

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

**FILED**

MAR 24 2026

NC OSH Review Commission

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| <b>COMMISSIONER OF LABOR FOR<br/>THE STATE OF NORTH CAROLINA</b> | ) | <b>DOCKET NO: 2024-6661</b> |
|  | ) |                             |
|  | ) | <b>INSPECTION</b>           |
|  | ) | <b>NO: 318287687</b>        |
| <b>Complainant,</b>  | ) |                             |
|  | ) | <b>CSHO ID: F0595</b>       |
| <b>v.</b>  | ) |                             |
|  | ) | <b><u>CONSENT ORDER</u></b> |
| <b>TEPDB OpCo, LLC</b>   | ) |                             |
| <b>and its successors</b>  | ) |                             |
| <b>Respondent.</b>   | ) |                             |

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THIS CAUSE coming on pursuant to the Notice of Hearing (“Hearing Notice”) on March 24, 2026 at 10 a.m., via Lifesize teleconferencing platform. Rory Agan, Special Deputy Attorney General, North Carolina Department of Justice, appeared for Complainant. Mark A. Lies II, Attorney Partner, Attorney with Seyfarth Shaw LLP in Chicago, Illinois, appeared as counsel for Respondent pro hac vice sponsored by Attorney Fredrick T. Smith, Seyfarth Shaw LLP in Charlotte, North Carolina.

No affected employee of Respondent attended to have a say in, or participate as a party in, the Hearing.

At the Hearing, Complainant and Respondent (i) notified the Undersigned that the parties agree upon certain stipulations (“Stipulations”) and wish to make certain motions (“Motions”), and (ii) requested that the Stipulations and Motions be made part of the Hearing record and that the Undersigned issue a Consent Order. This Hearing was not an evidentiary hearing and the specific facts and circumstances relevant to the Inspection (hereinafter defined) and the Original Citation (hereinafter defined) were not introduced of record, and such facts and circumstances are not included in the Stipulations hereinafter set forth. The Stipulations and Motions are as follows:

**STIPULATIONS**

1. The Complainant as Commissioner of Labor of the State of North Carolina is charged by law with compliance with and enforcement of the provisions of the Occupational Safety and Health Act of North Carolina, Article 16, Chapter 95 of the General Statutes of North Carolina (hereinafter the “Act”), including making inspections and issuing citations and other pleadings, and brings this action pursuant to N.C.G.S. §§95-133 et seq.
  
2. Pursuant to N.C.G.S. §95-135 the Review Commission has jurisdiction over the parties and the subject matter of this action.
  
3. Respondent, TEPDB OpCo, LLC, is a Delaware corporation, which was authorized to do business in North Carolina on December 4, 2014. It is active and current and maintains a place of business in Raleigh, North Carolina. Respondent is in the business of engineering and construction specializing in design and building infrastructure for wireless and wireline telecommunications. Respondent is an “employer” within the meaning of N.C.G.S. Section 95-127(11); Respondent’s employees referred to in this matter are “employees” within the meaning of N.C.G.S. Section 95-127(10).
  
4. On May 22, 2024, Compliance Safety and Health Officer Russell DeShield, employed by the North Carolina Department of Labor, inspected Respondent’s worksite located at 4807 Clover Road, McLeansville, NC 27405 (the “Inspection”). Officer DeShield entered onto Respondent’s site and conducted the inspection pursuant to the North Carolina Department of Labor Construction Special Emphasis Program (SEP) OPN 123Y.
  
5. On June 6, 2024, as a result of the Inspection, Complainant issued one SERIOUS citation with 1 item, carrying the following proposed abatement date and penalties (herein referred to as the “Original Citation”):

CITATION 01 (Serious)

| <u>Item No.</u> | <u>Standard</u>    | <u>Abatement Date</u>       | <u>Penalty</u> |
|-----------------|--------------------|-----------------------------|----------------|
| 001             | 29 CFR 1926.100(a) | Corrected During Inspection | \$4,225.00     |

6. Respondent submitted a timely Notice of Contest, dated July 19, 2024. On or about August 14, 2024, Complainant received “Employer’s/Respondent’s Statement of Position” which requested that formal pleadings be served. The Complaint was filed on September 30, 2024, and Respondent’s Answer and Affirmative Defenses to Complaint was filed October 8, 2024.
  
