obtaining a permit.

In contrast to Boise St. property, at hearing the Division demonstrated that Appellant directed and supervised electrical installations, by Jackson, at the 25th Pl. property without an electrical contractor's license. The record shows that, as a journeyman electrician, Jackson's electrical work was required to be performed under the supervision of a signing supervising electrician employed through an electrical contractor. Further, it is undisputed that Appellant did not obtain a permit for the electrical work performed by Jackson on the 25th Pl. property. Because that property is owned and operated by Appellant, albeit through a *dba*, it cannot be said that Appellant simply provided temporary staffing to an employer who bore the burden of compliance with licensing and permit requirements.

Rather, the record shows Appellant violated ORS 479.620(1) when it directed Jackson to perform certain electrical installations at the 25th Pl. property without an electrical contractor license. In addition, as discussed above, BCD established that Appellant directed Jackson to perform electrical installations on the 25th Pl. property without an electrical permit issued by BCD or a valid exemption from the permitting requirements in violation of ORS 479.550(1).

4. Civil penalty assessment.

ORS 479.995 grants the Board authority to assess civil penalties for violation of ORS 479.510 to 479.945 and provides:

The Electrical and Elevator Board may impose a civil penalty for a violation of ORS 479.510 to 479.945 or rules adopted for the administration or enforcement of ORS 479.510 to 479.945 and this section. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895.⁴

OAR 918-001-0036 provides guidelines for civil penalties assessed pursuant to ORS 479.995 and reads, in pertinent part:

(1) Scope and Authority. This rule sets guidelines for assessing a civil penalty under ORS 446.995 & 455.895.

(2) Definitions. For the purposes of this rule:

⁴ ORS 455.895(1)(b) provides, “[t]he Electrical and Elevator Board may impose a civil penalty against a person as provided under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850.”

(a) “Continuing offense” or “continuing violation” means violation of a code, rule or law on one or more additional days after having been notified of the violation or ordered to correct the act, or the failure to act. A continuing violation is subject to a civil penalty each day the violation continues after notification.

* * * * *

(c) “Pattern of violation” means two or more prior violations during a five-year period of any provision of ORS Chapter 446, 447, 455, 460, 479, 480, or 693, or the state building code as defined in 455.010, whether or not a penalty was assessed. A pattern of violation is calculated within a five-year period from the date of the latest violation.

* * * * *

(4) Civil penalties may be assessed by a board, the Director, or a board’s designee acting as agent for a board. A board or the Director may take into account any appropriate factors, including previous directives, in determining the penalty amount or conditions within an order. The statutorily defined maximum penalty may only be assessed upon a finding of a pattern of violation.

(5) Civil penalties may be assessed in addition to, or in lieu of, the conditioning, suspension, or revocation of a license, certificate of competency, or similar authority issued by the Director.

(6) The Director may, subject to approval of a board, develop a penalty matrix for the board’s use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

In the Notice, BCD asserted two instances of performing electrical installations without an electrical contractor license (one each at the Boise St. and 25th Pl. properties) and two instances of performing electrical installations without a valid electrical permit (also one each at the Boise St. and 25th Pl. properties). As discussed in this order, the evidence at hearing is insufficient to establish that Appellant, as a temporary staffing agency, acted as an electrical contractor without a license or knowingly directed Jackson to perform electrical installations for Talak without a valid permit issued by BCD when it provided temporary employees based on Talak’s representation that it had pulled an electrical permit and had a supervising electrician on site. Rather, the evidence demonstrates that, more likely than not, it is Talak and Jackson who bear responsibility for any unpermitted electrical work performed on the Boise St. property. As such, BCD has not established it is entitled to assess a civil penalty against Appellant for electrical installations performed on the Boise St. property.

The same cannot be said for electrical installations performed at the 25th Pl. property owned by Appellant. At hearing, BCD established Appellant violated ORS 479.620(1) when it directed Jackson to perform certain electrical installations at the 25th Pl. property without an

electrical contractor license. In addition, as discussed above, BCD established that Appellant directed Jackson to perform electrical installations on the 25th Pl. property without an electrical permit issued by BCD or a valid exemption from the permitting requirements in violation of PRS 479.550(1).

In the Notice, the Board proposes to assess a civil penalty of \$4,000 against Appellant for the aggregate violations. According to the penalty matrix, established by the Division pursuant to OAR 918-001-0036, the violations alleged in the Notice, if proven, would merit the assessment of up to \$8,000 (\$1,000 for each permit violation and \$3,000 for each instance of unlicensed electrical installations by a business entity). The violations established at hearing permit the Division to assess a \$3,000 civil penalty because Appellant directed Jackson to perform certain electrical installations without having a valid electrical contractor license. Further, the Division may assess a civil penalty of \$1,000 because Appellant directed or allowed Jackson to perform the electrical installations without an electrical permit issued by the Division. Nonetheless, it is reasonably ascertainable from the record that BCD did not intend to impose the maximum penalty allowable when it sought to impose \$4,000 for the four violations alleged in the Notice. Based on the record before me, I find the evidence supports the conclusion that BCD may impose a civil penalty equivalent of one half the allowable maximum for each violation.

As discussed above, the record supports a finding that Appellant committed one violation of ORS 479.620(1), meriting a civil penalty of \$1,500, and one violation of ORS 479.550(1), meriting a civil penalty of \$500, for a total of \$2,000.

ORDER

I propose the Building Codes Division issue the following order:

The Notice issued October 18, 2016 is MODIFIED. Madden Industrial Craftsmen, Inc. shall pay a civil penalty of \$2,000 for the violations set forth above.

Joe L. Allen

Senior Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division
Attn: Manager
PO Box 14470
Salem, OR 97309-0404

CERTIFICATE OF MAILING

On August 17, 2017, I mailed the foregoing PROPOSED ORDER issued on this date in OAH Case No. 2017-ABC-00284.

By: First Class Mail

Madden Industrial Craftsmen, Inc.
Ronald Madden
7815 SW Mountain Side Dr
Cornelius OR 97113

By: First Class and Certified Mail

Scott Schnuck
Altus Law LLC
PO Box 8309
Portland OR 97207

By: Electronic Mail

Anthony J Estrada, Agency Representative
Building Codes Division
PO Box 14470
Salem OR 97309

Lucy for Alesia K Vella
Hearing Coordinator

State of Oregon

Board memo

Building Codes Division

January 25, 2018

To: The Electrical and Elevator Board

From: Sarah Blam, contested case representative, Enforcement Services

Subject: Final Order for Case No. C2017-0265, In the Matter of Duane Robert Snyder, dba High Desert Plumbers and dba High Desert Plumbing and Remodeling

Action requested:

To consider the adoption of a Proposed Order and issue a Final Order.

Background:

On May 19, 2017, the Building Codes Division (Division), acting on behalf of the State Electrical and Elevator (Board), issued a Notice of Proposed Assessment of Civil Penalties (Notice) to Duane Robert Snyder, dba High Desert Plumbers and dba High Desert Plumbing and Remodeling (Respondent).

The Notice proposed to assess a total of \$15,000.00 and alleged that Respondent had violated the following Division statutes and rules:

1. For Electrical Board;
 - a. Engaged in the business of making electrical installations without an electrical contractor's license, in violation of Oregon Revised Statutes (ORS) 479.620(1); and
 - b. Performed electrical installations without a supervising or journeyman electrician's license in violation of ORS 479.620(3).
2. For Plumbing Board;
 - a. Engaged in the business of a plumbing contractor without a plumbing contractor's license in violation of ORS 447.040(1);
 - b. Performed plumbing work without a journeyman plumber license in violation of ORS 693.030(1); and
 - c. Performed plumbing work without first obtaining a plumbing permit or minor label in violation of Oregon Administrative Rule 918-780-0065.

On or about May 30, 2017, Respondent requested a hearing.

On August 18, 2017, Division Contested Case Representative Anthony Estrada filed the Division's Motion for Summary Determination and its supporting documents. Respondent did not file a response by the established deadline.

On September 25, 2017, Administrative Law Judge Samantha A. Fair issued a Ruling on Motion for Summary Determination and Proposed Order affirming the Notice of Proposed Assessment of Civil Penalties.

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
BUILDING CODE DIVISION
ELECTRICAL AND ELEVATOR BOARD
AND
STATE PLUMBING BOARD

IN THE MATTER OF:)	RULING ON MOTION FOR
)	SUMMARY DETERMINATION
DUANE ROBERT SNYDER, DBA)	AND PROPOSED ORDER
HIGH DESERT PLUMBERS and)	
DBA HIGH DESERT PLUMBING &)	OAH Case No. 2017-ABC-00786
REMODELING,)	Agency Case No. C2017-0171
AN INDIVIDUAL)	

HISTORY OF THE CASE

On May 19, 2017, the Building Code Division (Division) Electrical and Elevator Board and the State Plumbing Board (collectively referred to herein as the Boards) issued a Notice of Proposed Assessment of Civil Penalties (Notice) to Duane Robert Snyder, dba High Desert Plumbers and dba High Desert Plumbing & Remodeling. On May 30, 2017, Mr. Snyder requested a hearing.

On July 21, 2017, the Division referred the matter to the Office of Administrative Hearings (OAH). The OAH scheduled a hearing for November 2, 2017,¹ and assigned Administrative Law Judge (ALJ) Samantha A. Fair to preside at hearing. On July 24, 2017, ALJ Fair issued a letter to the parties, scheduling deadlines for the submission of motions, exhibits and witness lists.

On August 18, 2017, the Division filed a Motion for Summary Determination (Motion). On September 5, 2017, Glen Mark, attorney for Mr. Snyder, filed a Response to Agency Motion for Summary Determination (Response).² On September 19, 2017, the OAH issued a Ruling on

¹ On July 21, 2017, during a prehearing conference on a related matter, OAH Case No. 2017-ABC-00712, all parties agreed to consolidate the two cases for purposes of the hearing.

² In the Response, Mr. Mark noted that the Motion was postmarked August 21, 2017. However, as provided in the July 24, 2017 letter, the Division’s documents are considered filed on the date that they are uploaded to the OAH’s electronic case management system, which happened on August 18, 2017. Even if the filing date was based upon the postmark date, the Motion would still have been timely filed as the Division had until September 1, 2017 to file the Motion. Additionally, ALJ Fair provided a deadline of September 15, 2017 for the filing of a response; therefore, if Mr. Mark felt he needed more time to produce the response, he still had an additional 10 days.

Motion for Summary Determination, granting the Motion but denying the request for a proposed order. A proposed order was not issued and the hearing was not canceled because the Division only sought summary determination on five of six of the violations of statutes and administrative rules alleged in the Notice. The Division had not sought summary determination on the issue of an alleged violation of ORS 479.550(1).

On September 22, 2017, the Boards issued an Amended Notice of Proposed Assessment of Civil Penalties (Amended Notice) to Mr. Snyder. In the Amended Notice, the Boards no longer alleged that Mr. Snyder violated ORS 479.550(1) and no longer sought any civil penalty associated with that allegation.³

ISSUES

1. Whether there are any genuine issues as to any material facts and, if not, whether the Division is entitled to a favorable ruling as a matter of law. OAR 137-003-0580.
2. Whether Mr. Snyder engaged in the business of making electrical installations without an electrical contractor license. ORS 479.620(1).
3. Whether Mr. Snyder performed electrical installations without a supervising or journeyman electrician's license. ORS 479.620(3).
4. Whether Mr. Snyder engaged in the business of a plumbing contractor without a plumbing contractor license. ORS 447.040(1).
5. Whether Mr. Snyder performed plumbing work without a journeyman plumber license. ORS 693.030(1).
6. Whether Mr. Snyder performed plumbing work without first obtaining a plumbing permit or minor label. OAR 918-780-0065.
7. Whether the Boards should assess civil penalties against Mr. Snyder. ORS 455.895(1) and OAR 918-001-0036.

DOCUMENTS CONSIDERED

For purposes of the issuance of this ruling and proposed order, the ALJ considered the following:

- The Motion, the Affidavit of William Keith Anderson, the Affidavit of Andrew Skinner, and Exhibits A through F, submitted by the Division;
- The Response and Exhibits 1 through 3, submitted by Mr. Mark; and

³ As stated in the Ruling on Motion for Summary Determination, if the Boards withdrew the remaining allegation regarding ORS 479.550(1), then the ALJ would cancel the hearing and issue a proposed order in conformance with the ruling.

- The pleadings.

STATEMENT OF FACTS

1. During the relevant period, Mr. Snyder held no active licenses from the Boards. (Exs. B at 2; C at 1.)

2. Mr. Snyder advertised plumbing and remodeling services in the “local Wise Buys Ads & More weekly shopper.” (Ex. B at 2.)

3. Ronald Grace owns a house located at 2377 NW 105th Ct, Redmond, Oregon (Property). (Ex. B at 1, 15.) In April 2017, Mr. Grace hired Mr. Snyder to perform some work at the Property. He paid Mr. Snyder \$220 to perform work on the original electric water heater and made a down payment of \$2,000 to Mr. Snyder for him to perform a bathroom remodel. The bathroom remodel included the relocation of the toilet, installation of a new shower, relocation of a washer and dryer, and the associated plumbing for the new systems. Because the original water heater failed again, the installation of a new electric water heater was added to the bathroom remodel project. (*Id.* at 2.)

4. About April 18, 2017, Mr. Snyder began the bathroom remodel. Mr. Snyder hired two workers to assist him with the remodel. Mr. Snyder and the two workers worked on the remodel for four or five days. During that time, Mr. Snyder personally performed the following work: installed the electric water heater; hooked up the electrical connections for the water heater; installed a water main shut off valve under the house; and installed and rerouted pipes for the relocation of the washing machine and the installation of the new shower. (Ex. B at 2-3, 12.)

5. For the period July 27, 2016 through July 27, 2017, no permits were issued for the Property. (Ex. D at 1.)

6. Mr. Snyder was aware that he needed a license to perform the work at the Property. He has 31 years of experience performing plumbing work and was currently assisting his girlfriend in getting a license with the intent that he would work for her new business. (Ex. B at 3-4.)

7. The purpose of requiring plumbing permits is that all plumbing work will be inspected by a qualified and knowledgeable inspector to ensure it meets minimum plumbing code requirements and presents no safety threats. (Skinner Aff. at 2.)

8. On December 23, 2015, the State Plumbing Board issued a Final Order against Mr. Snyder, dba High Desert Plumbing and Remodeling. In the Final Order, the Board found that Mr. Snyder had violated ORS 693.030 by engaging in the trade of a journeyman plumber without a license; violated OAR 918-780-0065 by performing plumbing work without first obtaining a permit; and violated ORS 447.040(1) by working as a plumbing contractor and advertising as a plumbing contractor without a license. The Final Order included the assessment of civil penalties in the total amount of \$9,000 against Mr. Snyder. (Ex. A at 1-4.)

