Department of Energy
Washington, DC 20585

May 12, 2009

Mr. David Lashway
Hunton & Williams
1900 K Street, NW
Washington, DC 20006

Re: FOIA No. 2009-000099

Dear Mr. Lashway:

This letter is in response to your February 2, 2009, Freedom of Information Act (FOIA) request to the U.S. Department of Energy (DOE). You requested all correspondence, whether electronic or otherwise, between AeroSys, Incorporated (AeroSys) and DOE, from January 1, 2007, to the present, regarding AeroSys' compliance with the Energy Policy and Conservation Act and the DOE implementing regulations. I am the person responsible for providing the response to your February 2 request, under Title 10, Code of Federal Regulations, Part 1004 (10 C.F.R. §1004.7). No fees will be assessed for the search, review, and duplication costs incurred to process your request.

We have completed a search of our files and located five responsive documents, dated as follows: August 23, 2007; September 14, 2007; June 27, 2008; July 18, 2008; and January 22, 2009. These documents are being provided to you in their entirety in accordance with 10 C.F.R. Part 1004.

Pursuant to 10 C.F.R. §1004.8, you may appeal the adequacy of our search for responsive documents by submitting a written appeal to the Director, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585-0107, within 30 calendar days of receipt of this letter. The written appeal, including the envelope, must clearly identify that a Freedom of Information appeal is being made and the appeal must contain all the elements required by 10 C.F.R. §1004.8. Thereafter, judicial review will be available to

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you: (1) in the district where you reside, (2) the district where you have principal places of business, (3) the district where the DOE's records are located, or (4) in the District of Columbia.

If you have any questions or comments concerning this response, please contact Dr. Michael Raymond of my staff, on (202) 586-9611.

Sincerely,

John Lushetsky
Acting Deputy Assistant Secretary
for Energy Efficiency
Office of Technology Development
Energy Efficiency and Renewable Energy

Enclosures

List of Enclosures

1. "TTW Compliance"
   E-mail to Mr. Michael Raymond, Project Manager, Building Technologies Program, Energy Efficiency and Renewable Energy, U.S. Department of Energy, from Jim Garrett, President, AeroSys, Inc., dated September 14, 2007.
   One page

2. "Enforcement Letter"
   Letter to Jim Garrison [sic], President, AeroSys, Inc. from Jerome P. Dion, Acting Program Manager, Building Technologies Program, Energy Efficiency and Renewable Energy, U.S. Department of Energy, dated August 23, 2007.
   2 pages

3. "AeroSys Reply Letter."
   Letter to Mr. Michael Raymond, Project Manager, Building Technologies Program, Energy Efficiency and Renewable Energy, U.S. Department of Energy, from Jim Garrett, President, AeroSys, Inc., dated July 18, 2008.
   3 pages

4. "Enforcement Letter."
   Letter to Mr. Jim Garrett, President, AeroSys, Inc., from David E. Rodgers, Deputy Assistant Secretary for Energy Efficiency, Office of Technology Development, Energy Efficiency and Renewable Energy, U.S. Department of Energy, dated June 27, 2008.
   3 pages

5. "Enforcement Letter."
   Letter to Mr. Jim Garrett, President, AeroSys, Inc., from David E. Rodgers, Acting Program Manager, Building Technologies Program, Energy Efficiency and Renewable Energy, U.S. Department of Energy, dated January 22, 2009.
   3 pages

Enclosure 1

From: Jim Garrett [jgarrett@aerosysinc.com]
Sent: Friday, September 14, 2007 11:04 AM
To: Raymond, Michael
Subject: TTW Compliance

September 14, 2007

Attn: Mr. Michael Raymond
Project Manager
Building Technologies Program
Energy Efficiency and Renewable Energy

Dear Mr. Raymond:

Mr. Dion mailed a letter dated August 23, 2007 pointing out error(s) in our promotional material.

Mr. Dion indicated I should communicate through you. I placed a call to you on September 11 and again earlier today to explain my mistake and our corrective actions but have not been able to reach you. Hence, this email.

The August 23rd letter pointed out the non-compliance of our THDC-30 () systems, i.e. the capacity ratings exceeding the 30,000 Btu/hr limits for "through-the-wall air conditioning and heat pump" classification.

I take full responsibility for the mistake. Having worked with ARI and the DOE, I knew the TTW design limitation parameters and we used the incorrect data points in the final literature data fields.

