

MAY - 4 2023

BEFORE THE NORTH CAROLINA OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION RALEIGH, NORTH CAROLINA

NC OSH Review Commission

COMMISSIONER OF LABOR OF THE STATE OF NORTH CAROLINA,

COMPLAINANT,

v.

PREFERRED ELECTRIC CO., INC. and its successors

RESPONDENT.

) DOCKET NO.: OSHANC 2020-6337
) INSPECTION NUMBER: 318197381
) CSHO ID: H8087

CONSENT ORDER

The parties having appeared before the undersigned for a duly-noticed hearing, and having informed the undersigned hearing officer that they have reached a resolution of the citation issued in this matter, and the undersigned having reviewed the citation, the documents filed by the parties, and the representations of counsel, now pursuant to Rule .0507 of the Rules of Procedure adopted by the North Carolina Occupational Safety and Health Review Commission, the undersigned makes the following:

FINDINGS OF FACT

- 1. Respondent is a corporation duly organized and existing under the laws of the State of North Carolina and maintains a place of business in Charlotte, North Carolina.
2. During 2020, Respondent was engaged in deenergizing and removing electrical systems at a worksite located at 6800 Solectron Dr., Charlotte, North Carolina.

3. Complainant is an agency of the State of North Carolina charged by law with the administration and enforcement of the provisions of the North Carolina Occupational Safety and Health Act.
4. On and between June 18, 2020 and September 24, 2020, Compliance Safety and Health Officer Griselle Negrón, an Occupational Safety and Health Officer with the North Carolina Department of Labor, inspected Respondent's worksite located at 6800 Solectron Dr., Charlotte, North Carolina.
5. As a result of the inspection, on September 25, 2020, Complainant issued the following Serious citation carrying the following proposed abatement date and penalty:

CITATION NUMBER ONE (Serious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
1	29 CFR 1926.416(a)(3)	Corrected During Inspection	\$6,300.00

6. The Respondent submitted a timely Notice of Contest, dated October 27, 2020.
7. On March 31, 2023, the Commission issued a Notice of Hearing in this matter, and on April 3, 2023, Respondent has posted the Notice in Respondent's workplace in at least one location where all affected employees had an opportunity to read it, and informed these employees of their right to participate as a party in this matter by sending a written request prior to commencement of the hearing to the Safety and Health Review Commission of North Carolina, 1101 Mail Service Center, Raleigh, NC 27699-1101.
8. Neither party has any objection, procedural or otherwise, to this Hearing.

9. Neither party has received notice that any employee intends to participate in this matter as a party, nor has the Commission received any document from an employee indicating such intent.
10. The parties have mutually agreed to resolve the Citation upon the following terms, and seek the undersigned's approval of the same:
 - a. Respondent confirms that the violations alleged in the Citation and Notification of Penalty have been abated and agrees to continue its best efforts to comply with the requirements of the Occupational Safety and Health Act of North Carolina (hereinafter referred to as "the Act").
 - b. Complainant agrees to make the following amendments to the Citation item:
 - i. Reclassify Citation One, Item 1 from Serious to Non-Serious; and
 - ii. Reduce the penalty in Citation One, Item 1 from \$6,300.00 to \$4,095.00.
 - c. Without admitting any allegations of the Citation and Notification of Penalty, or waiving any defense to the Citation, Respondent withdraws its Notice of Contest and agrees to:
 - i. Ensure all new employees and sub-contractor employees receive training in electrical safety related work practices and conduct periodic refresher training for existing employees. As part of that training, ensure that the training includes the prohibition of performing electrical hot work and work in vicinity of energized circuits unless specifically approved by a management representative; and
 - ii. Ensure that frequent and regular inspections are performed when employees and sub-contractor employees are conducting work on energized or

assumed deenergized electrical equipment to ensure employees and sub-contractor employees are not exposed to electrical hazards.

- d. Respondent agrees to pay the new proposed penalty of \$4,095.00 within thirty (30) days of this Consent Order.
- e. Each party agrees to bear its own attorney's fees, costs and other expenses that have been incurred in connection with any stage of these proceedings up to and including the filing of this Consent Order.
- f. The parties agree that this Consent Order is a full and final settlement of the claims set out in the underlying Citation and Notification of Penalty, and none of the foregoing agreements, statements, stipulations and actions taken by the Respondent shall be deemed an admission by the Respondent of any of the allegations contained in the Citation and Notification of Penalty or waiver of defenses; provided, however, that in any subsequent proceeding with respect to matters covered by this Consent Order brought directly under the Act by Complainant, this Agreement shall have the full force and effect of a final order. The agreements, statements, stipulations and actions herein are made solely for the purpose of settling this matter economically and amicably without further litigation and shall not be used for any other purpose except for proceedings and matters arising under the Occupational Safety and Health Act and Article 21, Chapter 95 of the North Carolina General Statutes.
- g. Neither party is aware of outstanding matters to be resolved by a hearing of this matter.

11. The foregoing terms are reasonable and supported by the underlying facts.

12. No outstanding issues remain to be resolved by a hearing of this matter.

Based on the foregoing, the undersigned makes the following

CONCLUSIONS OF LAW

1. This Court has jurisdiction over the parties and the subject matter.
2. The parties' proposed resolution of this matter is consistent with the purpose and objectives of the Act.

NOW THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. The parties' agreement, as set out above, is approved.
2. The parties shall comply with the terms and conditions set out above.
3. The Respondent shall pay the penalty of **\$4,095.00** within **thirty (30) days** of this Consent Order.

This May 4, 2023.

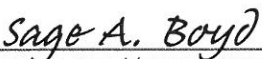


Laura Wetsch (May 4, 2023 15:04 EDT)

LAURA J. WETSCH
Hearing Examiner


CONSENTED TO:

JOSHUA H. STEIN
Attorney General



Sage A. Boyd (May 4, 2023 11:12 EDT)

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ATTORNEYS FOR COMPLAINANT



Heather G. Connor (May 4, 2023 10:47 EDT)

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ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this date served a copy of the foregoing ORDER upon:

HEATHER G CONNOR
MCANGUS GOUDELOCK & COURIE PLLC
6302 FAIRVIEW RD STE 700
CHARLOTTE NC 28210-2267

By depositing same in the United States Mail, Certified Mail, Return Receipt Requested, postage prepaid at Raleigh, North Carolina, and upon:


SAGE BOYD
NC DEPARTMENT OF JUSTICE
LABOR SECTION
PO BOX 629
RALEIGH, NC 27602-0629

By depositing a copy of the same in the United States Mail, first class, postage prepaid at Raleigh, North Carolina, and upon:

NC DEPARTMENT OF LABOR
LEGAL AFFAIRS DIVISION
1101 MAIL SERVICE CENTER
RALEIGH, NC 27699-1101
carla.rose@labor.nc.gov

via email.

THIS THE 5 DAY OF May 2023.



Karissa B. Sluss
Docket and Office Administrator
NC Occupational Safety & Health Review Commission
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NCOSHRC@labor.nc.gov