9. The Division has implemented a civil penalty matrix (Penalty Matrix) for electrical and plumbing violations. The Penalty Matrix provides for violation types of 1 through 3 based “upon the number of violations committed within five years of the date of the present violation.” (Ex. E at 1.) For individuals who have a previous violation of permit requirements, the civil penalty is \$2,000 per violation. For individuals who have a previous violation for performing unlicensed work, the civil penalty is \$2,500 per violation. For individuals who have a previous violation for engaging in the business of a contractor without a license, the civil penalty is \$4,000 per violation. (*Id.* at 1-2.) The Penalty Matrix further provides:

The entire penalty is imposed in all cases. * * *. A stay of some portion of a penalty is within the sole discretion of the board or the division acting on the board’s behalf for purposes of settling cases prior to hearing.

(*Id.* at 1.)

CONCLUSIONS OF LAW

1. There are no genuine issues as to any material facts and the Boards are entitled to a favorable ruling as a matter of law.
2. Mr. Snyder engaged in the business of making electrical installations without an electrical contractor license.
3. Mr. Snyder performed electrical installations without a supervising or journeyman electrician’s license.
4. Mr. Snyder engaged in the business of a plumbing contractor without a plumbing contractor license.
5. Mr. Snyder performed plumbing work without a journeyman plumber license.
6. Mr. Snyder performed plumbing work without first obtaining a plumbing permit or minor label.
7. The Boards should assess civil penalties against Mr. Snyder.

OPINION

Standard of Review for Motion for Summary Determination

OAR 137-003-0580 addresses motions for summary determination. It provides, in relevant part:

- (6) The administrative law judge shall grant the motion for a summary

determination if:

(a) The pleadings, affidavits, supporting documents (including any interrogatories and admissions) and the record in the contested case show that there is no genuine issue as to any material fact that is relevant to resolution of the legal issue as to which a decision is sought; and

(b) The agency or party filing the motion is entitled to a favorable ruling as a matter of law.

(7) The administrative law judge shall consider all evidence in a manner most favorable to the non-moving party or non-moving agency.

(8) Each party or the agency has the burden of producing evidence on any issue relevant to the motion as to which that party or the agency would have the burden of persuasion at the contested case hearing.

* * * * *

(12) If the administrative law judge's ruling on the motion resolves all issues in the contested case, the administrative law judge shall issue a proposed order in accordance with OAR 137-003-0645 incorporating that ruling * * *.

Pursuant to OAR 137-003-0580(6)(a), in making my ruling, I considered the Division's Motion, the Affidavits, Exhibits A through F, the Response, and Exhibits 1 through 3. Pursuant to OAR 137-003-0580(7), I reviewed the evidence in the light most favorable to Mr. Snyder, the non-moving party. I determined there are no genuine issues as to the material facts that are relevant to resolution of the allegations referenced in the Amended Notice, and the Division is entitled to a favorable ruling on those allegations and the associated civil penalties. Because the ruling on the Motion resolves all issues in this matter, this proposed order is issued and the hearing is canceled.

The Boards propose to assess Mr. Snyder civil penalties based upon allegations of his performance of electrical and plumbing work without the appropriate licenses and plumbing permit. As the proponent of the allegations, the Boards have the burden to establish, by a preponderance of the evidence, that the allegations are correct and that they are entitled to assess the civil penalties. ORS 183.450(2) ("The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position"); *Harris v. SAIF*, 292 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on the proponent of the fact or position). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

Electrical Installations

ORS 479.530 defines certain electrical terms. It provides, in part:

(10) “Electrical installations” means the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product. “Electrical installation” also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. “Electrical installation” does not include an oil module.

(11) “Electrical product” means any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.

(12) “Equipment” means any material, fittings, devices, appliances, fixtures, apparatus or the like that are used as part of or in connection with an electrical installation[.]

Pursuant to ORS 479.530, a device, such as an electric water heater, would be an electrical product. By installing an electric water heater and installing the electrical wiring for the water heater, Mr. Snyder performed an electrical installation.

ORS 479.620 provides, in part:

Subject to ORS 479.540, a person may not:

(1) Without an electrical contractor’s license, engage in the business of making electrical installations, advertise as or otherwise purport to be licensed to make electrical installations or purport to be acting as a business that makes electrical installations.

* * * * *

(3) Except as provided in subsection (5) of this section, make any electrical installation without a supervising or journeyman electrician’s license[.]

OAR 918-030-0010(8) provides:

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.

Mr. Snyder holds no active licenses. Therefore, Mr. Snyder violated ORS 479.620(3) by performing an electrical installation without a supervising or journeyman electrician's license.

Mr. Snyder advertised his services in the local weekly shopper and contracted to perform an electrical installation for which a license and a permit are required. Pursuant to OAR 918-030-0010(8), Mr. Snyder engaged in the business of making electrical installations. Because he did not have an electrical contractor's license when he engaged in this business, he violated ORS 479.620(1).

Plumbing Work

ORS 447.010 defines certain plumbing terms. It provides, in part:

(6) "Plumbing" is the art of installing, altering or repairing in or adjacent to or serving buildings:

(a) Pipes, fixtures and other apparatus for bringing in the water supply and removing liquid and water-carried waste, including the water supply distributing pipes[.]

Mr. Snyder installed a water main shut off valve under the house and a water heater. He installed and rerouted pipes for the relocation of the washing machine and the installation of a new shower. Pursuant to ORS 447.010, this work constituted plumbing.

OAR 918-780-0065 provides:

No person, firm, or corporation shall do plumbing or medical gas systems work in the State of Oregon without first obtaining a plumbing permit or minor label when required and paying the appropriate fees to the authorized permit issuing agency.

ORS 447.040(1) provides:

A person may not work as a plumbing contractor, or advertise or purport to be a plumbing contractor, and a member or employee of a firm, partnership or corporation may not engage in the layout or superintending of plumbing installations, without having obtained the plumbing contractor license required under ORS 447.010 to 447.156 as provided by State Plumbing Board rules adopted under ORS 455.117.

ORS 693.030(1) provides:

A person may not engage in the trade of journeyman plumber without a journeyman plumber license issued under this chapter.

No permit was ever issued for the work at the Property, and Mr. Snyder holds no active

licenses. Therefore, Mr. Snyder violated OAR 918-780-0065 by performing plumbing work without first obtaining a plumbing permit or minor label.⁴ Journeyman plumbers are the individuals licensed to perform plumbing work.⁵ By performing plumbing work, Mr. Snyder engaged in the trade of a journeyman plumber. Mr. Snyder violated ORS 693.030(1) by engaging in the trade of a journeyman plumber without a journeyman plumber license.

Mr. Snyder advertised his services in the local weekly shopper and contracted to perform plumbing work for which a license and a permit are required. Pursuant to OAR 918-030-0010(8), Mr. Snyder engaged in the business of performing plumbing work. Because he did not have a plumbing contractor license when he engaged in this business, he violated ORS 447.040(1).

Assessment of Civil Penalties

ORS 455.895 provides, in part:

(1)(a) The State Plumbing Board may impose a civil penalty against a person as provided under ORS 447.992 and 693.992. Amounts recovered under this paragraph are subject to ORS 693.165.

(b) The Electrical and Elevator Board may impose a civil penalty against a person as provided under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850[.]

ORS 447.992 provides:

The State Plumbing Board may impose a civil penalty for a violation of ORS 447.010 to 447.156 and 447.992 or rules adopted for the administration and enforcement of those sections. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895.

ORS 693.992 provides:

The State Plumbing Board may impose a civil penalty for a violation of this chapter or rules adopted for the administration and enforcement of this chapter. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895.

⁴ Pursuant to OAR 918-780-0130(1), only certain plumbing contractors may purchase and use minor labels. Because Mr. Snyder was not a licensed plumbing contractor, he would not be able to obtain a minor label.

⁵ A plumbing contractor license does not authorize the contractor to work as a journeyman plumber. ORS 447.040(2). The journeyman plumber license is necessary for the performance of the actual plumbing work.

ORS 479.995 provides:

The Electrical and Elevator Board may impose a civil penalty for a violation of ORS 479.510 to 479.945 or rules adopted for the administration or enforcement of ORS 479.510 to 479.945 and this section. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895.

OAR 918-001-0036(6) provides:

The division may, subject to approval of a board, develop a penalty matrix for the board's use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

For the above-established violations, the Boards sought to assess civil penalties in the total amount of \$15,000. Although an agency may have the discretion to determine a sanction, it cannot abuse this discretion. Mr. Mark, on Mr. Snyder's behalf, asserted that the Boards were abusing their discretion in the assessment of the civil penalties against Mr. Snyder. ORS 183.482(8)(b) lists the factors to consider in determining if an agency has abused its discretion. It provides:

The court shall remand the order to the agency if the court finds the agency's exercise of discretion to be:

- (A) Outside the range of discretion delegated to the agency by law;
- (B) Inconsistent with an agency rule, an officially stated agency position, or a prior agency practice, if the inconsistency is not explained by the agency; or
- (C) Otherwise in violation of a constitutional or statutory provision.

Pursuant to ORS 455.895, ORS 447.992, ORS 693.992 and ORS 479.995, the Boards' assessment of civil penalties for Mr. Snyder's violations is within the range of discretion delegated by law to the Boards. Additionally, the Boards applied the formula for the assessment of civil penalties pursuant to the Penalty Matrix, which is consistent with OAR 918-001-0036(6), an agency rule. The Penalty Matrix further provides that the entire penalty is assessed in all cases, as the Boards proposed in the Amended Notice, and that stays of portions of the penalties are only available for purposes of settlement of a case prior to hearing. Thus, the Penalty Matrix requires the imposition of the full penalty for each of Mr. Snyder's violations, regardless of the lack of any evidence that the work performed was substandard or unsafe or any evidence that he was cooperative during the investigation. Finally, there is no evidence that the Boards' decision violated any constitutional or statutory provisions. The Boards did not abuse their discretion in the proposed assessment of the civil penalties.

The Division developed the Penalty Matrix pursuant to OAR 918-001-0036(6). Because the Final Order, issued on December 23, 2015, found that Mr. Snyder engaged in conduct that constituted permit, unlicensed work, and contractor violations, he is a second-time violator for such current violations. Pursuant to the Penalty Matrix, the Board is entitled to assess the following civil penalties for Mr. Snyder's violations: \$4,000 for violating ORS 479.620(1) (a contractor violation); \$2,500 for violating ORS 479.620(3) (unlicensed work); \$4,000 for violating ORS 447.040(1) (a contractor violation); \$2,500 for violating ORS 693.030(1) (unlicensed work); and \$2,000 for violating OAR 918-780-0065 (permit violation).

RULING AND ORDER

The Building Code Division's Motion for Summary Determination is GRANTED. The hearing, scheduled for November 2, 2017, is canceled.

I propose the Electrical and Elevator Board and the State Plumbing Board issue the following order:

The Building Code Division Electrical and Elevator Board and the State Plumbing Board established that Duane Robert Snyder violated ORS 479.620(1), ORS 479.620(3), ORS 447.040(1), ORS 693.030(1), and OAR 918-780-0065. The Board is entitled to assess a total of \$15,000 in civil penalties for these violations as follows: \$4,000 for violating ORS 479.620(1); \$2,500 for violating ORS 479.620(3); \$4,000 for violating ORS 447.040(1); \$2,500 for violating ORS 693.030(1); and \$2,000 for violating OAR 918-780-0065.

Samantha A. Fair

Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division
Manager
PO Box 14470
Salem, OR 97309-0404

CERTIFICATE OF MAILING

On September 25, 2017, I mailed the foregoing RULING ON MOTION FOR SUMMARY DETERMINATION AND PROPOSED ORDER issued on this date in OAH Case No. 2017-ABC-00786.

By: First Class Mail

Duane Robert Snyder
7860 SW Hall Blvd #29
Beaverton OR 97008

Glen D Mark
38504 NW Reeder Rd
Portland OR 97231

By: Electronic Mail

Anthony J Estrada, Agency Representative
Building Codes Division
PO Box 14470
Salem OR 97309

Alesia K Vella
Hearing Coordinator

Agenda Item IV.B.

State of Oregon

Board memo

Building Codes Division

January 25, 2018

To: The Electrical and Elevator Board

From: Sarah Blam, contested case representative, Enforcement Services

Subject: Final Order for Case No. C2017-0273, In the Matter of CMB Solutions Inc.

Action requested:

To consider the adoption of a Proposed Order and issue a Final Order.

Background:

On July 9, 2017, the Building Codes Division (Division), acting on behalf of the Electrical and Elevator Board of the State of Oregon (Board), issued a Notice of Proposed Assessment of Civil Penalties (Notice) to CBM Solutions Inc. (Respondent).

The Notice proposed to assess a total of \$4,000.00 and alleged that Respondent had violated the following Division statutes and rules:

1. Engaged in the business of making electrical installations without an electrical contractor's license in violation of ORS 479.620(1); and
2. Performed electrical installations without having been issued an electrical permit in violation of ORS 479.550(1).

On or about July 20, 2017, Respondent requested a hearing.

On September 26, 2017, Division Contested Case Representative Anthony Estrada filed the Division's Motion for Summary Determination and its supporting documents. Respondent did not file a response by the established deadline.

On October 25, 2017, Administrative Law Judge Monica A. Whitaker issued a Ruling on Motion for Summary Determination and Proposed Order affirming the Notice of Proposed Assessment of Civil Penalties.

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
BUILDING CODES DIVISION
ELECTRICAL AND ELEVATOR BOARD**

IN THE MATTER OF:) **RULING ON MOTION FOR**
) **SUMMARY DETERMINATION**
) **AND PROPOSED ORDER**
)
CBM SOLUTIONS, INC.) OAH Case No. 2017-ABC-00860
) Agency Case No. C2017-0273

HISTORY OF THE CASE

On July 9, 2017, the Electrical and Elevator Board of the State of Oregon (Board) issued a Notice of Proposed Assessment of Civil Penalties (Notice) to CBM Solutions, Inc., (Respondent) proposing to assess a civil penalty of \$4,000 against Respondent for violations of the Building Codes Division (Division) statutes and rules. On or about July 16, 2017, Respondent requested a hearing. The Division referred the matter to the Office of Administrative Hearings (OAH) on August 25, 2017. The OAH assigned Senior Administrative Law Judge (ALJ) Monica A. Whitaker to preside over the matter.

ALJ Whitaker held a telephone prehearing conference on September 13, 2017. Respondent did not appear. Anthony Estrada represented the Division. ALJ Whitaker established deadlines for filing motions, exhibits, and witness lists, and scheduled the hearing for December 12, 2017.

On September 26, 2017, Mr. Estrada filed the Division's Motion for Summary Determination. Respondent did not file a response by the established deadline. ALJ Whitaker closed the record on October 23, 2017 and took the matter under advisement.

ISSUES

1. Whether there are any genuine issues as to any material facts and, if not, whether the Division is entitled to a favorable ruling as a matter of law. OAR 137-003-0580.
2. Whether Respondent engaged in the business of making electrical installations, advertised, or otherwise purported to be licensed to make electrical installations or purported to be acting as a business that makes electrical installations without a valid license. ORS 479.620(1).
3. Whether Respondent relocated two electrical outlets without a permit. ORS 479.550(1).

4. If so, whether the Division may assess a \$4,000 civil penalty against Respondent. ORS 455.895(1) and OAR 918-001-0036(6).

DOCUMENTS CONSIDERED

In reaching this ruling, the ALJ considered the following documents: the Division's Motion; the Affidavit of William Keith Anderson; and Exhibits A1 through A5.