We have addressed to error as follows:

1) We have corrected the data on our website.
2) We have already submitted corrected literature to the "printer" and will replace existing literature with the corrected copies.
3) We are notifying our customers today through our sales representatives of the errors.

I hope this meets with your acceptance. If I can be any further assistance or offer clarification please let me know.

Yours truly,

Jim Garrett
President
Tel: 301-620-0002

Enclosure 2

Enclosure 1

Department of Energy
Washington, DC 20585

August 23, 2007

Mr. Jim Garrison
President
AeroSys, Inc.
32 Thomas Johnson Dr.
Frederick, MD 21702

Dear Mr. Garrison:

This letter is to inform you that the Department of Energy (DOE) has received information indicating that your company may be distributing products represented as through-the-wall central air conditioners and heat pumps (TTW units) in violation of applicable federal energy conservation standards and regulations. It is imperative that you immediately contact the Department at the telephone number provided below to resolve this issue.

DOE received a complaint alleging that AeroSys products with capacities greater than 30,000 Btu/hr are being advertised as TTW units with seasonal energy efficiency ratio (SEER) ratings less than 13. Upon investigation, DOE discovered that AeroSys' web site (visited on August 1, 2007) advertised models THDC-30-P, THDC-30-R, THDC-30-S and THDC-30-T as having capacities greater than 30,000 Btu/hr and SEER ratings less than 13. The advertised capacity of these units would exclude them from the TTW definition, thereby subjecting them a SEER 13 requirement.

Under 10 CFR 430.2, "through-the-wall air conditioner and heat pump" is defined as:

> A central air conditioner or heat pump that is designed to be installed totally or partially within a fixed-size opening in an exterior wall, and:
>
> (1) Is manufactured prior to January 23, 2010;
> (2) Is not weatherized;
> (3) Is clearly and permanently marked for installation only through an exterior wall;
> (4) Has a rated cooling capacity no greater than 30,000 Btu/hr;
> (5) Exchanges all of its outdoor air across a single surface of the equipment cabinet; and
> (6) Has a combined outdoor air exchange area of less than 800 square inches (split systems) or less than 1,210 square inches (single packaged systems) as measured on the surface described in paragraph (5) of this definition.

(Emphasis added.) As stated above, your company's literature lists the rated capacities of models THDC-30-P, THDC-30-R, THDC-30-S and THDC-30-T as greater than 30,000 Btu/hr.

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These units do not qualify as TTW units under the regulatory definition. Based on the advertised ratings, these products must comply with a standard level of SEER 13. 10 CFR 430.32(c)(2).

Under 10 CFR 430.61, and pursuant to section 332 of the Energy Policy and Conservation Act (42 U.S.C. 6292), the following is a prohibited act:

> Distribution in commerce by a manufacturer or private labeler of any new covered product which is not in compliance with an applicable energy efficiency standard[.]

Section 430.61(b) further states that any person who knowingly violates the above cited provision may be subject to assessment of a civil penalty of up to $110 for each violation, with each violation of section 10 CFR 430.61(a)(4) constituting a separate violation with respect to each covered product. 10 CFR 430.61(b).

AeroSys must ensure that it does not distribute any products that are in violation of the applicable energy conservation standards and regulations. DOE may obtain a restraining order against any person who distributes in commerce any covered product that is not in compliance with DOE's energy efficiency standards. 10 CFR 430.71.

DOE seeks to resolve this matter in the next 30 days. As such, you are instructed to contact Mr. Michael Raymond of my staff to discuss the actions necessary to ensure compliance with DOE's energy efficiency standards and regulations. Otherwise, DOE will pursue the remedies available under statute and regulation, including any potential civil penalties.

You can contact Michael Raymond by phone at (202) 586-9611, or by e-mail at Michael.Raymond@ee.doe.gov.

Sincerely,

Jerome P. Dion

Jerome P. Dion
Acting Program Manager
Building Technologies Program
Energy Efficiency and Renewable Energy

Enclosure 3

AeroSys INCORPORATED 929 Eldridge Drive Hagerstown MD 21740 tel 301.620.0002 fax 301.620.0685

July 18, 2008

U.S. Department of Energy
Energy Efficiency and Renewal Energy
Mail Station EE-2J
1000 Independence Avenue, SW
Washington DC 20585

Attention: Dr. Michael G. Raymond

Subject: your letter of June 27, 2008

Dear Dr. Raymond,

Thank you for taking the time to speak with me Monday. This letter is in response to your letter of June 27, 2008, postmarked July 2, 2008 and received by us July 8, 2008. I just returned to the office July 14, 2008.