7. The Hearing in this matter was scheduled pursuant to the Rules of Procedure of the Safety and Health Review Commission of North Carolina (the “Rules”).

8. Complainant and Respondent have no objection, either procedural or otherwise, to this Hearing; waive the making of a transcript; and consent to the conduct of this Hearing by the Undersigned and consent to entry of this Order. Complainant and Respondent confirm that there has been no employee objection in this matter to the reasonableness of any abatement period.

9. Respondent confirms that the Original Citation and the Hearing Notice have been posted as required by the Rules. Neither Complainant nor Respondent have received notification from any affected employee that such employee, or its representative, wishes to have a say in, or participate as a party in, this matter, or has any objections in connection with this matter including without limitation objection to the reasonableness of any abatement time.

10. Respondent confirms that the violations alleged in the Original Citation as amended pursuant to Complainant's Motion have been abated.

Complainant confirms that no additional documentation of abatement is required by Complainant.

11. The parties agree that upon granting of Complainant's Motion that the proposed penalty for each Item designated in the Original Citation has been calculated in accordance with the standard Field Operations Manual procedure; and the new proposed penalty for the Item designated in the Original Citation as amended pursuant to Complainant's Motion has been derived in consideration of the standard mitigating factors and specific factors applicable to Respondent.

12. Respondent agrees

- a) to continue to use its best efforts to comply with the requirements of the Act;
- b) Respondent agrees to continue with its present safety program, including conducting periodic meetings with employees. During such meetings, employees will be able to communicate safety suggestions or complaints to their supervisor who will forward the information to Respondent's safety spokesperson. Respondent agrees that all employees who make suggestions or complaints to the Committee, shall have the same protection provided employees under Article 21, Chapter 95 of the North Carolina General Statutes.
- c) To pay the penalty, as amended in the Motion below, of \$ 3,000.00 assessed in this matter within 30 days of the date of this Consent Order.

In the event Respondent does not pay the penalty as agreed upon, all unpaid amount shall become immediately due and payable, and the Complainant retains the right to institute collection proceedings as allowed by law. Respondent agrees to pay attorney's fees to Complainant in the event that the Complainant institutes collection proceedings to collect the debt.

Payment is to be by check payable to the North Carolina Department of Labor, OSHA Division (identifying Inspection No. 318287687) and mailed to North Carolina Department of Labor,

Financial Services Division. ATTN: Collections Division, 1101 Mail Service Center, Raleigh, North Carolina 27699-1101. Credit card payment may also be arranged.

13. The parties agree to bear their own fees, costs and other expenses, including attorney's fees if any, that have been incurred in connection with any stage of these proceedings up to and including the filing of this Consent Order.

14. Complainant and Respondent agree that provided the respective Motion of each party is granted:

a) there are no other matters that remain to be decided, and that other than a ruling with respect to the Motions no outstanding issues remain to be resolved by an evidentiary hearing of this matter;

b) this Consent Order is a full and final resolution of the claims set out in the underlying Original Citation, as amended pursuant to Complainant's Motion;

c) the modification of any portion of the Original Citation by Complainant shall not be deemed to be an admission by Complainant that any such portion was alleged without merit;

d) none of the agreements, statements, stipulations and actions taken by Respondent shall be deemed an admission by the Respondent of any of the allegations contained in the Original Citation as amended or a waiver of any defense, provided however, that in any subsequent proceeding with respect to matters covered by this Consent Order brought directly under the Act by Complainant, this Consent Order shall have the full force and effect of a final order;

e) the agreements, statements, stipulations and actions herein by Complainant and by Respondent are solely for the purpose of resolving this matter economically and amicably without further litigation and shall not be used for any other purposes except for proceedings and matters arising under the Act and Article 21, Chapter 95 of the North Carolina General Statutes.