STATEMENTS OF FACT

1. At all times relevant, Justin Stalford (Stalford) was Respondent's sole corporate member. (Ex. A1.) At no time did Stalford hold a supervising or journeyman electrician's license. Respondent has never held an electrical contractor license. (Ex. A3.)
2. In or around June 2017, Respondent advertised to perform electrical work and agreed to perform electrical work at a residential property located at 1725 Main St. in Lyons, Oregon (the property). (Ex. A2 at 2, 6-10.)
3. In or around June 2017, Stalford, acting on Respondent's behalf, rerouted two electrical outlets at the property. (Ex. A2 at 2, 7, 9-10.) Respondent was never issued an electrical permit to perform the work at the property. (Ex. A3 at 2.) An electrical outlet is an electrical product and re-routing an electrical outlet constitutes an electrical installation. (Aff. of Anderson at 1.)
4. The Board has adopted an Advisory Penalty Matrix (Penalty Matrix), which determines civil penalty amounts for violations of the Division's statutes and rules. The Penalty Matrix sets forth the penalty amounts for first, second, and third violations. For a contractor violation, the civil penalty for a first violation is \$3,000. For a permit violation, the civil penalty for a first violation is \$1,000. (Ex. A4.)

CONCLUSIONS OF LAW

1. There are no genuine issues as to any material facts and the Division is entitled to a favorable ruling as a matter of law.
2. Respondent engaged in the business of making electrical installations, advertised, or otherwise purported to be licensed to make electrical installations or purported to be acting as a business that makes electrical installations without a valid license.
3. Respondent relocated two electrical outlets without a permit. ORS 479.550(1).
4. The Division may assess a \$4,000 civil penalty against Respondent.

OPINION

1. *Standard of Review for Motion for Summary Determination*

OAR 137-003-0580 addresses motions for summary determination. It provides, in relevant part:

(6) The administrative law judge shall grant the motion for a summary determination if:

(a) The pleadings, affidavits, supporting documents (including any interrogatories and admissions) and the record in the contested case show that there is no genuine issue as to any material fact that is relevant to resolution of the legal issue as to which a decision is sought; and

(b) The agency or party filing the motion is entitled to a favorable ruling as a matter of law.

(7) The administrative law judge shall consider all evidence in a manner most favorable to the non-moving party or non-moving agency.

(8) Each party or the agency has the burden of producing evidence on any issue relevant to the motion as to which that party or the agency would have the burden of persuasion at the contested case hearing.

* * * * *

(12) If the administrative law judge's ruling on the motion resolves all issues in the contested case, the administrative law judge shall issue a proposed order in accordance with OAR 137-003-0645 incorporating that ruling * * *.

In reaching this ruling, I have considered the Division's Motion, the Affidavit of Mr. Anderson, and Exhibits A1 through A5. After considering the facts in a light most favorable to Respondent, the non-moving party, I have determined that there are no genuine issues as to any material facts that are relevant to resolution of the legal issues as to which a decision is sought, and that the Division is entitled to a favorable ruling as a matter of law.

The Division alleges that Stalford, acting on Respondent's behalf, Respondent performed an electrical installation without a supervising or journeyman electrician's license. The Division bears the burden of proving its allegations by a preponderance of the evidence. ORS 183.450(2) and (5); *Reguero v. Teachers Standards and Practices Commission*, 312 Or 402, 418 (1991) (burden is on Commission in disciplinary action); *Cook v. Employment Div.*, 47 Or App 437 (1980) (in the absence of legislation adopting a different standard, the standard of proof in administrative hearings is preponderance of the evidence). Proof by a preponderance of the evidence means that the fact finder is convinced that the facts asserted are more likely true than false. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

2. and 3. Electrical Work

ORS 479.550(1) provides:

Except as provided in ORS 479.540, no person shall work on any new electrical installation for which a permit has not been issued.

ORS 479.620 provides, in part:

Subject to ORS 479.540, a person may not:

(1) Without an electrical contractor's license, engage in the business of making electrical installations, advertise as or otherwise purport to be licensed to make electrical installations or purport to be acting as a business that makes electrical installations.

ORS 479.530 provides, in part:

(10) "Electrical installations" means the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product.

(11) "Electrical product" means any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.

OAR 918-030-0010(8) provides:

(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.

The evidence establishes that Respondent advertised to perform electrical work and agreed to perform electrical work on the property. Stalford, acting on Respondent's behalf, re-routed two electrical outlets at the property. Respondent did not hold an electrical contractor license when Stalford performed this work. In addition, Respondent was not issued an electrical permit to perform this work.

An electrical outlet is an electrical product under ORS 479.530(11). Re-routing an electrical outlet constitutes an electrical installation under ORS 479.530(10). By advertising to perform electrical work, agreeing to perform electrical work at the property, and actually performing the electrical installation, Respondent engaged in the business of making electrical installations under OAR 918-030-0010(8). By engaging in the business of making electrical installations without an electrical contractor license, Respondent violated ORS 479.620(1). By

performing the electrical installation at the property without having been issued an electrical permit, Respondent also violated ORS 479.550(1).

3. *Civil Penalty*

ORS 455.895(1)(b) provides:

The Electrical and Elevator Board may impose a civil penalty against a person as provided under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850.

OAR 918-001-0036 provides, in part:

(1) Scope and Authority. This rule sets guidelines for assessing a civil penalty under ORS 446.995 & 455.895.

(2) Definitions. For the purposes of this rule:

* * * * *

(3) A licensed person or contractor who performs an act resulting in an unsafe installation or a health and safety hazard, structural or financial damage, performs or allows another to perform work requiring a license without an appropriate license, violates a previous directive, or exhibits a pattern of violation may have their license, registration or certificate conditioned, suspended, or revoked.

(4) Civil penalties may be assessed by a board, the Director, or a board's designee acting as agent for a board. A board or the Director may take into account any appropriate factors, including previous directives, in determining the penalty amount or conditions within an order. The statutorily defined maximum penalty may only be assessed upon a finding of a pattern of violation.

(5) Civil penalties may be assessed in addition to, or in lieu of, the conditioning, suspension, or revocation of a license, certificate of competency, or similar authority issued by the Director.

(6) The Director may, subject to approval of a board, develop a penalty matrix for the board's use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

The Division proposes assessing a civil penalty of \$4,000 against Respondent for violating ORS 479.620(1) and ORS 479.550(1). The proposed penalty is within the scope of ORS 455.895(1)(b) and OAR 918-001-0036(6), and is consistent with the Penalty Matrix

adopted by the Board to establish guidelines for the imposition of penalties.

The evidence establishes that Respondent's violations of ORS 479.620(1) and ORS 479.550(1) constitute a contractor violation and a permit violation. Under the Penalty Matrix, the Board may assess a total civil penalty of \$4,000 against Respondent for these violations (\$3,000 for the contractor violation, first violation and \$1,000 for the permit violation, first violation).

RULING AND ORDER

The Building Codes Division's Motion for Summary Determination is GRANTED. The hearing scheduled for December 12, 2017 is CANCELLED.

I propose the Building Codes Division issue the following order:

Respondent CBM Solutions, Inc. violated ORS 479.620(1) and ORS 479.550(1). For these violations, the Building Codes Division assesses a \$4,000 civil penalty against Respondent.

Monica A. Whitaker

Senior Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division
Manager
PO Box 14470
Salem, OR 97309-0404

CERTIFICATE OF MAILING

On October 25, 2017, I mailed the foregoing RULING ON MOTION FOR SUMMARY DETERMINATION AND PROPOSED ORDER issued on this date in OAH Case No. 2017-ABC-00860.

By: First Class Mail

CBM Solutions, Inc.
1625 2nd Ave SE
Albany OR 97321

Justin Stalford
1625 2nd Ave SE
Albany OR 97321

By: Electronic Mail

Sarah Blam-Linville, Agency Representative
Building Codes Division
PO Box 14470
Salem OR 97309

Alesia K Vella
Hearing Coordinator

State of Oregon

Board memo

Building Codes Division

January 25, 2018

To: The Electrical and Elevator Board

From: Sarah Blam, contested case representative, Enforcement Services

Subject: Final Order for Case No. C2017-0271, In the Matter of Justin Stalford

Action requested:

To consider the adoption of a Proposed Order and issue a Final Order.

Background:

On July 10, 2017, the Building Codes Division (Division), acting on behalf of the Electrical and Elevator Board of the State of Oregon (Board), issued a Notice of Proposed Assessment of Civil Penalties (Notice) to Justin Stalford (Respondent).

The Notice proposed to assess a total of \$2,000.00 and alleged that Respondent had violated the following Division statutes and rules:

1. Performed electrical installations without a supervising or journeyman electrician's license in violation of ORS 479.620(3).

On or about July 20, 2017, Respondent requested a hearing.

On September 26, 2017, Division Contested Case Representative Anthony Estrada filed the Division's Motion for Summary Determination and its supporting documents. Respondent did not file a response by the established deadline.

On October 25, 2017, Administrative Law Judge Monica A. Whitaker issued a Ruling on Motion for Summary Determination and Proposed Order affirming the Notice of Proposed Assessment of Civil Penalties.

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
BUILDING CODES DIVISION
ELECTRICAL AND ELEVATOR BOARD**

IN THE MATTER OF:) **RULING ON MOTION FOR**
) **SUMMARY DETERMINATION**
) **AND PROPOSED ORDER**
)
JUSTIN STALFORD) OAH Case No. 2017-ABC-00858
) Agency Case No. C2017-0271

HISTORY OF THE CASE

On July 10, 2017, the Electrical and Elevator Board of the State of Oregon (Board) issued a Notice of Proposed Assessment of a Civil Penalty (Notice) to Justin Stalford (Respondent) proposing to assess a civil penalty of \$2,000 for violations of the Building Codes Division (Division) statutes and rules. On or about July 16, 2017, Respondent requested a hearing. The Division referred the matter to the Office of Administrative Hearings (OAH) on August 25, 2017. The OAH assigned Senior Administrative Law Judge (ALJ) Monica A. Whitaker to preside over the matter.

ALJ Whitaker held a telephone prehearing conference on September 13, 2017. Respondent did not appear. Anthony Estrada represented the Division. ALJ Whitaker established deadlines for filing motions, exhibits, and witness lists, and scheduled the hearing for December 12, 2017.

On September 26, 2017, Mr. Estrada filed the Division's Motion for Summary Determination (Motion). Respondent did not file a response by the established deadline. ALJ Whitaker closed the record on October 23, 2017 and took the matter under advisement.

ISSUES

1. Whether there are any genuine issues as to any material facts and, if not, whether the Division is entitled to a favorable ruling as a matter of law. OAR 137-003-0580.
2. Whether Respondent, acting on behalf of CBM Solutions, Inc. relocated two electrical outlets without a supervising or journeyman electrician's license. ORS 479.620.
3. If so, whether the Division may assess a civil penalty of \$2,000 against Respondent. ORS 455.895(1) and OAR 918-001-0036(6).

DOCUMENTS CONSIDERED

In reaching this ruling, the ALJ considered the following documents: the Division's Motion; the Affidavit of William Keith Anderson; and Exhibits A1 through A5.

STATEMENTS OF FACT

1. Respondent has never held a supervising or journeyman electrician's license in the State of Oregon. (Ex. A3.)

2. In or about June 2017, Respondent, acting on behalf of CBM Solutions, Inc. (CBM),¹ re-routed two electrical outlets at a residential property located at 1725 Main St., Lyons, Oregon (the property). (Ex. A2 at 2, 7, 9-10.) An electrical outlet is an electrical product. (Aff. of Anderson.)

3. The Board has adopted an Advisory Penalty Matrix (Penalty Matrix), which determines civil penalty amounts for violations of the Division's statutes and rules. The Penalty Matrix sets forth the penalty amounts for first, second, and third violations. For individuals with a first violation of performing unlicensed activities, the civil penalty is \$2,000 per violation. (Ex. A4 at 1.)

CONCLUSIONS OF LAW

1. There are no genuine issues as to any material facts and the Division is entitled to a favorable ruling as a matter of law.

2. Respondent, acting on behalf of CBM Solutions, Inc. relocated two electrical outlets without a supervising or journeyman electrician's license.

3. The Division may assess a civil penalty of \$2,000 against Respondent.

OPINION

1. Standard of Review for Motion for Summary Determination

OAR 137-003-0580 addresses motions for summary determination. It provides, in relevant part:

(6) The administrative law judge shall grant the motion for a summary determination if:

(a) The pleadings, affidavits, supporting documents (including any interrogatories and admissions) and the record in the contested case show that there is no genuine issue as to any material fact that is relevant to resolution of the legal issue as to which a decision is sought; and

¹ At all relevant times, Respondent was CBM's sole corporate member. (Ex. A1.)

(b) The agency or party filing the motion is entitled to a favorable ruling as a matter of law.

(7) The administrative law judge shall consider all evidence in a manner most favorable to the non-moving party or non-moving agency.

(8) Each party or the agency has the burden of producing evidence on any issue relevant to the motion as to which that party or the agency would have the burden of persuasion at the contested case hearing.

* * * * *

(12) If the administrative law judge's ruling on the motion resolves all issues in the contested case, the administrative law judge shall issue a proposed order in accordance with OAR 137-003-0645 incorporating that ruling * * *.

In reaching this ruling, I have considered the Division's Motion, the Affidavit of Mr. Anderson, and Exhibits A1 through A5. After considering the facts in a light most favorable to Respondent, the non-moving party, I have determined that there are no genuine issues as to any material facts that are relevant to resolution of the legal issues as to which a decision is sought, and that the Division is entitled to a favorable ruling as a matter of law.

The Division alleges that Respondent performed an electrical installation without a supervising or journeyman electrician's license. The Division bears the burden of proving its allegations by a preponderance of the evidence. ORS 183.450(2) and (5); *Reguero v. Teachers Standards and Practices Commission*, 312 Or 402, 418 (1991) (burden is on Commission in disciplinary action); *Cook v. Employment Div.*, 47 Or App 437 (1980) (in the absence of legislation adopting a different standard, the standard of proof in administrative hearings is preponderance of the evidence). Proof by a preponderance of the evidence means that the fact finder is convinced that the facts asserted are more likely true than false. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

2. *Electrical Work*

ORS 479.620 provides, in part:

Subject to ORS 479.540, a person may not:

* * * * *

(3) Except as provided in subsection (5) of this section, make any electrical installation without a supervising or journeyman electrician's license.

* * * * *

(5) Make any electrical installation on a single or multifamily dwelling unit not exceeding three floors above grade, as provided in ORS 479.630 (14), without a limited residential electrician's license.

ORS 479.530 provides, in part:

(10) "Electrical installations" means the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product.

(11) "Electrical product" means any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.

Respondent, acting on CBM's behalf, re-routed two electrical outlets at the property. An electrical outlet is an electrical product, and Respondent did not hold a supervising or journeyman electrician's license when he installed the electrical products at the property. As such, Respondent violated ORS 479.620(3).

3. *Civil Penalty*

ORS 455.895(1)(b) provides:

The Electrical and Elevator Board may impose a civil penalty against a person as provided under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850.