I will address your comments in the order presented in your correspondence:

In August 2007 we corresponded regarding the rated capacity of the AeroSys THDC-30() systems. In my written and verbal responses to you I acknowledged I had made a mistake and laid out the steps I would (and did) take to correct the errors. The errors I made applied specifically to the 2-1/2 ton systems and they were addressed as promised.

The newest challenges outlined in your referenced letter apply to different products: the THDC-36(), THDC-30P and the THHP-F-18T.

THDC-36():
The THDC-36() series has always been promoted as a commercial product, and as you can see in the attached CeilMate Literature (Attachment 1, page 14) it is matched up to the CM-36-AH ceiling mounted air handlers for critical cooling applications. This product rounds out one of six different cooling approaches for high heat density loads like data centers, CAT scan and MRI installations.

We are obliged to publish SEER/EER ratings to participate in several markets in the US, most notably those on the west coast like California and Washington State. There are at least 6 other manufacturers of similar centrifugal condensing equipment, including Liebert, Stulz Air Technology Systems, Data-Aire, Hitachi, Carrier Corp to name a few. A copy of

the appropriate page from the HVAC news listing of some competing centrifugal unit manufacturers is attached (Attachment 2). This market is approximately $500 million in the US; AeroSys plays a very small part in it.

I am enclosing a copy of our price list (Attachment 3) that shows the differentiation of AeroSys' Commercial vs. Residential products. This private pricelist must be held in confidence by your office as it would be detrimental to our company if our competitors had copies.

I should also point out there is another manufacturer of TTW equipment, Global HVAC located in Connecticut. Global HVAC participated in the ASHRAE exhibition in NYC in January 2008. Global promotes and sells a 36,000 BTU/H residential unit (Attachment 4). They are represented by Northway Marketers in Pennsylvania and are a direct competitor to AeroSys. Their website is www.globalairhvac.com. We have known about them for at least two years but did not feel it was appropriate or necessary to involve (perhaps wrongly) your offices in the DOE.

As one can see from a copy (Attachment 5) of an advertisement in the HVAC Insider magazine, we clearly promote these units for commercial, not residential use. Our website also clearly states the THDC-36() series systems are designed for commercial applications.

Again, we have been very clear with our existing customers and potential customers that these units are targeted for the commercial, "critical process" applications and do not need to meet the DOE standards for residential TTW restrictions. AeroSys also manufactures 4 and 5 ton centrifugal condensing units for the same commercial market(s).

THDC-30P:
I do not know why this model was listed in your letter, perhaps an oversight. The "P" series of units meet all of the DOE criteria for TTW applications; face area, SEER, capacity, etc. Because of AeroSys' engineering design capabilities and staff with experience supporting NASA and the US military we were asked to develop a family of products to address a specific concern. The "P" series units were specifically designed to maintain the WWII architectural profile for buildings in NYC, yet meet all of the DOE mandates for TTW systems. (Attachment 6)

THHP-F-18():
This is interesting. We have not built, or sold this product since 2006 because there has not been any market demand for them; it is not even in our pricelist to our customers. Since that time AeroSys has gone through two major design changes of the entire TTW product line(s) to increase efficiencies. We are currently undergoing another design review and equipment testing in anticipation of the 2010 changes.

That not withstanding, these units would meet the DOE standards. An EER of 9.71 at 82°F is an indication that the overall SEER will never exceed 9.71, agreed, but that is only part of the overall equation. As illustrated from the design results (please see 4 pages of attachment 7) the SEER is a result of the system operating at both 82 and 95°F ambient temperatures and appropriate Wet Bulb temperatures.

There are several factors that must be considered when reviewing the validity of performance test results:

1) What air handler was used for the analysis?
2) Did it have an expansion valve, ECM, time delay, etc?
3) If it did not have an expansion valve, was the piston properly sized?
4) What was the "line length"? Was it properly charged with refrigerant?
5) Was the superheat and subcooling properly set?
6) What was the return air temp?
7) What components were in the unit that was tested? They have changed considerably and something built 2-3 years ago has no relationship to today's technology.
8) We respectfully request access to the testing conditions so we may review their validity.

The design simulation data in (Attachment 7) was developed by Emerson Climate Technologies and won an award in 2005 at the AHR (ASHRAE) convention in Orlando, Florida. The System Design Simulator software, developed by Emerson's Design Services Network, significantly reduces design time and need for repetitive and frequent laboratory testing by predicting the steady-state heating and cooling performance of vapor compression systems in a wide range of system configurations and operational variables. The simulation software originates from the engineering model developed at the Oak Ridge National Laboratories for the U.S. Department of Energy.

