BEFORE THE
U.S. DEPARTMENT OF ENERGY
WASHINGTON, D.C. 20585

In the Matter of:	)	
Rheem Sales Company, Inc.	)	Case Number: 2016-SE-16022
Respondent	)	

ORDER

By the General Counsel, U.S. Department of Energy:

1. In this Order, I adopt the attached Compromise Agreement entered into between the U.S. Department of Energy ("DOE") and Rheem Sales Company, Inc. ("Respondent"). The Compromise Agreement resolves the case initiated to pursue a civil penalty for distributing in commerce in the United States split-system central air conditioning heat pumps that failed to meet the applicable energy conservation standard.

2. DOE and Respondent have negotiated the terms of the Compromise Agreement that resolves this matter. A copy of the Compromise Agreement is attached hereto and incorporated by reference.

3. After reviewing the terms of the Compromise Agreement and evaluating the facts before me, I find that the public interest would be served by adopting the Compromise Agreement.

4. Based on the information in the case file and Respondent's admission of facts establishing violations, I find that Respondent knowingly committed Prohibited Acts by distributing in commerce split-system central air conditioning heat pumps that were not in conformity with the applicable energy conservation standard. *See* 42 U.S.C. § 6302; 10 C.F.R. §§ 429.102(a)(6), 430.32(c).

5. Accordingly, pursuant to 10 C.F.R. § 429.120 and 42 U.S.C. § 6303, I **HEREBY ASSESS** a civil penalty of $317,107 **AND ORDER** that the Compromise Agreement attached to this Order is adopted.

/S/ 8/31/20

Bill Cooper
General Counsel

Date

BEFORE THE
U.S. DEPARTMENT OF ENERGY
Washington, D.C. 20585

In the Matter of:	)	
Rheem Sales Company, Inc. (central air conditioners and heat pumps)	)	Case Number: 2016-SE-16022

COMPROMISE AGREEMENT

The U.S. Department of Energy ("DOE") Office of the General Counsel, Office of the Assistant General Counsel for Enforcement, initiated this action against Rheem Sales Company, Inc. ("Respondent") pursuant to 10 C.F.R. § 429.122 by Notice of Proposed Civil Penalty alleging that Respondent had manufactured and distributed in commerce split-system central air conditioning heat pumps that are not in compliance with an applicable energy conservation standard. Respondent, on behalf of itself and any parent, subsidiary, division or other related entity, and DOE, by their authorized representatives, hereby enter into this Compromise Agreement for the purpose of settling this specific enforcement action.

I. DEFINITIONS

For the purposes of this Compromise Agreement, the following definitions apply:

(a) "Act" means the Energy Policy and Conservation Act of 1975, as amended, 42 U.S.C. § 6291 *et seq.*

(b) "Distribute in Commerce" or "Distribution in Commerce" means to sell in commerce, to import, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce;

(c) "DOE" means the U.S. Department of Energy.

(d) "DOE Rules" means DOE's energy conservation regulations found in Title 10, Parts 429, 430 and 431 of the Code of Federal Regulations, January 1, 2015 edition.

(e) "Manufacture" means to manufacture, produce, assemble, or import.

(f) "Notice" means the Notice of Proposed Civil Penalty issued by DOE to Respondent on May 21, 2019, and captioned as case number 2016-SE-16022.

(g) "Parties" means DOE and Respondent.

(h) "Respondent" means Rheem Sales Company, Inc., and any parent, subsidiary, division or other related entity.

The Agreement further incorporates by reference all of the definitions set forth in 42 U.S.C. § 6291 and 10 C.F.R. Parts 429 and 430.

II. RECITALS

WHEREAS, pursuant to the Act, DOE is responsible for promulgating and enforcing the energy conservation requirements set forth in DOE Rules; and

WHEREAS, split-system central air conditioning heat pumps are "covered products" as defined in 42 U.S.C. § 6292(a)(3) and 10 C.F.R. § 430.2; and

WHEREAS, DOE has promulgated energy conservation standards for split-system central air conditioning heat pumps at 10 C.F.R. § 430.32(c); and

WHEREAS, the energy conservation standards set forth in 10 C.F.R. § 430.32(c) apply to all units manufactured by Respondent on or after January 1, 2015; and

WHEREAS, units of the subject model, as defined below, are subject to energy conservation standards;

WHEREAS, DOE, on February 7, 2018, issued a Notice of Noncompliance Determination finding the split-system central air conditioning heat pump basic model combination that includes outdoor model 13PJL30 (nameplate model 12PJL30A01) and indoor model RHAL-FR30P (nameplate model RHAL-FR30 PJN00A417) (together, and including all individual models covered by this basic model, the "subject model"), manufactured and distributed in commerce by Respondent, does not comply with applicable energy conservation standards; and

WHEREAS, DOE, on May 21, 2019, initiated an action to assess a civil penalty for Respondent's distribution in commerce in the United States of the subject model; and

WHEREAS, Respondent admits:

1. Respondent manufactured the subject model;
2. Respondent manufactured certain units of the subject model on or after January 23, 2006, and before January 1, 2015;
3. Respondent manufactured certain units of the subject model on or after January 1, 2015, and before January 1, 2023;
4. Respondent has distributed in commerce in the United States at least 1,586 units of the subject model manufactured on or after January 23, 2006;
5. The subject model is a split-system central air conditioning heat pump;
6. The subject model does not comply with the minimum permissible seasonal energy efficiency ratio for units manufactured prior to January 1, 2015;
7. The subject model does not comply with the minimum permissible seasonal energy efficiency ratio for units manufactured on or after January 1, 2015; and

WHEREAS, DOE, pursuant to 42 U.S.C. §§ 6302 and 6303 and 10 C.F.R. Part 429, Subpart C, is authorized to assess civil monetary penalties against any manufacturer that knowingly distributes in commerce any new covered product that is not in conformity with an applicable energy conservation standard; and

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements set forth below, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree as follows:

III. TERMS OF THE AGREEMENT

1. **Adopting Order.** The parties agree that the provisions of this Compromise Agreement shall be subject to final approval by the General Counsel by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

2. **Obligations of Respondent.**

    a. If Respondent executes this Compromise Agreement and returns it to DOE within thirty (30) calendar days after the date of the Notice, Respondent agrees to pay the sum of **$317,107** (three hundred and seventeen thousand, one hundred and seven dollars) as full satisfaction of the civil penalty proposed in the Notice, within thirty (30) days of the issuance of an Adopting Order.

    b. Respondent agrees to abide by the terms of the Notice of Noncompliance Determination issued on February 7, 2018, captioned under case number 2016-SE-16022.

3. **Obligations of DOE.**

    a. In express reliance on the covenants and representations in this Compromise Agreement and to avoid further expenditure of public resources, DOE agrees to accept Respondent's payment pursuant to Paragraph III.2.a above in full satisfaction of the penalty authorized by the Act.

    b. DOE agrees to issue promptly an Order adopting this Agreement ("Adopting Order").

    c. DOE agrees to terminate the enforcement action captioned under case number 2016-SE-16022 with prejudice upon Respondent's completion of its Obligations in accordance with Paragraph III.2, above. If Respondent fails to complete its Obligations in accordance with paragraph III.2, above, DOE may notify Respondent that the Agreement is null and void and may seek the maximum penalty in accordance with 10 C.F.R. § 429.120.

4. **Jurisdiction.** This Compromise Agreement is entered pursuant to DOE's authority to interpret and enforce its regulations and to enter into its own agreements interpreting and applying those regulations. The Parties agree that DOE has jurisdiction over Respondent and primary jurisdiction over the matters contained in this Compromise Agreement and has the authority to enter into this Compromise Agreement.

5. **Effective Date.** The Parties agree that this Compromise Agreement will become effective on the date on which the General Counsel issues the Adopting Order. As of that date, the Adopting Order and this Compromise Agreement have the same force and effect as any other Order of the General Counsel. Any violation of the Adopting Order or of the terms of this Compromise Agreement constitutes a separate violation of an Agency Order, entitling DOE to exercise any rights and remedies attendant to the enforcement of an Agency Order.

6. **Payment Instructions and Late Payments.** Respondent agrees to make all payments in a timely manner and in a method set forth in the attached "Payment Instructions." Respondent acknowledges and agrees to comply with the "Late Payment" provisions provided therein.

7. **Limitations.** Nothing in this agreement binds any other agency of the United States government beyond DOE.

8. **Waivers.** Respondent agrees not to seek judicial review or otherwise contest or challenge the validity of the terms and penalties set out in this Compromise Agreement or the Notice associated

with this case, including any right to judicial review that may be available to the Respondent. If either Party (or the United States on behalf of DOE) brings a judicial action to enforce the terms of this Compromise Agreement, neither Respondent nor DOE shall contest the validity of the Compromise Agreement, and Respondent waives any statutory right to a trial de novo. Respondent hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504, relating to the matters addressed in this Compromise Agreement.

9. **Final Settlement.** The Parties agree and acknowledge that this Compromise Agreement shall constitute a final settlement between the Parties. This Compromise Agreement resolves only the violations alleged in the Notice.

10. **Merger.** This Compromise Agreement constitutes the entire agreement between the Parties and supersedes all previous understandings and agreements between the Parties with respect to this matter, whether oral or written.

11. **Modifications.** This Compromise Agreement cannot be modified without the written consent of both Parties.

12. **Severability.** If any provision of this agreement is held to be invalid, illegal, void, or unenforceable, then that provision is to be construed by modifying it to the minimum extent necessary to make it enforceable; or if such modification is not possible, then the rest of this agreement remains enforceable to the maximum extent allowed by law.

13. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Compromise Agreement.

14. **Counterparts.** This Compromise Agreement may be signed in any number of counterparts (including by facsimile or electronic mail), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

/S/	/S/
Stephen C. Skubel Acting Assistant General Counsel for Enforcement U.S. Department of Energy	(Signature) Typed Name: Scott Bates Title: Vice President and Secretary Company Name: Rheem Sales Company, Inc.
8/26/2020	13th August 2020
Date	Date