OAR 918-001-0036 provides, in part:

(1) Scope and Authority. This rule sets guidelines for assessing a civil penalty under ORS 446.995 & 455.895.

(2) Definitions. For the purposes of this rule:

* * * * *

(3) A licensed person or contractor who performs an act resulting in an unsafe installation or a health and safety hazard, structural or financial damage, performs or allows another to perform work requiring a license without an appropriate license, violates a previous directive, or exhibits a pattern of violation may have their license, registration or certificate conditioned, suspended, or revoked.

(4) Civil penalties may be assessed by a board, the Director, or a board's designee acting as agent for a board. A board or the Director may take into

account any appropriate factors, including previous directives, in determining the penalty amount or conditions within an order. The statutorily defined maximum penalty may only be assessed upon a finding of a pattern of violation.

(5) Civil penalties may be assessed in addition to, or in lieu of, the conditioning, suspension, or revocation of a license, certificate of competency, or similar authority issued by the Director.

(6) The Director may, subject to approval of a board, develop a penalty matrix for the board's use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

The Division proposes assessing a civil penalty of \$2,000 against Respondent for violating ORS 479.620(3). This penalty is within the scope of ORS 455.895(1)(b) and OAR 918-001-0036(6), and is consistent with the Penalty Matrix adopted by the Board to establish guidelines for the imposition of penalties.

The evidence establishes that Respondent's violation of ORS 479.620 constitutes an unlicensed activity. Under the Penalty Matrix, the Board may assess a \$2,000 for a first violation of performing unlicensed activities.

RULING AND ORDER

The Building Codes Division's Motion for Summary Determination is GRANTED. The hearing scheduled for December 12, 2017 is CANCELLED.

I propose the Building Codes Division issue the following order:

Respondent Justin Stalford violated ORS 479.620(3). For this violation, the Building Codes Division assesses a \$2,000 civil penalty against Respondent.

Monica A. Whitaker

Senior Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division
Manager
PO Box 14470
Salem, OR 97309-0404

CERTIFICATE OF MAILING

On October 25, 2017, I mailed the foregoing RULING ON MOTION FOR SUMMARY DETERMINATION AND PROPOSED ORDER issued on this date in OAH Case No. 2017-ABC-00858.

By: First Class Mail

Justin Stalford
1625 2nd Ave SE
Albany OR 97321

By: Electronic Mail

Sarah Blam-Linville, Agency Representative
Building Codes Division
PO Box 14470
Salem OR 97309

Alesia K Vella
Hearing Coordinator

State of Oregon

Board memo

Building Codes Division

January 25, 2018

To: The Electrical and Elevator Board

From: Shannon Flowers, contested case representative, Enforcement Services

Subject: Final Order for Case No. C2017-0083, In the Matter of Douglas A. Jones

Action requested:

To consider the adoption of a Proposed Order and issue a Final Order.

Background:

On June 22, 2017, the Building Codes Division (Division), acting on behalf of the Electrical and Elevator Board (Board), issued a Notice of Proposed Civil Penalties (Notice) to Douglas A. Jones (Respondent). The Notice proposed to assess a total civil penalty of \$2,000.00 and alleged that Respondent made electrical installations without a supervising or journeyman electrician license.

On or about July 6, 2017, Respondent requested a hearing.

On November 3, 2017, Division Contested Case Representative Shannon Flowers filed the Division's Motion for Summary Determination (Motion) and its supporting documents. Respondent did not file a response by the scheduled deadline date of November 17, 2017.

On November 21, 2017, Administrative Law Judge Samantha A. Fair (ALJ Fair) issued a Ruling on Motion for Summary Determination and Proposed Order affirming the Notice of Proposed Assessment of Civil Penalties (the order). The hearing, originally scheduled for December 13, 2017, was canceled.

In the order, ALJ Fair found that the Board established that Respondent violated ORS 479.620(3) and recommended that Respondent pay a civil penalty of \$2,000 for this violation.

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
BUILDING CODES DIVISION
ELECTRICAL AND ELEVATOR BOARD**

IN THE MATTER OF:) **RULING ON MOTION FOR**
) **SUMMARY DETERMINATION**
DOUGLAS JONES) **AND PROPOSED ORDER**
)
) OAH Case No. 2017-ABC-00957
) Agency Case No. C2017-0083

HISTORY OF THE CASE

On June 22, 2017, the Building Codes Division (Division) Electrical and Elevator Board (Board) issued a Notice of Proposed Assessment of a Civil Penalty and Notice of Final Order on Default (Notice) to Douglas Jones, proposing to assess him a civil penalty in the amount of \$2,000. On July 6, 2017, Mr. Jones requested a hearing.

On September 21, 2017, the Division referred the matter to the Office of Administrative Hearings (OAH). The OAH assigned Administrative Law Judge (ALJ) Samantha A. Fair to preside at hearing. On October 13, 2017, ALJ Fair convened a telephone prehearing conference. Mr. Jones did not appear. The Division appeared and was represented by Shannon Flowers. ALJ Fair scheduled the hearing for December 13, 2017, and set deadlines for submission of motions, witness lists and exhibits.

On November 3, 2017, the Division filed a Motion for Summary Determination (Motion). Mr. Jones did not file a response by the scheduled deadline date of November 17, 2017. The record closed on November 18, 2017.

ISSUES

1. Whether there are any genuine issues as to any material facts and, if not, whether the Division is entitled to a favorable ruling as a matter of law. OAR 137-003-0580.
2. Whether Mr. Jones performed an electrical installation without a supervising, journeyman or limited journeyman sign electrician's license. ORS 479.620(3) and OAR 918-282-0220(1)(a).
3. Whether the Board should assess a civil penalty against Mr. Jones. ORS 455.895(1) and OAR 918-001-0036.

DOCUMENTS CONSIDERED

For purposes of the issuance of this ruling and proposed order, the ALJ considered the following:

- The Motion, the Affidavit of Russ Darling, the Affidavit of Andrea Simmons, and Exhibits A through F, submitted by the Division; and
- The pleadings.

STATEMENT OF FACTS

1. The Board has never issued Mr. Jones any type of electrician's license and has no record of Mr. Jones. (Darling Aff. at 2; Ex. D at 1.)

2. Rudnick Electric Signs (Rudnick) employed Douglas Jones to perform electrical work for sign installation, repair and maintenance. Rudnick had a limited maintenance specialty (LMS) contractor license. (Ex. A at 1.)

3. Mr. Jones primarily worked on electrical sign fabrication in Rudnick's sign shop. He also made service calls, replacing ballasts and florescent lights. (Exs. A at 8; B at 10.) In December 2016, Mr. Jones replaced some ballasts and lamps at a Sleep Train location in Portland, Oregon. (Ex. C at 3.) In January 2017, Mr. Jones installed a ballast at a Starbucks location in Portland, Oregon. (Ex. C at 2.) At the beginning of February 2017, Mr. Jones made repeated service calls to a Mattress Firm location in Beaverton, Oregon. With the use of a crane, he removed and installed internally illuminated LED lights in two signs, located at the Beaverton property. (Ex. C at 1.)

4. The Division implemented a civil penalty matrix (Penalty Matrix) for electrical violations. The Penalty Matrix provides for civil penalties based upon the type of violation and "upon the number of violations committed within five years of the date of the present violation." (Ex. E at 1.) For individuals without any prior violations, the Penalty Matrix provides for a civil penalty of \$2,000 for performing unlicensed activities. (*Id.*) The Penalty Matrix further provides:

The entire penalty is imposed in all cases. * * *. A stay of some portion of a penalty is within the sole discretion of the board or the division acting on the board's behalf for purposes of settling cases prior to hearing.

(*Id.*) Mr. Jones has no prior violations with the Division. (Ex. A at 1.)

CONCLUSIONS OF LAW

1. There are no genuine issues as to any material facts, and the Division is entitled to a favorable ruling as a matter of law.

2. Mr. Jones performed an electrical installation without a supervising, journeyman or limited journeyman sign electrician's license.

3. The Board should assess a civil penalty against Mr. Jones.

OPINION

Standard of Review for Motion for Summary Determination

OAR 137-003-0580 addresses motions for summary determination. It provides, in relevant part:

(6) The administrative law judge shall grant the motion for a summary determination if:

(a) The pleadings, affidavits, supporting documents (including any interrogatories and admissions) and the record in the contested case show that there is no genuine issue as to any material fact that is relevant to resolution of the legal issue as to which a decision is sought; and

(b) The agency or party filing the motion is entitled to a favorable ruling as a matter of law.

(7) The administrative law judge shall consider all evidence in a manner most favorable to the non-moving party or non-moving agency.

(8) Each party or the agency has the burden of producing evidence on any issue relevant to the motion as to which that party or the agency would have the burden of persuasion at the contested case hearing.

* * * * *

(12) If the administrative law judge's ruling on the motion resolves all issues in the contested case, the administrative law judge shall issue a proposed order in accordance with OAR 137-003-0645 incorporating that ruling * * *.

Pursuant to OAR 137-003-0580(6)(a), in making my ruling, I considered the Division's Motion, the Affidavits, Exhibits A through F, and the pleadings. Pursuant to OAR 137-003-0580(7), I reviewed the evidence in the light most favorable to Mr. Jones, the non-moving party. I determined there are no genuine issues as to the material facts that are relevant to resolution of the allegation referenced in the Notice, and the Division is entitled to a favorable ruling on the allegation and the associated civil penalty. Because the ruling on the Motion resolves all issues in this matter, this proposed order is issued and the hearing is canceled.

The Board proposes to assess Mr. Jones a civil penalty based upon an allegation that he performed an electrical installation without an appropriate license. As the proponent of the allegation, the Board has the burden to establish, by a preponderance of the evidence, that the allegation is correct and that it is entitled to assess the civil penalty. ORS 183.450(2) (“The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position”); *Harris v. SAIF*, 292 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on the proponent of the fact or position). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

Electrical Installations

ORS 479.530 defines certain electrical terms. It provides, in part:

(10) “Electrical installations” means the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product. “Electrical installation” also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. “Electrical installation” does not include an oil module.

(11) “Electrical product” means any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.

(12) “Equipment” means any material, fittings, devices, appliances, fixtures, apparatus or the like that are used as part of or in connection with an electrical installation[.]

Pursuant to ORS 479.530, the installation of illuminated LED lights in electrical signs and the installation of ballasts are electrical installations. Mr. Jones performed electrical installations while working for Rudnick.

ORS 479.620 provides, in part:

Subject to ORS 479.540, a person may not:

(3) Except as provided in subsection (5) of this section, make any electrical installation without a supervising or journeyman electrician’s license[.]

OAR 918-282-0220 provides, in part:

(1) A limited journeyman sign electrician:

(a) Installs and services electrical signs and outline lighting[.]

Pursuant to OAR 918-282-0050(1), a licensed LMS contractor may connect replacement appliances to an existing junction box and may replace ballasts, lamp holders and equipment that are part of lighting fixtures. Pursuant to ORS 479.540(14) and OAR 918-282-0050(2) and (5), employees of a LMS contractor may perform such work without a license but must be listed with the Board as employees of the LMS contractor. The Board had no records for Mr. Jones, so there is no evidence that he was listed as an employee of Rudnick. Additionally, electrical signs are not encompassed by the definition of “lighting fixture” contained in OAR 918-251-0090(23).¹

Mr. Jones holds no active licenses issued by the Board. Therefore, Mr. Jones violated ORS 479.620(3) and OAR 918-282-0220 by performing electrical installations without a supervising, journeyman or limited journeyman sign electrician’s license.

Assessment of Civil Penalties

ORS 455.895(1)(b) provides, in part:

The Electrical and Elevator Board may impose a civil penalty against a person as provided under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850.

ORS 479.995 provides:

The Electrical and Elevator Board may impose a civil penalty for a violation of ORS 479.510 to 479.945 or rules adopted for the administration or enforcement of ORS 479.510 to 479.945 and this section. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895.

OAR 918-001-0036(6) provides:

The division may, subject to approval of a board, develop a penalty matrix for the board’s use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

For the above-established violation, the Board sought to assess a civil penalty against Mr. Jones in the amount of \$2,000. Pursuant to OAR 918-001-0036(6), the Division developed the

¹ OAR 918-251-0090(23) provides:

“Lighting Fixture” is a complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamp to the power supply.

Penalty Matrix, which provides that first-time violators must be assessed a \$2,000 civil penalty for performing unlicensed activities. The Board is entitled to assess a \$2,000 civil penalty against Mr. Jones for his violations of ORS 479.620(3) and OAR 918-282-0220(1)(a).

RULING AND ORDER

The Building Code Division's Motion for Summary Determination is GRANTED. The hearing, scheduled for December 13, 2017, is canceled.

I propose the Building Codes Division Electrical and Elevator Board issue the following order:

The Building Codes Division Electrical and Elevator Board established that Douglas Jones violated ORS 479.620(3) and OAR 918-282-0220(1)(a). Douglas Jones must pay the Electrical and Elevator Board a civil penalty of \$2,000 for this violation.

Samantha A. Fair

Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division
Manager
PO Box 14470
Salem, OR 97309-0404

CERTIFICATE OF MAILING

On November 21, 2017 I mailed the foregoing RULING ON MOTION FOR SUMMARY DETERMINATION AND PROPOSED ORDER issued on this date in OAH Case No. 2017-ABC-00957.

By: First Class Mail

Douglas Jones
208 Rosedell St
Amity OR 97101

By: Electronic Mail

Shannon Flowers, Agency Representative
Building Codes Division
PO Box 14470
Salem OR 97309

Alesia K Vella
Hearing Coordinator

Electrical and Elevator Board Enforcement Report for January 25, 2018

Agenda Item IV.E.