The AHR Expo Innovation Awards are jointly sponsored by the American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE); the Air-Conditioning and Refrigeration Institute (ARI); and International Exposition Company (IEC).

This report shows these units have a combined SEER of 12.1 (EER of 13.2 at 82°F, 11.2 at 95°F) with a 15°F superheat, 10.4°F subcooling, 15 foot line lengths and several other requisite design parameters.

As I hope you can see, AeroSys makes every effort to comply with the DOE energy guidelines and we strive to constantly improve product efficiencies.

I trust this letter and the attachments address all of your issues, but if we can expand upon our explanations please let me know.

I would like to take you up on your offer to visit you. I will call next week to see if we can arrange some time soon.

Yours truly,

Jim Garrett,
President

Attachments 1-7

Enclosure 4

Department of Energy
Washington, DC 20585
June 27, 2008

Mr. Jim Garrett
President
AeroSys, Inc.
929 Eldridge Drive
Hagerstown, MD 21740

Dear Mr. Garrett:

On August 23, 2007, the Department of Energy (DOE or the Department) sent a letter to AeroSys, Inc. (AeroSys) concerning apparent violations by AeroSys of DOE's energy conservation standards (10 CFR 430.32(c)) and regulations applicable to through-the-wall (TTW) central air conditioners and heat pumps. Specifically, AeroSys products with capacities greater than 30,000 Btu/hr were being advertised with seasonal energy efficiency ratio (SEER) values less than the DOE minimum of 13. DOE's August 23, 2007, letter read, in relevant part: "DOE's regulations, in 10 CFR 430.61(a), state that pursuant to section 332 of the Energy Policy and Conservation Act, the following is a prohibited act: Distribution in commerce by a manufacturer or private labeler of any new covered product which is not in compliance with an applicable energy efficiency standard..." As explained below, DOE understands that this situation remains uncorrected and may be broader in scope than initially thought, so further action is necessary.

To summarize developments since the time of DOE's initial letter, on September 14, 2007, you sent an email to DOE stating that AeroSys had made "errors in our promotional material" and that the "errors" had been addressed by correcting the data on the AeroSys website, by correcting printed promotional material, and by notifying customers of the "errors."

Subsequently, DOE has received a new complaint from another source, again regarding the distribution by your company of TTW central air conditioners and heat pumps. The complaint alleges that AeroSys products with capacities greater than 30,000 Btu/hr, which do not meet the TTW definition, are being advertised and sold with SEER ratings less than 13. (In general, central air conditioners and heat pumps must meet a SEER rating of 13, but TTW split systems minimum SEER rating is 10.9, and TTW single package systems minimum SEER rating is 10.6) The complaint states that AeroSys was promoting a 3-ton TTW-type product (Aerosys THDC-36) with a SEER value less than 13, at the January 2008 American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) exposition, and that this product is also listed on the AeroSys website. DOE confirmed that this product was on the AeroSys website on March 25, 2008 and that it advertised a SEER rating below that regulatory requirement. Furthermore, on March 25, 2008, the AeroSys website also showed models THDC-36-R,

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THDC-36-S, THDC-36-T, and THDC-30-P with SEER values not in compliance with the DOE energy conservation standards.

The Department has also received information indicating that the AeroSys heat pump, model THHP-F-18T, does not comply with the Department's energy efficiency standard for a split system TTW heat pump of 10.9 SEER. The test data provided by the complainant show an EER at 82 degrees of 9.71, which would imply a maximum SEER value of 9.71. Aerosys certifies its air conditioners through the Department of Energy, and certified the SEER of this model to be 11.4.

As explained in our prior letter, the Department's regulations for enforcement, contained in 10 CFR §430.70, state:

> (a) *Performance standard* -- (1) *Test notice.* Upon receiving information in writing, concerning the energy performance of a particular covered product sold by a particular manufacturer or private labeler which indicates that the covered product may not be in compliance with the applicable energy performance standard, the Secretary may conduct testing of that covered product under this subpart by means of a test notice addressed to the manufacturer in accordance with the following requirements:
>
> (i) Such a procedure will only be followed after the Secretary or his designated representative has examined the underlying test data provided by the manufacturer and after the manufacturer has been offered the opportunity to meet with the Department to verify compliance with the applicable performance standard.

