

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

In the Matter of:

First Co.

(central air conditioners and heat pumps)

Case Numbers: 2023-SE-16019
through 2023-SE-16021, and 2023-
SE-16034 through 2023-SE-16074

ORDER

For the U.S. Department of Energy (“DOE”):

1. On January 24, 2024, under the above-listed case numbers, DOE issued a Notice of Proposed Civil Penalty to First Co. (“Respondent”) to pursue a civil penalty against Respondent for knowingly distributing in commerce central air conditioner and central air conditioning heat pump basic models without submitting to DOE a report certifying that those basic models comply with the applicable energy conservation standards and without testing those basic models in accordance with the applicable DOE test procedure.
2. Central air conditioners and central air conditioning heat pumps are covered products subject to a federal energy conservation standard. 42 U.S.C. § 6292(a)(3); 10 C.F.R. §§ 430.2, 430.32(c).
3. Pursuant to 10 C.F.R. § 429.12, manufacturers must submit to DOE a report certifying that each basic model of a covered product meets the applicable energy conservation standard, before distributing each basic model in commerce and annually thereafter.
4. Pursuant to 10 C.F.R. § 429.13(a), the determination that a basic model complies with an applicable energy conservation standard must be determined from the values derived pursuant to the applicable testing and sampling requirements set forth in 10 C.F.R. parts 429, 430, and 431.
5. Failure to submit a certification report for a covered product in accordance with 10 C.F.R. § 429.12 is a prohibited act pursuant to 10 C.F.R. § 429.102(a)(1) and subject to civil penalties as described in 10 C.F.R. § 429.120.
6. Pursuant to 10 C.F.R. § 429.120, each day that a manufacturer fails to submit a certification report for a basic model is a separate violation.
7. Failure to test any covered product subject to an applicable energy conservation standard in conformance with the applicable test requirements prescribed in 10 C.F.R. parts 430

and 431 is a prohibited act pursuant to 10 C.F.R. § 429.102(a)(2) and subject to civil penalties as described in 10 C.F.R. § 429.120.

8. Pursuant to 10 C.F.R. § 429.120, each unit of a covered product distributed in commerce in violation of 10 C.F.R. § 429.102(a)(2) is a separate violation.
9. Pursuant to 10 C.F.R. § 429.120, a manufacturer who knowingly violates 10 C.F.R. § 429.102 (a)(1) or (2) is subject to a civil penalty of up to \$560 per violation.
10. DOE makes the following findings:¹
 - a. Respondent manufactured² the following basic models: 24SPXC-*HW, EC09*, EC12*, EC18*, EC24*, EC30*, ECW09*, ECW12*, ECW18*, ECW24*, ECW30*, EHE09*, EHE12*, EHE18*, EHE24*, EPE09*, EPE12*, EPE18*, and EPE24* (the “subject models”).
 - b. Each of the subject models is a central air conditioner/central air conditioning heat pump.
 - c. Respondent distributed in commerce³ multiple units of the subject models.
 - d. Each of those units was a new covered product when Respondent distributed it in commerce.
 - e. Respondent knowingly failed to submit to DOE a certification report, certifying that each of the subject models complies with the applicable energy conservation standard, before Respondent distributed the subject models in commerce, in violation of 10 C.F.R. §§ 429.12, 429.16, and 429.102(a)(1).
 - f. Respondent knowingly failed to test the subject models in accordance with the applicable test procedure before distributing them in commerce, in violation of 10 C.F.R. §§ 429.13, 429.16, 430.23(m), and 429.102(a)(2), and 10 C.F.R. part 430, subpart B, appendices M and M1.
11. Based on the information above, I find that Respondent knowingly committed Prohibited Acts by manufacturing and distributing in commerce basic models of a covered product without submitting to DOE a certification report certifying that each of those basic models complies with the applicable energy conservation standard and without testing those basic models in accordance with the applicable DOE test procedure. *See* 42 U.S.C. §§ 6302 and 6316; 10 C.F.R. §§ 429.102(a)(1) and 429.102(a)(2).

¹ Respondent neither admits nor denies these findings.

² “Manufacture” means to manufacture, produce, assemble, or import. 42 U.S.C. § 6291(10).

³ “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. 42 U.S.C. § 6291(16).

12. Accordingly, pursuant to 10 C.F.R. § 429.120 and 42 U.S.C. § 6303, I **HEREBY ASSESS** a civil penalty of \$290,000, **ORDER** Respondent to pay the assessed civil penalty in full within 30 calendar days, **AND ORDER** that the Settlement Agreement attached to this Order is adopted.

Samuel T. Walsh
General Counsel