Summary Report - Cases Previously Resolved by Division

Case #	Name	Violation	Location of Violation	Date of Violation	Penalty Assessed	Penalty to Pay	Other Comments
C2017-0344 Tracey	Pro-Stat Services LLC	Installation of new light fixture. ●Allowing unlicensed individual to perform electrical work	Portland	August 2017	\$2,000	\$750	Consent Order Complaint submitted by license enforcement person
C2017-0343 Tracey	Crites, Michael	Installation of new light fixture. ●No journeyman electrician license	Portland	August 2017	\$2,000	\$750	Consent Order Complaint submitted by license enforcement person
C2017-0320 Dan	Schindler Elevator Corporation	Installation of electrical wiring in an elevator shaft. ●Allowing unlicensed individual to perform electrical work	Corvallis	July 2017	\$2,000	\$500	Consent Order Complaint submitted by license enforcement person
C2017-0368 Shannon	Campbell, Olain	Failure to pay civil penalty	Oregon	July 2017	\$1,750 **Original civil penalty was \$2,000	\$1,750	Default Order Complaint submitted by BCD Fiscal
C2017-0392	B & H Electric, Inc.	Failure to pay civil penalty	Oregon	May 2017	\$3,750 **Original civil penalty was \$5,000	\$3,750	Default Order Complaint submitted by BCD Fiscal
C2017-0348 Dan	Winburn, Keith	Installation of new electrical panel, electrical outlet and electrical wiring. ●Allowing unlicensed individual to perform electrical work ●Failure to perform signing supervisor duties	Portland	June 2017	\$3,000	\$750	Consent Order Complaint submitted by license enforcement person
C2017-0398	Coastal Breeze Construction LLC	Installation of 4 light fixtures and electrical GFCI outlets. ●No electrical contractor license ●Allowing unlicensed individual to perform electrical work	Newport	August 2017	\$2,000	\$2,000	Default Order Complaint submitted by CCB field investigator

*Total civil penalty assessed for more than one program

Electrical and Elevator Board Enforcement Report for January 25, 2018

Summary Report - Cases Previously Resolved by Division							
Case #	Name	Violation	Location of Violation	Date of Violation	Penalty Assessed	Penalty to Pay	Other Comments
C2017-0330 Mike	Chapman, David II	Installation of new light fixture. ●No journeyman electrician license	Medford	July 2017	\$2,000	\$750	Consent Order Complaint submitted by license enforcement person
C2017-0311 Mike	McWatkins LLC dba Lakeside Mobile Home & RV Park	Installation of new electrical panel and electrical wiring. ●No electrical permit ●Allowing an unlicensed individual to perform electrical work	Klamath Falls	July 2017	\$3,000	\$1,250	Consent Order Complaint submitted by license enforcement person
C2017-0393 Shannon	Ruiz, Juan	Installation of new electrical circuits, light fixtures, outlets, cadet heater, bathroom fan, wall timer, pole switches and relocation of 220v a/c unit. ●No journeyman electrician license ●No electrical contractors license ●No permit	The Dalles	May 2017	\$6,000	\$6,000	Default Order Complaint submitted by license enforcement person
C2017-0281 Tracey	Ruiz, Abimael	Installation of new electrical circuits, light fixtures, outlets, cadet heater, bathroom fan, wall timer, pole switches and relocation of 220v a/c unit. ●No journeyman electrician license	The Dalles	May 2017	\$2,000	\$2,000	Default Order Complaint submitted by license enforcement person
C2017-0328 Mike	Montoya, Anthony	Installation of new LED light fixtures, connecting the fixtures to electrical wiring. ●No journeyman electrician license	Medford	July 2017	\$2,000	\$750	Consent Order Complaint submitted by license enforcement person
C2017-0329 Mike	Graham, Deandre	Installation of new LED light fixtures, connecting the fixtures to electrical wiring. ●No journeyman electrician license	Medford	July 2017	\$2,000	\$750	Consent Order Complaint submitted by license enforcement person

*Total civil penalty assessed for more than one program

Electrical and Elevator Board Enforcement Report for January 25, 2018

Summary Report - Cases Previously Resolved by Division							
Case #	Name	Violation	Location of Violation	Date of Violation	Penalty Assessed	Penalty to Pay	Other Comments
C2017-0333 Mike	Watson, John	Installation of new LED light fixtures, connecting the fixtures to electrical wiring. ●No journeyman electrician license	Medford	July 2017	\$2,000	\$750	Consent Order Complaint submitted by license enforcement person
C2017-0334 Mike	Nielsen, Blaine	Installation of new LED light fixtures, connecting the fixtures to electrical wiring. ●No journeyman electrician license	Medford	July 2017	\$2,000	\$750	Consent Order Complaint submitted by license enforcement person
C2017-0336 Mike	Legendre, Donny	Installation of new LED light fixtures, connecting the fixtures to electrical wiring. ●Allowing unlicensed individuals to perform electrical work	Medford	July 2017	\$3,000	\$750	Consent Order Complaint submitted by license enforcement person
C2017-0327 Mike	Perez, Adrian	Installation of new LED light fixtures, connecting the fixtures to electrical wiring. ●No journeyman electrician license	Medford	July 2017	\$2,000	\$750	Consent Order Complaint submitted by license enforcement person
C2017-0335 Mike	Staybright Electric of Colorado, Inc.	Installation of new LED light fixtures, connecting the fixtures to electrical wiring. ●Allowing unlicensed individuals to perform electrical work ●No electrical permit	Medford	July 2017	\$3,000	\$1,250	Consent Order Complaint submitted by license enforcement person
C2017-0151 Russ	Gerig, Lanny E.	Installation of electrical outlets, electrical boxes, electrical switches, light fixtures and electrical wiring. ●No journeyman electrician license ●No electrical contractor license ●No electrical permit	Lebanon	March 2017	\$6,000	\$1,500	Consent Order Complaint submitted by Linn County BO

*Total civil penalty assessed for more than one program

Electrical and Elevator Board Enforcement Report for January 25, 2018

Summary Report - Cases Previously Resolved by Division							
Case #	Name	Violation	Location of Violation	Date of Violation	Penalty Assessed	Penalty to Pay	Other Comments
C2017-0358 Chris	DC Electric, Inc., A Corporation of Idaho	Installation of electrical control panels, wire from the control panel to motor, and low voltage wiring. ●No electrical contractor license ●No electrical permit	Ontario	August 2017	\$4,000	\$4,000	Default Order Complaint submitted by Malheur County BO
C2017-0226 Russ	Benz, Chad	●Signing supervisor fails to perform the duties of a registered signing supervisor	Oregon	February 2014 to April 1, 2017	\$12,000	\$3,000	Consent Order Complaint submitted by BCD field investigator
C2017-0099 Russ	Rooney, James	●Signing supervisor fails to perform the duties of a registered signing supervisor	Oregon	2014 to 2017	\$3,000	\$750	Consent Order Complaint submitted by homeowner
C2017-0286 Dave	Dombrowski, Steven	Installation of light switches. ●No journeyman electrician license	Bend	June 2017	\$2,000	\$500	Consent Order Complaint submitted by BCD field investigator
C2017-0384 Mike	Wilson, Robert	Installation of 58 electrical inverters. ●No journeyman electrician license	Klamath Falls	July 2017	\$2,000	\$2,000	Final Order Complaint submitted by license enforcement person
C2017-0387 Mike	Crawford, Michael	Installation of 336 photovoltaic modules per day over 3 weeks. ●No journeyman electrician license	Klamath Falls	July 2017	\$6,000	\$6,000	Final Order Complaint submitted by license enforcement person
C2017-0365 Russ	Chadney, William	Installation of electrical wire, switch boxes, neutral wire at switch boxes and performed subpanel. ●No electrical contractor license	Astoria	June 2015	\$2,000	\$1,000	Consent Order Complaint submitted by Clatsop County electrical inspector

*Total civil penalty assessed for more than one program

Electrical and Elevator Board Enforcement Report for January 25, 2018

Agenda Item IV.F.

License Suspensions, Revocations and Conditioned			
Case #	Name	Suspension/Revocation/Conditioned Information	Other Comments
C2017-0392	B & H Electric, Inc.	Respondent's electrical contractor license was revoked for failure to comply with the terms of consent order.	Default Order
C2017-0348 Dan	Winburn, Keith	Respondent's signing supervisor license has been conditioned for a 12 month period.	Consent Order
C2017-0336 Mike	Legendre, Donny	Respondent's signing supervisor license has been conditioned for a 12 month period.	Consent Order
C2017-0335 Mike	Staybright Electric of Colorado, Inc.	Respondent's electrical contractor license has been conditioned for a 12 month period. The conditions are as follows: provide Division with quarterly reports for 1 year. They shall include all Oregon electrical jobs with name and address of each customer and a list identifying the names and licensing information for all Respondent's employees that worked on each job.	Consent Order
C2017-0226 Russ	Benz, Chad	Respondent's signing supervisor license has been suspended for 1 month, following suspension respondent will be issued a conditional signing supervisor license for a 12 month period.	Consent Order
C2017-0099 Russ	Rooney, James	Respondent's signing supervisor license has been suspended for 1 month, following suspension respondent will be issued a conditional signing supervisor license for a 6 month period.	Consent Order



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Building Codes Division

1535 Edgewater Street NW

P.O. Box 14470

Salem, OR 97309-0404

503-378-4133

Fax: 503-378-2322

oregon.gov/bcd

January 3, 2018

VIA ELECTRONIC MAIL (tthompson@cherrycityelectric.com)

Mr. Trace Thompson
Cherry City Electric
1596 22nd St. SE
Salem, OR 97302

**Agenda
Item
V.**

2018-01 EL Field Fabrication

RE: Appeal of Decision by Building Official (ORS 455.475)
Cherry City Electric v. City of Portland, Bureau of Development Services
Application of Oregon Electrical Specialty Code (OESC)

Dear Mr. Thompson:

This letter is a final decision for the appeal you filed with the Building Codes Division (BCD) on December 20, 2017. The appeal is related to the field modification and installation of electrical enclosures and gutters in a building located at 2035 NW Front Avenue, Portland, Oregon 97209.

Please note: **the division is overturning the decision of the City of Portland Building Official** as detailed below.

BACKGROUND:

As you are already aware, on or about October 23, 2017, City of Portland Bureau of Development Services (City) staff inspected and failed the field modification and installation of electrical enclosures and gutters in a building located at 2035 NW Front Avenue. The City's correction notice requires that "gutters must connect directly to conduits" and "panel boxes must connect to conduit."

On December 20, 2017, the division received your application of appeal under Oregon Revised Statute (ORS) 455.475. The appeal sought relief from the City's decision and met the administrative requirement of Oregon Administrative Rule (OAR) 918-008-0120. I made this decision after I applied the applicable statutes and rules to the appeal application (with supporting documentation).

APPEAL:

You are seeking to reverse a decision by the local building official that the installation of gutters and panel boxes were not to code.

APPLICABLE CODE AND STATUTE REQUIREMENTS:

See Appendix A – Attached

DISCUSSION:

ORS 479.860 states that a person who is the holder of a supervising electrician’s license and who is employed by the holder of an electrical contractor’s license may design, plan and lay out electrical installations for customers of the electrical contractor without obtaining any other license, permit or certificate.

The underlying issue of this appeal is the field modification of enclosures and gutters performed by Cherry City. In this instance, a signing supervisor designed an electrical installation as provided for in ORS 479.860. The installation required enclosures and gutters to be field modified to allow for the entrance of conductors from the bottom, through a solid concrete floor. The enclosures and gutters were then placed on top of the floor, with the concrete floor serving as the bottom of the enclosures and gutters.

Field modifications are often necessary to allow for the entry of raceways and conductors into enclosures, cabinets, and other equipment. Because field modifications are dictated based on the needs of each installation, the OESC does not establish prescriptive requirements. When making or evaluating field modifications, installers and inspectors should focus on ensuring compliance with Section 110.12 and Part V of Article 250.

Section 110.12 requires all work to be completed in a neat and workmanlike manner, including the closure of unused openings and ensuring that the structural integrity of electrical equipment is maintained.

Section 300.12 requires raceways and cable sheaths to be continuous between cabinets and other enclosures. Exception No. 2 exempts raceways and cables installed into the bottom of open bottom equipment from this requirement for mechanical continuity. For example, the installation of a cabinet or gutter on a solid concrete floor could require the cabinet to be modified via an opening on the bottom to allow for the installation of raceways or conductors. In a workmanlike installation, the concrete floor serves the purpose of the cabinet bottom, providing the protection required under Section 110.12. The raceways and conductors entering through the bottom of the enclosure are not required to be secured to the modified cabinet. Metal raceways must comply with the requirements for electrical continuity by bonding found in Part V of Article 250.

DECISION:

The installation performed by Cherry City was designed, planned, and laid out by a supervising electrician in compliance with ORS 479.860. The installation was then completed in a workmanlike manner in compliance with the OESC. The raceways and cables entering through the bottom of the field modified enclosures do not need to be mechanically continuous, as allowed by Exception No. 2 to Section 300.12.

Sincerely,



Keith Anderson
Electrical Program Chief
Oregon Building Codes Division
(503) 378-4459
William.K.Anderson@Oregon.gov

cc: Terry Whitehill, Building Official, City of Portland Bureau of Development Services
Leonard McDowell, Inspector, City of Portland Bureau of Development Services

APPENDIX A
APPLICABLE STATUTE and CODE REQUIREMENTS

Mr. Trace Thompson
City of Portland Appeal

479.860 Persons authorized to design, plan and lay out electrical installations; rules. (1)

Notwithstanding any other provision of law, a person who is the holder of a supervising electrician's license:

(a) Who is employed by the holder of an electrical contractor's license may design, plan and lay out electrical installations for customers of the electrical contractor without obtaining any other license, permit or certificate

110.12 Mechanical Execution of Work. Electrical equipment shall be installed in a neat and workmanlike manner. Informational Note: Accepted industry practices are described in ANSI/NECA 1-2015, *Standard for Good Workmanship in Electrical Construction*, and other ANSI-approved installation standards.

(A) Unused Openings. Unused openings, other than those intended for the operation of equipment, those intended for mounting purposes, or those permitted as part of the design for listed equipment, shall be closed to afford protection substantially equivalent to the wall of the equipment. Where metallic plugs or plates are used with nonmetallic enclosures, they shall be recessed at least 6 mm (1/4 in.) from the outer surface of the enclosure.

(B) Integrity of Electrical Equipment and Connections. Internal parts of electrical equipment, including busbars, wiring terminals, insulators, and other surfaces, shall not be damaged or contaminated by foreign materials such as paint, plaster, cleaners, abrasives, or corrosive residues. There shall be no damaged parts that may adversely affect safe operation or mechanical strength of the equipment such as parts that are broken; bent; cut; or deteriorated by corrosion, chemical action, or overheating.

300.12 Mechanical Continuity — Raceways and Cables. Raceways, cable armors, and cable sheaths shall be continuous between cabinets, boxes, fittings, or other enclosures or outlets.

Exception No. 1: Short sections of raceways used to provide support or protection of cable assemblies from physical damage shall not be required to be mechanically continuous.

Exception No. 2: Raceways and cables installed into the bottom of open bottom equipment, such as switchboards, motor control centers, and floor or pad-mounted transformers, shall not be required to be mechanically secured to the equipment.

Part V. Bonding

250.90 General. Bonding shall be provided where necessary to ensure electrical continuity and the capacity to conduct safely any fault current likely to be imposed.

State of Oregon

Board memo

Building Codes Division

January 25, 2018

To: The Electrical and Elevator Board

From: Sarah Blam, Contested Case Representative, Enforcement Services

Subject: License expiration issue related to Case No. C2017-0425, In the Matter of William A. Gray Jr. dba Bill's Electric

Action requested:

William A. Gray Jr. (Gray) asks that the board consider issues regarding the reinstatement of a Signing Supervisor's and Electrical Contractor's license after expiration.

Background:

On October 1, 2016, Gray's General Supervising Electrician license, number 980S, expired due to a lack of renewal paperwork and payment. Gray first obtained his license on December 5, 1995. The continuing education courses required for the 2013-2016 cycle were completed and, pending a passage review, it appears Mr. Gray was eligible to renew. The one year period within which his signing supervisor's license could have been renewed without testing ended on October 1, 2017.

On October 10, 2016, Gray's Electrical Contractor's license was placed on inactive status due to no signing supervisor. On July 1, 2017, Gray's Electrical Contractor's license number 20-84C expired. Gray was first issued electrical contractor's license 20-84C on December 25, 1973.