Further, when a violation is established, DOE may obtain a restraining order against any person who distributes in commerce any covered product that is not in compliance with DOE's energy efficiency standards. (42 U.S.C. 6304) Companies are prohibited from distributing in commerce any covered product not in compliance with the applicable DOE energy conservation standard. Any person who knowingly violates this provision may be subject to fines of up to $110 per violation, i.e., per product distributed in the U.S. (42 U.S.C. 6303)

Therefore, in light of the above, DOE calls upon AeroSys to take the following actions:

(1) Effective immediately, AeroSys must cease distribution of models THDC-36-R, THDC-36-S, THDC-36-T, and THDC-30-P, or re-rate them to bring them into compliance with DOE's regulations;

(2) In accordance with the above regulation, the Department requests that AeroSys submit the test data underlying the certification of the model THHP-F-18T to Dr. Michael G. Raymond, U.S. Department of Energy, Energy Efficiency and Renewable Energy, Mail Station EE-2J, 1000 Independence Avenue, SW, Washington, DC 20585, within 10 days of receipt of this letter. If you would like to meet with representatives of the Department to discuss compliance of model THHP-F-18T heat pump, please suggest a suitable date.

DOE intends to resolve this matter within the next 30 days. Therefore, it is imperative that you inform DOE as soon as possible of the actions you have taken to comply with DOE's energy efficiency standards. Otherwise, DOE will have no choice but to pursue the remedies available under the statute.

If you have any questions concerning this matter, please contact Dr. Michael Raymond of my staff at (202) 586-9611.

Sincerely,

David E. Rodgers
Deputy Assistant Secretary for Energy Efficiency
Office of Technology Development
Energy Efficiency and Renewable Energy

Enclosure 5

Department of Energy
Washington, DC 20585
January 22, 2009

Mr. Jim Garrett
President
AeroSys, Inc.
929 Eldridge Drive
Hagerstown, MD 21740

Dear Mr. Garrett:

On August 23, 2007, the Department of Energy (DOE) sent a letter to AeroSys, Inc. (AeroSys) concerning apparent violations by AeroSys of DOE's energy conservation standards (10 CFR 430.32(c)) and regulations applicable to through-the-wall (TTW) central air conditioners and heat pumps. Specifically, AeroSys products with capacities greater than 30,000 Btu/hr were being advertised with seasonal energy efficiency ratio (SEER) values less than the DOE minimum of 13.

Subsequently, DOE received information indicating that the AeroSys heat pump, model THHP-F-18T, does not comply with the Department's energy efficiency standard for a split system TTW heat pump of 10.9 SEER. The test data provided by the complainant show an EER at 82 degrees[1] of 9.71, which would imply a maximum SEER value of 9.71. Aerosys certifies its air conditioners through DOE, and certified the SEER of this model to be 11.4.

On June 27, 2008, DOE wrote to AeroSys, requesting AeroSys' test data for the AeroSys THHP-F-18T heat pump. On July 18, 2008, AeroSys sent simulation data for this heat pump. The data sent by AeroSys is not laboratory test data. Simulation data may be used to verify compliance only if the manufacturer has an approved alternative rating method on file with DOE. The regulations governing use of an alternative rating method (ARM) are contained in 10 CFR 430.24(m)(5):

> (5) Manufacturers or private labelers who elect to use an ARM for determining measures of energy consumption under paragraphs (m)(2)(ii)(A) and (m)(4) of this section must submit a request for DOE to review the ARM. Send the request to the Assistant Secretary of Energy Efficiency and Renewable Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Approval must be received from the Assistant Secretary to use the ARM before the ARM may be used for rating split-system central air conditioners and heat pumps. If a manufacturer has a DOE-

[1] Test point required by DOE test procedure at 10 CFR Part 430, Subpart B, Appendix M, section 3.2.1, Table 3.

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> approved ARM for products also distributed in commerce by a private labeler, the ARM may also be used by the private labeler for rating these products. Once an ARM is approved, DOE may contact a manufacturer to learn if their ARM has been modified in any way and to verify that the ARM is being applied as approved. DOE will give follow-up priority to individual combinations having questionably high ratings (e.g., a coil-only system having a rating that exceeds the rating of a coil-only highest sales volume combination by more than 6 percent).