### **MOTIONS**

Complainant moved to make the following amendments to the Original Citation ("Complainant's Motion"):

- a) As it relates to Citation 1, item 1, reclassify the citation item to nonserious;
- b) As it relates to Citation 1, Item 1, change the standard cited to 29 CFR 1926.20(f)(2);
- c) As it relates to Citation 1, Item 1, rewrite the AVD to:
  - a. On or about May 22, 2024 the employer did not fully document the training that was provided to an employee that a protective helmet is required to be worn when an employee is performing work when there is hazard of head injury.
- d) As it relates to Citation 1, Item 1, change the penalty to \$3,000.00.

This change makes the penalty to be paid \$3,000.00.

Except as set forth in this motion, the Original Citation shall remain unmodified or amended.

Respondent did not object to Complainant's Motion.

Respondent requested that upon the granting of Complainant's Motion that the Undersigned consider the following motion by the Respondent ("Respondent's Motion"):

- a) To withdraw Respondent's Notice of Contest to the Original Citation as amended pursuant to Complainant's Motion.

Complainant did not object to Respondent's Motion.

### **FINDINGS OF FACT**

Based on the Stipulations at the time of the Hearing as memorialized herein and the record, the Undersigned makes the following Findings of Fact:

1. Complainant, Commissioner of Labor of the State of North Carolina, is an agency of the State of North Carolina charged with the administration and enforcement of the provisions of the Act.
2. Respondent is subject to the provisions of the Act and jurisdiction of the Safety and Health Review Commission of North Carolina.
3. This Court has jurisdiction over the parties and the subject matter of this Hearing.
4. Neither party has any objection, procedural or otherwise, to this Hearing. No affected employee elected party status and no employee raised an objection to the reasonableness of the abatement time.
5. The Stipulations are incorporated by reference as Findings of Fact to the extent necessary to give effect to the provisions of this Order.

### **CONCLUSIONS OF LAW**

1. The foregoing Findings of Fact are incorporated by reference as Conclusions of Law to the extent necessary to give effect to the provisions of this Order.
2. Respondent is an "employer" within the meaning of N.C.G.S. §95-127(11); Respondent's employees referred to in this matter are "employees" within the meaning of N.C.G.S. §95-127(10).
3. This Court has jurisdiction over the parties and the subject matter of this Hearing.
4. Respondent is subject to the provisions of the Act and jurisdiction of the Safety and Health Review Commission of North Carolina.

Based on the foregoing Findings of Fact and Conclusions of law, **NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:**

1. That Complainant's Motion is hereby **GRANTED**;
2. That Respondent's Motion is hereby **GRANTED**;
3. That Respondent shall pay the penalty of \$3,000.00 within 30 days of the date of this Consent Order and shall meet the requirements of Stipulation 12 as set out above; and
4. That the parties shall comply with the terms and conditions set forth in the Stipulations and in this Consent Order.

Effective March 24, 2026.

**SO ORDERED**

Signature: R. Joyce Garrett

R. Joyce Garrett | Mar 24, 2026 14:43:22 EDT

Email: rjg.rjg@aol.com

R. Joyce Garrett  
Hearing Examiner

CONSENTED TO:

JEFF JACKSON, Attorney General

Signature: Rory Agan

Rory Agan | Mar 24, 2026 14:20:35 EDT

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**Rory Agan**  
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Signature: Mark A. Lies II

Mark A. Lies II | Mar 24, 2026 10:38:42 CDT

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\*Admitted pro hac vice

ATTORNEYS FOR RESPONDENT

CERTIFICATE OF SERVICE

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

MARK LIES II  
MELISSA ORTEGA  
SEYFARTH SHAW LLP  
mlies@seyfarth.com  
maortega@seyfarth.com

RORY AGAN  
NC DEPARTMENT OF JUSTICE  
ragan@ncdoj.gov

NC DEPARTMENT OF LABOR  
GENERAL COUNSEL'S OFFICE

via email.

THIS THE 24 DAY OF March 2026.

PAUL E. SMITH  
CHAIRMAN



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