On or about October 18, 2017, Gray installed electrical wiring at a commercial property in Springfield, Oregon, without the appropriate licenses and permit. The Building Codes Division (Division), acting on behalf of the Electrical and Elevator Board of the State of Oregon (Board), opened case number C2017-0425 against Gray and issued him a notice of proposed civil penalties (the notice) on November 8, 2017.¹

The notice proposed to assess a total of \$6,000.00 in civil penalties alleging that Respondent had violated the following Division statutes and rules:

¹ On or about November 16, 2017, Gray responded to the notice and requested a hearing. Case C2017-0425 is currently unresolved and no hearing date has been set at this time.

1. Performing electrical installations without a supervising or journeyman electrician's licenses in violation of Oregon Revised Statute (ORS) 479.620(3);
2. Engaging in the business of making electrical installations without an electrical contractor's license in violation of ORS 479.620(1); and
3. Performing the electrical installations without having been issued an electrical permit.

The division has no record that Gray paid his renewal fee for his signing supervisor's and electrical contractor's license. Gray asserts that he paid an application renewal fee but it did not reach the Division. He also claims there were extenuating circumstances that prevented him from realizing that he had failed to renew his licenses until October of 2017.

**Agenda
Item
VIII.B.**

Electrical and Elevator Board Meeting January 25, 2017 Agenda Item Request

Josh Ruddick

12/22/2017

Oregon Administrative Rules 918-040-0020

Board Agendas (2) Any person requesting that an item be placed on the agenda must make the request to the division at least 30 days before the scheduled meeting. The request must include:

a) A written statement explaining the subject matter of the item;

EWEB's request at the May 25, 2017 Electrical and Elevator Board meeting resulted in the Board instructing the division to research the issue of "...allow[ing] electric utilities to install UL-approved meterbase equipment between meter and customer-owned meterbase on overhead (OH) electric services." Two options were identified from that research and emailed to EWEB on 6/15/17:

1. "...a utility that retains ownership of meterbase equipment is exempt from the product certification, permitting, or licensing requirements administered by the division and the Board. ORS 479.540(5)(a) exempts electrical products owned by or supplied to a utility from the electrical safety law. As long as EWEB retains ownership of the meterbase equipment in question, there is no requirement to comply with the product certification, permitting, or licensing requirements administered by the division and the Board."
2. "If the utility does not retain ownership of meterbase equipment, the Board must find the electrical product does not present a danger to the health and safety of Oregonians and adopt an exemption by rule. ORS 479.540(10) requires the Board to make this finding before granting a partial or complete exemption from any portion of the electrical safety law, including licensing standards. If EWEB would like to install the meterbase equipment in question without retaining ownership of that equipment and without complying with the applicable permit, license, or certification standards, it will need to request the Board make the necessary finding and adopt an exemption by rule."

EWEB prefers not to retain ownership of the meterbase equipment, and would like to pursue the second option.

b) The action or results requested, if applicable;

EWEB is asking that the Board adopt an exemption by rule according to ORS 479.540(10) of the UL-approved, Global Power Products Generlink meter-mounted transfer switch.

c) The amount of time requested; and

Maybe 15-30 minutes.

d) Any other documents relevant to the item;



Installation Instructions

GLOBAL POWER PRODUCTS

225 Arnold Road
Lawrenceville, GA 30044
Phone: 770.736.8232

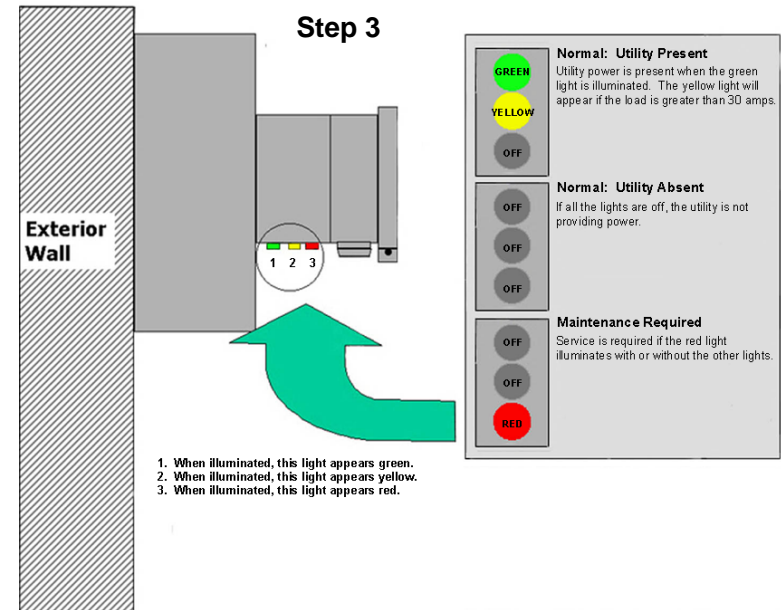
www.generlink.com

www.globalpowerproducts.com

Installation Instructions

Model MA23/24 - N/S

Designed to fit most 200 Ampere “Ring” or “Ring-Less” meter cans. This version has been configured for installation in a four-jaw meter can. **Please read these instructions carefully before beginning the installation.**



Step 4 Install the meter and secure with a locking ring.



Step 4

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Address inquiries to:
Global Power Products
225 Arnold Road
Lawrenceville, GA 30044

www.generlink.com

GenerLink™ has been thoroughly tested and has been found to be in compliance with the National Electrical Safety Code as it applies to utility control equipment.

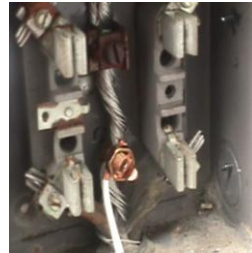
For additional information, contact:
Technical Support, Global Power Products, Inc 770-736-8232.

Step 2

Install the Neutral/Ground lead connection from GenerLink™. Depending on the type of meter can, either a #6/#8 Hi-lug or a split-nut ground connection should be used. **The grounding method selected should be consistent with local codes and standards for your area.**



Step 2a
Hi-Lug Ground Installation



Step 2b
Split-nut Ground Installation

Step 3

Connect the neutral/ground leads together. Insert GenerLink™ by carefully aligning with the jaws of the meter can and pushing the blades firmly into the jaws. Check for normal utility presence with the indicator lights on GenerLink™. For normal utility presence, the green light is illuminated with or without the yellow light. Secure GenerLink™ with a locking ring.

DANGER!

HIGH VOLTAGE

240-Volt potential exists across the top jaws when GenerLink™ is installed in a meter can.

NOTICE!

The license label, shown below, is not to be removed during installation. This label has been attached to GenerLink™ and should only be removed by the homeowner.

NOTICE

By breaking this seal, you agree to the following:

- You will not attempt to remove, repair, or in any way modify this GenerLink™ unit.
- You will allow authorized utility representatives to access this GenerLink™ unit as determined by them to be necessary.
- You accept and agree to all Terms and Conditions set forth in the Operating Manual relating to GenerLink™.

If you do not accept the Terms and Conditions do not break this seal and follow the instructions in the Operating Manual to arrange for removal of the GenerLink™.

L001A

BEFORE YOU START

To perform this installation you will need the following tools and fasteners:

- #6 / #8 Hi-lugs or Split Nuts (For attaching Ground)
- Socket Set



NOTICE!

The warranty on GenerLink™ is null and void should the device be opened, dismantled, modified, altered, or changed in any way during installation, normal operation or removal.

The warranty is also null and void should GenerLink™ be installed in a non-compatible meter base or used improperly.

GenerLink™ must be installed and operated in accordance with the following installation instructions and the GenerLink™ Operating Manual.



WARNING!

GenerLink™ allows for the interconnection of a 120/240 volt generator with a continuous output of 30 Amperes or less. Any source connected to GenerLink™ that does not meet this criteria or exceeds this rating could cause serious operator injury or damage GenerLink™.



DANGER!

HIGH VOLTAGE

Installation of GenerLink™ must only be performed by properly trained technicians. Do not proceed with this installation unless you have been authorized by your local electric utility to do so.



DANGER!

HIGH VOLTAGE

240-Volt potential exists across the top jaws when GenerLink™ is installed in a meter can.

Section 2 - Installation in Ring-Style Meter Cans

Installation of GenerLink™ is fast and easy. For installations in “ring” style cans, the procedure (shown in Figure 1) is as follows:

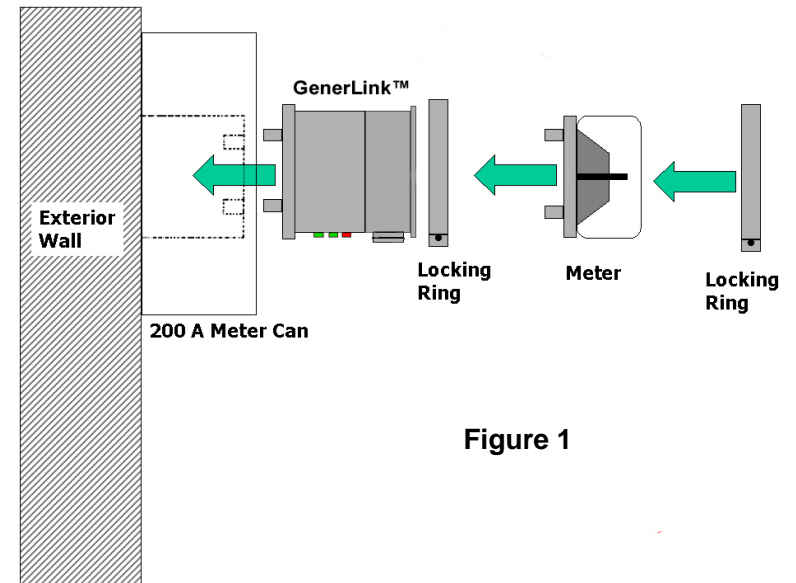


Figure 1

Step 1

Remove the meter can cover.



Step 1



Step 4

NOTE:

GenerLink™ has been designed for installation with a wide variety of meter cans. In some cases, the cover will fit tightly to GenerLink™ as it rotates. **Do not attempt to cut, file or otherwise modify GenerLink™ in order to facilitate this step. Modifications will jeopardize the security of the installation and will void the warranty.**

Section 1 - Installation in Ring-less Style Meter Cans

Installation of GenerLink™ is fast and easy. For installations in “ring-less” style cans, the procedure (shown in Figure 1) is as follows:

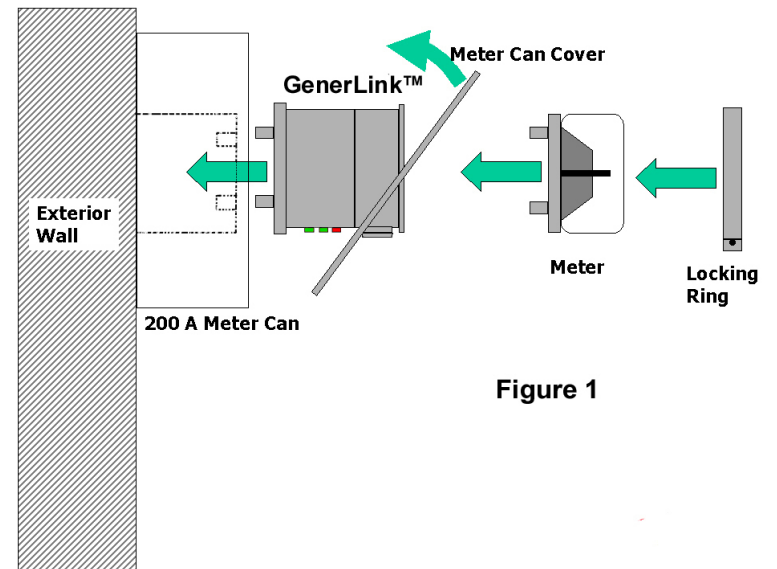


Figure 1

Step 5

Install and secure the meter with a locking ring.



Step 5

Step 1

Remove the meter can cover.



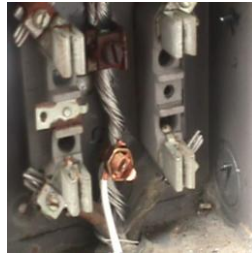
Step 1

Step 2

Install the Neutral/Ground lead connection from GenerLink™. Depending on the type of meter can, either a #6/#8 Hi-lug or a split-nut ground connection should be used. **The grounding method selected should be consistent with local codes and standards for your area.**




Step 2a
Hi-Lug Ground Installation

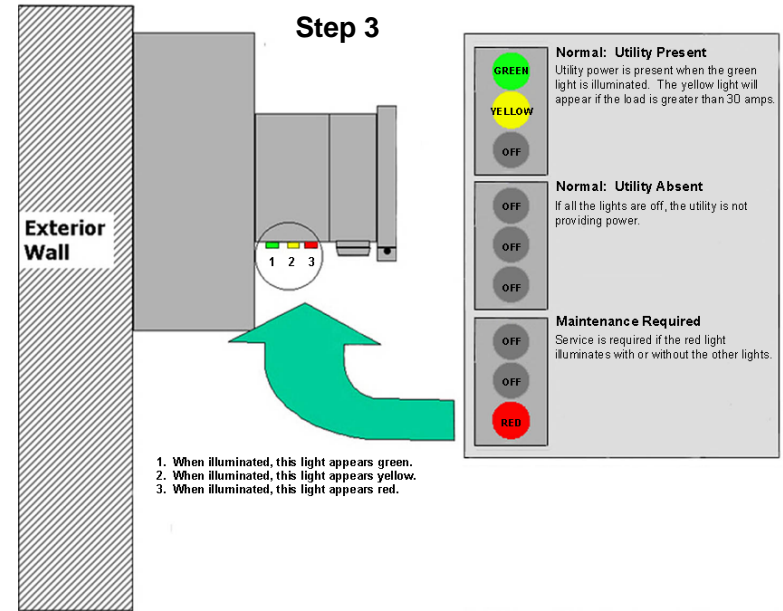


Step 2b
Split-nut Ground Installation

Step 3

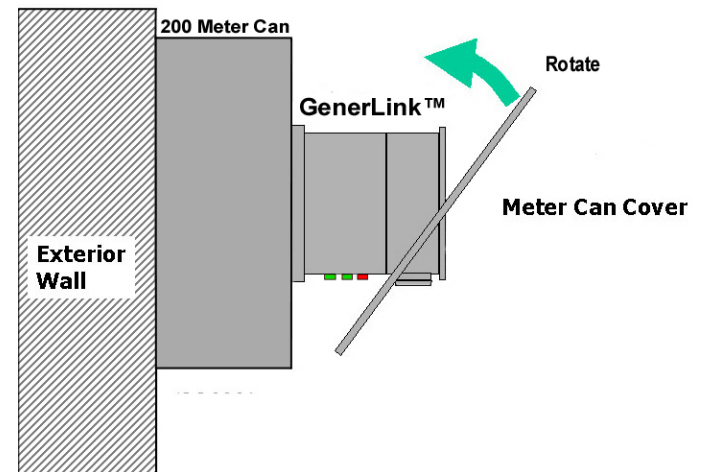
Connect the neutral/ground leads together. Insert GenerLink™ by carefully aligning with the jaws of the meter can and pushing the blades firmly into the jaws. Check for normal utility presence with the indicator lights on GenerLink™. For normal utility presence, the green light is illuminated with or without the yellow light.