AeroSys has not submitted an ARM to DOE for approval, and therefore AeroSys may not use an ARM, but must use laboratory testing for all its certified equipment ratings. 10 CFR 430.62(d) states:

> *Maintenance of records.* The manufacturer or private labeler of any covered product subject to any of the energy performance standards, water performance standards (in the case of faucets, showerheads, water closets, and urinals), or procedures prescribed in this part shall establish, maintain, and retain the records of the underlying test data for all certification testing. Such records shall be organized and indexed in a fashion which makes them readily accessible for review by DOE upon request. The records shall include the supporting test data associated with tests performed on any test units to satisfy the requirements of this subpart. The records shall be retained by the manufacturer (private labeler) for a period of two years from the date that production of the applicable model has ceased.

In accordance with the above regulations, the Department requests that you provide DOE a copy of all test data underlying AeroSys' SEER ratings of central air conditioners. In addition, the Department seeks data as to AeroSys' use, if any, of "alternative rating methods" (ARM) to rate such models. In certain circumstances, DOE regulations allow manufacturers to use ARMs that the Department has approved. 10 CFR 430.24(m). We have no record of AeroSys having asked for approval to use an ARM.

Please advise us whether AeroSys has used an ARM to rate the energy efficiency of any central air conditioner model. If it has, for each such ARM, please provide (1) a copy of the ARM, (2) the model number(s) for the model(s) AeroSys rated using the ARM, (3) the rating for each such model and the computations AeroSys performed to arrive at that rating, and (4) all materials that 10 CFR section 430.24(m)(6) requires be included in a request to DOE for review of an ARM. We will treat your submission as a request for the Department to review your ARM(s), and will consider whether to approve them for future use by AeroSys. We also will review the submission to determine what, if any, action to take if it appears that AeroSys has previously used an ARM to rate the efficiency of its products without first having obtained DOE approval to do so.

Companies are prohibited from distributing in commerce any covered product not in compliance with the applicable DOE energy conservation standard. Any person who knowingly violates this provision may be subject to fines of up to $110 per violation/per day, i.e., per product distributed in the U.S. (42 U.S.C. 6303) Further, when a violation is established, DOE may obtain a restraining order against any person who distributes in commerce any covered product that is not in compliance with DOE's energy efficiency standards. (42 U.S.C. 6304)

It is imperative that you inform DOE as soon as possible of the actions you have taken to comply with DOE's energy efficiency standards. DOE expects a response within 30 days of receipt of this letter.

If you have any questions concerning this matter, please contact Dr. Michael Raymond of my staff at (202) 586-9611.

Sincerely,

David E. Rodgers
Acting Program Manager
Building Technologies Program
Energy Efficiency and Renewable Energy

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(05-94)

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Department of Energy
Washington, DC 20585

May 12, 2009

Mr. David Lashway
Hunton & Williams
1900 K Street, NW
Washington, DC 20006

Re: FOIA No. 2009-000099

Dear Mr. Lashway:

This letter is in response to your February 2, 2009, Freedom of Information Act (FOIA) request to the U.S. Department of Energy (DOE). You requested all correspondence, whether electronic or otherwise, between AeroSys, Incorporated (AeroSys) and DOE, from January 1, 2007, to the present, regarding AeroSys' compliance with the Energy Policy and Conservation Act and the DOE implementing regulations. I am the person responsible for providing the response to your February 2 request, under Title 10, Code of Federal Regulations, Part 1004 (10 C.F.R. §1004.7). No fees will be assessed for the search, review, and duplication costs incurred to process your request.

We have completed a search of our files and located five responsive documents, dated as follows: August 23, 2007; September 14, 2007; June 27, 2008; July 18, 2008; and January 22, 2009. These documents are being provided to you in their entirety in accordance with 10 C.F.R. Part 1004.

Pursuant to 10 C.F.R. §1004.8, you may appeal the adequacy of our search for responsive documents by submitting a written appeal to the Director, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585-0107, within 30 calendar days of receipt of this letter. The written appeal, including the envelope, must clearly identify that a Freedom of Information appeal is being made and the appeal must contain all the elements required by 10 C.F.R. §1004.8. Thereafter, judicial review will be available to

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you: (1) in the district where you reside, (2) the district where you have principal places of business, (3) the district where the DOE's records are located, or (4) in the District of Columbia.

If you have any questions or comments concerning this response, please contact Dr. Michael Raymond of my staff, on (202) 586-9611.

Sincerely,

John Lushetsky
Acting Deputy Assistant Secretary
for Energy Efficiency
Office of Technology Development
Energy Efficiency and Renewable Energy

Enclosures