	DANGER!
HIGH VOLTAGE	
240-Volt potential exists across the top jaws when GenerLink™ is installed in a meter can.	



Step 4

Position the Meter Can Cover over GenerLink™ as shown in the diagram below. Rotate the cover over GenerLink™ and position into place for closure.





a new meter collar device that makes connecting a portable generator safe and easy

Connecting A Portable Generator is Now Safe and Easy with GenerLink™

SAFE

GenerLink™ eliminates the use of extension cords and other connections that can be hazardous to customers and utility personnel.

GenerLink™ detects when a generator is operating and automatically disconnects from the utility grid, eliminating dangerous backfeed.

EASY

GenerLink™ is equipped with GenerLok™, a unique interlocking power cord system that provides a quick and easy connection of a portable generator.

GenerLink™ is installed in 20 minutes or less by utility personnel and does not require the customer's presence.

GenerLink™ is easily installed behind a customer's electric meter and requires no rewiring of the customer's electrical system.

With GenerLink™, customers have the flexibility to run virtually any appliance, up to the capacity of their generator by simply energizing appliances from their breaker panel.



GENERLINK™ with GENERLOK™ SPECIFICATIONS AND TECHNICAL INFORMATION MODEL MA23/24 - N/S

Physical:	Diameter:	6 ½ in.
	Depth:	5 ¼ in.
	Weight w/o surge:	5 ½ lbs
	Weight with surge:	5 ¾ lbs
	Socket Style:	Ring or Ring-less, 200 Amp, 4 jaw
Electrical:	Source Compatibility	200 Ampere or less
	Withstand Current:	10,000 Amperes rms symmetrical at .7 - .8 pf, 240 Volts, 60 Hz 6000 Amperes for 6 cycles at .7 - .8 pf, 240Volts, 60 Hz
	Generator Input:	10kW Continuous†, 120/240 Volt
	Connection:	Proprietary GenerLok™ QuickConnect Cord‡
Operational:	Transfer Type:	Break–Before–Make
	Transfer Delay:	2-3 Seconds
	Life Cycle:	300,000 Operations
	Temperature Range:	-30°C to 60°C External Ambient
Features:	Generator Input Protection:	Generator Input Voltage ≥ 200 Volts Supplemental Overcurrent ≤ 40 A
	Utility Input Protection:	Utility Input Voltage ≥ 180 Volts Over-Temperature Trip ≥ 105°C
	Load Protection:	Integrated Whole-House Surge Protection Model MA23/24 - S Only
	Status Indication:	Long-life LED indicators show utility power availability and/or fault presence

† 3 hours at 25° C ambient

‡ Sold Separately

* when protected by max 200 A circuit breaker in series with max 100 A branch circuit breaker

www.generlink.com

Global Power Products, Inc.
225 Arnold Road
Lawrenceville, GA 30044
www.globalpowerproducts.com
1.800.886.3837



Search results

You may choose to Refine Your Search.		
Company Name	Category Name	Link to File
GLOBAL POWER PRODUCTS INC	Energy Usage Monitoring Systems	<u>FTRZ.E185787</u>
GLOBAL POWER PRODUCTS INC	Energy Usage Monitoring Systems Certified for Canada	<u>FTRZ7.E185787</u>
GLOBAL POWER PRODUCTS INC	Industrial Control Panels	<u>NITW.E189411</u>
GLOBAL POWER PRODUCTS INC	Industrial Control Panels Certified for Canada	<u>NITW7.E189411</u>
GLOBAL POWER PRODUCTS INC	Management Equipment, Energy	<u>PAZX.E185787</u>
GLOBAL POWER PRODUCTS INC	Management Equipment, Energy Certified for Canada	<u>PAZX7.E185787</u>
GLOBAL POWER PRODUCTS INC	Meter-mounted Transfer Switches	<u>WPXW.E216456</u>
GLOBAL POWER PRODUCTS INC	Nonautomatic Transfer Switches	<u>WPYV.E491124</u>
GLOBAL POWER PRODUCTS INC	Nonautomatic Transfer Switches Certified for Canada	<u>WPYV7.E491124</u>
GLOBAL POWER PRODUCTS INC	Switches, Industrial Control	<u>NRNT.E362798</u>

Model number information is not published for all product categories. If you require information about a specific model number, please contact [Customer Service](#) for further assistance.

STANDARDS

UL 1008M

Transfer Switch Equipment, Meter Mounted

Purchase UL 1008M

DETAILS

Edition Number:	2	SCC Approved:	--
Edition Date:	2015-08-28	ULC Approved:	--
Price Code:	A	ANSI Approved:	--
Type:	outline		

SCOPE

TABLE OF CONTENTS

1 Scope

1.1 These requirements cover automatic and non-automatic (manual) transfer switch equipment, operating at 600 V ac less, and intended for installation in a utility meter base, in ordinary locations only.

1.2 These devices are intended for use in optional standby systems only, and are not intended for use in Emergency or Legally Required Standby Systems. These devices are intended for one of the following applications:

- a) Cord connection of a portable generator to power a premise wiring system, where the neutral (grounded circuit conductor) of the generator is not bonded to ground or the generator frame, and bonding of the neutral (grounded circuit conductor) to ground will occur within the meter base or
- b) Permanent connection of a stationary generator to power a premise wiring system, where the generator is connected as a non-separately derived system, where the neutral

STANDARDS

1.3 These devices are connected between the meter mounting equipment and the electric utility meter, on the line side of the service disconnect. As such, the installation of these devices is intended to be under the exclusive control of the serving utility, and these are not considered under the purview of the National Electrical Code, NFPA 70. Generators and associated wiring connected to the generator terminals of the transfer switch are not considered under the exclusive control of the utility, and are under the purview of NFPA 70.

1.4 An automatic transfer switch as covered by these requirements is a device that automatically transfers a common load from a normal supply to an alternate supply in the event of failure of the normal supply, and automatically returns the load to the normal supply when the normal supply is restored. An automatic transfer switch may be provided with a logic control circuit that inhibits automatic operation of the device from either a normal to an alternate supply, or from an alternate to a normal supply when the switch reverts to automatic operation upon loss of power to the load.

1.5 A non-automatic transfer switch as covered by these requirements is a device, operated manually by a physical action, or electrically by a remote control, for transferring a common load between a normal and alternate supply.

1.6 A transfer switch may incorporate overcurrent protection for the main power circuits.

1.7 These requirements only cover transfer switches which are completely enclosed when installed in a meter base in conjunction with the electrical utility meter.

1.8 Transfer switches are rated in amperes and are considered to be acceptable for total system transfer, which includes control of motors, electric-heating loads, and transformer loads.

UL 1008M REFERENCES THESE STANDARDS

[UL 414 »](#)

[UL 943 »](#)

[UL 746C »](#)

[UL 991 »](#)

[UL 796 »](#)

[UL 1008 »](#)

[UL 840 »](#)

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STANDARDS

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WPXW.E216456 Meter-mounted Transfer Switches

[Page Bottom](#)

Meter-mounted Transfer Switches

[See General Information for Meter-mounted Transfer Switches](#)

GLOBAL POWER PRODUCTS INC

E216456

225 Arnold Rd
Lawrenceville, GA 30044-5345 USA

[Last Updated](#) on 2010-04-13

[Questions?](#)

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State of Oregon

Board memo

Building Codes Division

January 25, 2018

To: The Electrical and Elevator Board

From: Todd Smith, policy analyst, Policy and Technical Services

Subject: Continuing Education Applications

Action requested:

Electrical and Elevator Board consideration of the Continuing Education Committee's recommendations regarding continuing education courses and instructors.

Background:

The Electrical and Elevator Board establishes continuing education requirements for all electrical licensees in order to ensure licensees possess up-to-date knowledge of the code and administrative requirements. They set standards for approval of courses and instructors in order to have a sufficient number and variety of continuing education courses available to licensees. The board's continuing education committee has been meeting to evaluate courses and instructors on the board's behalf. The committee met on October 3, 2017, to review continuing education course and instructor applications. Craig Perkins and Cindy Regier attended this meeting. The committee reviewed 82 applications from 30 organizations:

- 43 courses were recommended for approval.
- 5 courses were recommended for denial.
- 25 instructors were recommended for approval.
- No instructors were recommended for denial.
- 8 applications are pending waiting for additional information from the provider.

See attached summary for more information.

In addition to the Oregon Rule and Law criteria, the committee is using the following when reviewing applications:

- NFPA 70E courses are eligible for a maximum of eight hours code-related credits.
- OSHA 10 courses are eligible for a maximum of four hours code-related credits.
- OSHA 30 courses are eligible for a maximum of sixteen hours code-related credits.
- First Aid/CPR courses are eligible for a maximum of four hours code-related credits (two hours for each course).

- For correspondence courses – Provider must submit complete course.
- For online courses – Provider must submit a log-on or screen shots of course content.

Options:

- Approve the committee's recommendations for approval or denial of courses or instructors.
- Amend and approve the committee's recommendation for approval or denial of courses or instructors.
- Disapprove the committee's recommendation for approval or denial of courses or instructors.

Electrical and Elevator Board
Committee on Continuing Education Course and Instructor Review
01/25/18

Courses

	Applicant	Course Name	Committee Recommendation	Board Action
1	Anytime CE	2017 NEC Update Part 4 (4 hours CC)	Approve 2017 Code Cycle	
2	Central Electric JATC	2017 Medium Voltage Cable Splicing & Termination (8 hours CR)	Approve 2017 Code Cycle, course reduced from 8 hours CC and 24 hours CR to 8 hours CR	
3	Central Electric JATC	2017 40 Hour Supervisor Exam Prep (16 hours CC, 8 hours CR, 4 hours ORL)	Approve 2017 Code Cycle	
4	Chester Garrett	Electrical Theory (4 hours CR)	Approve 2017 Code Cycle	
5	Crater Lake Electrical JATC	Grounding and Bonding (8 hours CR)	Approve 2017 Code Cycle	
6	Elite CEU	2014 NEC Wiring Methods (2 hours CR)	Deny, 2014 NEC materials	
7	Ewing-Foley	Power Quality: Problems and Solutions (4 hours CR)	Approve 2017 Code Cycle	
8	GeorgiaPacific-Wauna	Medic FirstAid BasicPlus CPR AED and FirstAid for Adults (4 hours CR)	Approve 2017 Code Cycle, hours reduced and changed from 6 ORL to 4 CR	
9	IEC	Medic FirstAid BasicPlus (4 hours CR)	Approve 2017 Code Cycle	
10	Joan P Albert	2017 NEC Changes (4 hours CC)	Approve 2017 Code Cycle	
11	Joan P Albert	2017 NEC Changes (8 hours CC)	Approve 2017 Code Cycle	
12	Joan P Albert	Basic Electrical Theory (8 hours CR)	Deny, not journey level material	
13	Joan P Albert	Basic NEC (8 hours CR)	Approve 2017 Code Cycle	
14	Joan P Albert	Code Calculations (4 hours CR)	Approve 2017 Code Cycle	
15	Joan P Albert	NEC Articles 422, 424, 440, and 725 (8 hours CR)	Approve 2017 Code Cycle	
16	Joan P Albert	Optical Fiber and Communications Systems (4 hours CR)	Approve 2017 Code Cycle, hours reduced from 8 to 4	
17	LU112-NECA Electrical JATC	FirstAid/CPR (4 hours CR)	Approve 2017 Code Cycle	
18	LU112-NECA Electrical JATC	Solar Photovoltaics II (4 hours CR)	Approve 2017 Code Cycle, hours reduced from 12 to 4	
19	LU112-NECA Electrical JATC	Transformers (4 hours CR)	Approve 2017 Code Cycle	
20	Mike Holt Enterprises	2017 Bonding and Grounding (8 hours CR)	Approve 2017 Code Cycle	

21	Mike Holt Enterprises	2017 NEC Changes to the NEC Part 1 (8 hours CC)	Approve 2017 Code Cycle	
22	Mike Holt Enterprises	2017 NEC Changes to the NEC Part 2 (8 hours CC)	Approve 2017 Code Cycle	
23	Mike Holt Enterprises	2017 NEC Changes to the NEC Part 3 (8 hours CC)	Approve 2017 Code Cycle	
24	Mike Holt Enterprises	2017 NEC Update, Electrical Calculations and Safety (8 hours CR)	Approve 2017 Code Cycle	
25	Mike Holt Enterprises	Understanding Low Voltage Systems Live Seminar (8 hours CR)	Deny, insufficient code content	
26	National Technology Transfer, Inc	2018 NFPA 70E Arc Flash Electrical Safety (16 hours CR)	Deny the request to increase approved hours from 8 to 16, 8 hours is max for 70E classes	
27	Northwest Sign Council	Safety and Electrical Sign Installation (2 hours CR)	Approve 2017 Code Cycle	
28	The Okonite Company	ABC's of Insulated Cable (2 hours CR)	Approve 2017 Code Cycle	
29	The Okonite Company	Proper Installation of MC Cable (2 hours CR)	Approve 2017 Code Cycle	
30	The Okonite Company	Proper Installation of Insulated Cable Part I (2 hours CR)	Approve 2017 Code Cycle	
31	Oregon Solar Energy Industries Association	Solar PV Systems Based on the 2017 NEC (8 hours CC)	Deny the request to change course approve from CR to CC, course only covers solar PV NEC changes.	
32	Rob Cochran	Grounding and Bonding (8 hours CR)	Approve 2017 Code Cycle	
33	Rob Cochran	NEC Calculations (8 hours CR)	Approve 2017 Code Cycle	
34	Rob Cochran	Oregon Rule and Law (4 hours ORL)	Approve 2017 Code Cycle	
35	Eastern Idaho Electrical JATC	10 Hour OSHA (4 hours CR)	Approve 2017 Code Cycle, reduce hours from 10 to 4	
36	Eastern Idaho Electrical JATC	30 Hour OSHA (16 hours CR)	Approve 2017 Code Cycle, reduce hours from 30 to 16	
37	Southwestern Idaho Electrical JATC	Code Update 3 (8 hours CC)	Approve 2017 Code Cycle	
38	Southwestern Idaho Electrical JATC	Code Calculations Part 1 (8 hours CR)	Approve 2017 Code Cycle	
39	Southwestern Idaho Electrical JATC	Oregon Rule and Law (4 hours ORL)	Approve 2017 Code Cycle	
40	Southwestern Washington Electrical JATC	Oregon Rule and Law (4 hours ORL)	Approve 2017 Code Cycle	
41	Touchstone Consulting LLC	OSHA 10 Construction (4 hours CR)	Approve 2017 Code Cycle, reduce hours from 10 to 4	
42	Touchstone Consulting LLC	OSHA 30 Construction (16 hours CR)	Approve 2017 Code Cycle, reduce hours from 30 to 16	
43	Work Safety Services LLC	Certified FirstAid, CPR, and AED (4 hours CR)	Approve 2017 Code Cycle, reduce hours from 5 to 4	
44	EC&M	2017 NEC Code Change (16 hours CC)	Approve 2017 Code Cycle	

45	Olsson Industrial Electric	NFPA 70E Electrical Safety (4 hours CR)	Approve 2017 Code Cycle	
46	Oregon Electrical Test Prep	Supervisor Test Prep (8 hours CC, 12 hours CR)	Approve 2017 Code Cycle	
47	Electrical Code Academy	2017 NEC Part 1(8 hours CC)	Approve 2017 Code Cycle	
48	Electrical Code Academy	2017 NEC Part 2 (8 hours CC)	Approve 2017 Code Cycle	

Instructors

	Applicant	Committee Recommendation	Board Action
1	Wendell Whistler (CC, CR) Central Electric JATC	Approve 2017 Code Cycle	
2	Doug Black (CR) e-Hazard	Approve 2017 Code Cycle	
3	Doug Lovette (CR) e-Hazard	Approve 2017 Code Cycle	
4	Larry Stephen Evers (CR) Elite CEU	Approve 2017 Code Cycle	
5	Jim Zile (CR) GeorgiaPacific-Wauna	Approve 2017 Code Cycle	
6	Marianne Holgate (CR) HSI	Approve 2017 Code Cycle	
7	Michael jones (CR) HSI	Approve 2017 Code Cycle	
8	Larry Meres (CR) IEC	Approve 2017 Code Cycle	
9	Marcus Burleson (CC, CR) LU112-NECA Electrical JATC	Approve 2017 Code Cycle	
10	Gregory McMurphy (CC, CR) LU112-NECA Electrical JATC	Approve 2017 Code Cycle	

11	Joseph McMurphy (CC, CR) LU112-NECA Electrical JATC	Approve 2017 Code Cycle	
12	Caleb Kauer (CC, CR) LU112-NECA Electrical JATC	Approve 2017 Code Cycle	
13	Kristopher Tuura (CC, CR) LU112-NECA Electrical JATC	Approve 2017 Code Cycle	
14	Bryan McLane (CR) Mike Holt Enterprises	Approve 2017 Code Cycle	
15	Joe Gibson (CR) Northwest Sign Council	Approve 2017 Code Cycle	
16	David Bonine (CR) The Okonite Company	Approve 2017 Code Cycle	
17	Dave Wisniewski (CR) The Okonite Company	Approve 2017 Code Cycle	
18	Colby Averett (CR) Eastern Idaho Electrical JATC	Approve 2017 Code Cycle	
19	Chris Lochridge (CR) Eastern Idaho Electrical JATC	Approve 2017 Code Cycle	
20	Jary D Winstead (CR) Work Safety Services LLC	Approve 2017 Code Cycle	
21	Daniel Brian House (CC) EC&M	Approve 2017 Code Cycle	
22	Mike Holt (CC) EC&M	Approve 2017 Code Cycle	
23	Martin Stoddard (CR) Olsson Industrial Electric	Approve 2017 Code Cycle	
24	Shawn Haggin (CC, CR) Oregon Electrical Test Prep	Approve 2017 Code Cycle	
25	Paul Abernathy (CC) Electrical Code Academy	Approve 2017 Code Cycle	

Applications Pending

	Applicant	Course Name	Information Requested by Committee
1	Elite CEU	2017 NEC Wiring Methods and Materials	Course materials required for review
2	Jade Learning LLC	Commercial and Industrial Wiring (2017 NEC)	Course materials required for review
3	Jade Learning LLC	Residential Wiring (2017 NEC)	Course materials required for review
4	Jade Learning LLC	OESC and Oregon Rules	Course materials required for review; request to change course name to Oregon Rule and Law
5	Cochran Inc	CPR AED and First Aid for Adults (4 hours CR)	Approve 2017 Code Cycle, course reduced from 5 hours to 4 hours, pending approved instructor
6	Cody Adams (CR) Cochran Inc	Instructor	Need Instructor Card
7	Olsson Industrial Electric	FirstAid, CPR, AED (4 hours CR)	Approve 2017 Code Cycle pending approved instructor
8	Howard McBride (CR) Olsson Industrial Electric	Instructor	Need Instructor Card

**Agenda
Item
VIII.D.**

December 5, 2017

Keith Anderson
State of Oregon
Building Codes Division
1525 Edgewater NW
Salem, OR 97309-0404

Dear Keith,

Attached is the documentation that you suggested I resubmit for the EC&M Code Change conference course that was previously approved for 4 credit hours. At the time the course was submitted the textbook and course materials were not available to send as they had not been published yet.

Per your suggestion I have filled out a new course application and am submitting the text book that is used for the students. The Power point presentation files that Mike Holt uses to teach from have also been sent to you via a dropbox link from his office.

As I mentioned I need to get the course retro activated for the attendees that already took the course in 2016-2017 when it was only approved for 4 credit hours. Those attendees need the 16 hours of credit. Attached is a list of students with Oregon license numbers, hour amount requested, time and date of course.

I appreciate your help in this matter.

Sincerely,



Kim Good
Event Manager
Penton Media/EC&M Workplace Learning Center

Student/Licensee Name	Course Hours	OR License Number	Course Date	Course Time
Joey D. Wade	16	5868S	September 12-13, 2017	8am - 5pm each day
John Patelski	16	16288	January 11-12, 2017	8am - 5pm each day
Nicholas DeMercurio	16	78706PE	October 18-19, 2016	8am - 5pm each day
Christopher A. Phillip	16	91160PE	December 6-7, 2016	8am - 5pm each day
Duane Kraxberger	16	1204PS	December 6-7, 2016	8am - 5pm each day
David Marinos	16	4043S	December 6-7, 2016	8am - 5pm each day
Vernon Palmrose	16	3743S	December 6-7, 2016	8am - 5pm each day
Jim Townsend	16	4701S	December 6-7, 2016	8am - 5pm each day
Chad Merritt	16	4840PJ	December 6-7, 2016	8am - 5pm each day
Kenneth Randall	16	4023S/8382J	December 6-7, 2016	8am - 5pm each day
Andrew Crall	16	5428S	December 6-7, 2016	8am - 5pm each day
Shannon English	16	19362PE	December 6-7, 2016	8am - 5pm each day

New application



Continuing Education Course Approval Application

Department of Consumer and Business Services
Building Codes Division
1535 Edgewater NW, Salem, Oregon
Mailing address: P.O. Box 14470, Salem, OR 97309-0404
503-373-1268 • Fax: 503-378-2322 Web: bcd.oregon.gov

Date received by BCD: _____

INSTRUCTIONS

Two easy steps: 1. Print clearly. 2. Include all requested information.
An incomplete application will delay evaluation of your course(s).

Your contact information provided below will be published on the Building Codes Division Web site.

Company name: EC&M Workplace Learning Center Contact person: Kim Good
Address (street or P.O. Box): 9800 Metcalf Avenue
City: Overland Park State: KS ZIP: 66212
Phone: 913-967-1865 Fax: 913-514-6865
E-mail: klm.good@penton.com Web address: www.ecmweb.com

COURSE INFORMATION

Course name: EC&M's 2017 NEC Code Change Conference
Course approval requested for: Boiler Electrical Plumbing
Total course hours (min. 2 hrs.): 16 hours
Has BCD approved this course previously? No Yes If yes, year of approval: 2013-2014
Check the appropriate category:
 Code-change: Model Code only Oregon Rule and Law
 Code-change: Model Code with Oregon Rule and Law materials Code -related
Course is offered (check all that apply):
 Live To the public
 Online By correspondence

Please include the following:

- Brief description of the course.
- Detailed course outline, including:
 - Course content and time spent on each content area.
 - Course objectives.
 - Learning outcomes.
- Name or names of instructors and qualifications (Form 440-2505). Previously approved instructors do not need to resubmit instructor application.
- Course prerequisites, if any.
- For code-change courses, be sure to include:
 - A specific statement that the course meets the minimum code-change requirements for the license types in the matrix approved by the appropriate board.
 - Oregon Rule and Law will count towards the code-change hours requirement. Course content must include permit process and requirements. Scope of work for specific license relevant to the course, and rule and law changes including alternate method ruling and changes.
- List of all program materials.

Are there limitations on who may attend? No Yes (specify): _____

By my signature, I authorize the Oregon Building Codes Division to monitor and evaluate the continuing education course described in this application.

Signature: Kim Good Date: 12/5/17

DEPARTMENT USE ONLY

Application complete? Yes No* Course information attached? Yes No
Course outline attached? Yes No Course has division-approved instructor? Yes No

* If application is not complete, return it to applicant for completion and resubmission.

Approved from _____ to _____ Signature: _____ Date: _____
MM/DD/YYYY MM/DD/YYYY
 Denied Signature: _____ Date: _____

Comments: _____

Copy of Original application submitted



Continuing Education Course Approval Application

3

Department of Consumer and Business Services
Building Codes Division
1535 Edgewater NW, Salem, Oregon
Mailing address: P.O. Box 14470, Salem, OR 97309-0404
503-373-1268 • Fax: 503-378-2322 Web: bcd.oregon.gov

Date received by BCD: 07.01.16 *BER*

INSTRUCTIONS

Two easy steps: 1. Print clearly. 2. Include all requested information.
An incomplete application will delay evaluation of your course(s).

Your contact information provided below will be published on the Building Codes Division Web site.

Company name: *ECM Workplace Learning Ctr.* Contact person: *Kim Good*
Address (street or P.O. Box): *9800 Metcalf Avenue*
City: *Overland Park* State: *KS* ZIP: *66212*
Phone: *913-967-1865* Fax: *913-514-6865*
E-mail: *Kim.good@perfor.com* Web address: *www.ecmweb.com*

COURSE INFORMATION

Course name: *ECM's 2017 NEC Code Change Conference*

Course approval requested for: Boiler Electrical Plumbing

Total course hours (min. 2 hrs.): *16*

Has BCD approved this course previously? No Yes If yes, year of approval: *2013*

Check the appropriate category:

Code-change: Model Code only Oregon Rule and Law
 Code-change: Model Code with Oregon Rule and Law materials Code-related

Course is offered (check all that apply):

Live To the public
 Online By correspondence

Please include the following:

- Brief description of the course.
- Detailed course outline, including:
 - Course content and time spent on each content area.
 - Course objectives.
 - Learning outcomes.
- Name or names of instructors and qualifications (Form 440-2505). Previously approved instructors do not need to resubmit instructor application.
- Course prerequisites, if any.
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 - A specific statement that the course meets the minimum code-change requirements for the license types in the matrix approved by the appropriate board.
 - Oregon Rule and Law will count towards the code-change hours requirement. Course content must include permit process and requirements, scope of work for specific license relevant to the course, and rule and law changes including alternate method ruling and changes.
- List of all program materials.

Are there limitations on who may attend? No Yes (specify):

By my signature, I authorize the Oregon Building Codes Division to monitor and evaluate the continuing education course described in this application.

Signature: *Kim Good*

Date: *6/20/16*

DEPARTMENT USE ONLY

Application complete? Yes No* Course information attached? Yes No
Course outline attached? Yes No Course has division-approved instructor? Yes No

* If application is not complete, return it to applicant for completion and resubmission.

MAIL ROOM

Approved from _____ to _____ Signature: _____ Date: _____

Denied _____ Signature: _____ Date: _____

Comments:



**Agenda
Item
VIII.E.**

Dear Oregon Electrical Board,

On July 28, 2017 OSEIA submitted the course application for *Solar PV Systems based on the 2017 NEC* with the incorrect category marked for approval. The course (10817) was approved September 29, 2017 to offer 8 hours Code Related. I am submitting the course again to be approved to offer Code-Change: Model Code only credit for the remainder of the 2017 code cycle. Upon approval, I am requesting the following Oregon BCD license holders receive 8 hour Code Change retroactive credit for the courses they attended between 9/29/17 and the time the course is approved to offer Code Change credit.

Thank you for your consideration.

Meghan Craig
Program Manager
Oregon Solar Energy Industries Association

License No	Last Name	First Name	Course Title	Course No	Date Taken
80LRT	Bloch	David	Solar PV Systems based on the 2017 NEC	10817	10/20/17
54LRT	Cheshire	Rhine	2014 NEC Changes & Solar PV Systems	10817	10/20/17
67LRT	Crawford	John	Solar PV Systems based on the 2017 NEC	10817	10/20/17
13478J	Creal	Greg	Solar PV Systems based on the 2017 NEC	10817	10/20/17
22526J	Reismiller	James	Solar PV Systems based on the 2017 NEC	10817	10/20/17
39LRT	Stimac	John	Solar PV Systems based on the 2017 NEC	10817	10/20/17

5218S	Craig	John	Solar PV Systems based on the 2017 NEC	10817	10/20/17
5253S & 20095J	DenOuden	Ken	Solar PV Systems based on the 2017 NEC	10817	10/20/17
5873S and 23590J	Armstrong	Nick	Solar PV Systems based on the 2017 NEC	10817	10/20/17
23356J	Bradley	David	Solar PV Systems based on the 2017 NEC	10817	10/20/17
929LR	Eshoo	Daniel	Solar PV Systems based on the 2017 NEC	10817	10/20/17
5925S	Miller	Nathan	Solar PV Systems based on the 2017 NEC	10817	10/20/17
4504S	Novak	Don	2014 NEC Changes & Solar PV Systems	10817	10/20/17
25162J	Phillips	Lauren	Solar PV Systems based on the 2017 NEC	10817	10/20/17
27204J	Tonkovich	Casey	Solar PV Systems based on the 2017 NEC	10817	10/20/17
46LRT	Wickstrom	Brion	Solar PV Systems based on the 2017 NEC	10817	10/20/17
22081J	Winters	Sondra	Solar PV Systems based on the 2017 NEC	10817	10/20/17

23205J	Aryeff	Lance	Solar PV Systems based on the 2017 NEC	10817	10/19/17
25LRT	Khalsa	Kirpal	Solar PV Systems based on the 2017 NEC	10817	10/19/17
75LRT	Abney	Dean	Solar PV Systems based on the 2017 NEC	10817	10/27/17
057LRT	Hewitt	Mike	Solar PV Systems based on the 2017 NEC	10817	10/27/17
4934S	Mathis	Ralph	Solar PV Systems based on the 2017 NEC	10817	10/27/17

**Agenda
Item
VIII.F.**

State of Oregon

Board memo

Building Codes Division

January 25, 2018

To: Electrical and Elevator Board

From: Todd Smith, policy analyst, Policy and Technical Services

Subject: Cost Analysis Subcommittee

Action requested:

Appointment of a subcommittee to help develop a cost analysis tool.

Background:

Governor Kate Brown recently signed Executive Order 17-20 which requires the implementation of increased energy efficiency standards. The EO also requires the division to use a cost analysis tool to determine if the new requirements represent a significant cost impact at the time of implementation, or if there is a legitimate basis to delay the implementation of the requirement until the next code cycle. In addition, as part of this board's statutory requirements when adopting a new code, the board must make a cost finding.

The board is asked to consider utilizing its experience to develop a cost tool to guide its statutory cost finding (that the added cost, if any, is necessary to the health and safety of the occupants or the public or necessary to conserve scarce resources). The division is asking the board to create a subcommittee to help in development of a cost analysis tool for the board's use. Other boards will also be asked to create subcommittees to develop cost tools for their statutory cost finding. These tools will help the boards by creating a framework to consistently analyze the cost of changing code requirements. These tools will also help the division work with the boards and other agencies to develop a cost tool for use by all the relevant boards for the implementation of the executive order.

The subcommittee can consist of between two to five members.