

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

In the Matter of:)
)
)
General Electric Lighting Solutions, LLC) Case Number: 2013-SE-4901
)

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 General Electric Lighting Solutions, LLC (“GE”). The Compromise Agreement resolves the case initiated to pursue a civil penalty for distributing in commerce in the United States traffic signal modules that failed to meet the applicable standard for energy usage. *See* 10 C.F.R. § 431.226.
2. DOE and GE 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 GE’s admission of facts establishing violations, I find that GE committed Prohibited Acts by distributing in commerce traffic signal modules that were not in conformity with the applicable energy conservation standard. *See* 42 U.S.C. § 6302; 10 C.F.R. § 431.226.
5. Accordingly, pursuant to 42 U.S.C. § 6303, I **HEREBY ASSESS** a civil penalty of \$5,360 **AND ORDER** that the Compromise Agreement attached to this Order is adopted.

_____/S/_____
Gregory H. Woods
General Counsel

____April 4, 2013_____
Date

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

In the Matter of:

**General Electric Lighting Solutions,
LLC**

Case Number: 2013-SE-4901

COMPROMISE AGREEMENT

The U.S. Department of Energy (“DOE”) Office of the General Counsel, Office of Enforcement, initiated this action against General Electric Lighting Solutions, LLC (“GE”) pursuant to 10 C.F.R. § 429.106 after GE submitted a certification report indicating to DOE that GE may have distributed in commerce in the United States traffic signal modules that did not conform to the applicable energy conservation standard. GE, 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 shall apply:

- (a) “Act” means the Energy Policy and Conservation Act of 1975, as amended, 42 U.S.C. § 6291 *et seq.*
- (b) “Adopting Order” means an Order of the General Counsel adopting the terms of this Compromise Agreement without change, addition, deletion, or modification.
- (c) “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;
- (d) “DOE” means the U.S. Department of Energy.
- (e) “DOE Rules” means DOE’s energy conservation regulations found in Title 10, Parts 429, 430, and 431 of the Code of Federal Regulations.
- (f) “GE” means General Electric Lighting Solutions, LLC.
- (g) “Manufacture” means to manufacture, produce, assemble, or import.
- (h) “Notice” means the Notice of Proposed Civil Penalty issued by DOE to GE on March 5, 2013, and captioned as case number 2013-SE-4901.
- (i) “Parties” means DOE and GE.

The Agreement further incorporates by reference all of the definitions found within 42 U.S.C. §§ 6291 and 6311 and 10 C.F.R. Parts 429, 430, and 431.

II. RECITALS

WHEREAS, DOE, pursuant to 42 U.S.C. § 6291 *et seq.*, is responsible for promulgating and enforcing the energy conservation requirements set forth in DOE Rules; and

WHEREAS, DOE has promulgated energy conservation standards for traffic signal modules at 10 C.F.R. § 431.226; and

WHEREAS, DOE, on January 11, 2013, issued a Notice of Noncompliance Determination finding that GE traffic signal module basic models DR4-RTFB-23B and DR4-RTFB-77A-002, manufactured by GE, were not in conformity with the applicable energy conservation standard; and

WHEREAS, basic models DR4-RTFB-23B and DR4-RTFB-77A-002 are “covered products”; and

WHEREAS, the energy conservation standards set forth in 10 C.F.R. § 431.226 apply to all units sold or held for sale in the United States by GE on or after July 1, 2006; and

WHEREAS, DOE, on March 5, 2013, initiated an action to assess a civil penalty for distributing non-compliant basic models DR4-RTFB-23B and DR4-RTFB-77A-002 in commerce in the United States; and

WHEREAS, GE admits:

1. GE manufactured basic models DR4-RTFB-23B and DR4-RTFB-77A-002 of traffic signal module;
2. Basic models DR4-RTFB-23B and DR4-RTFB-77A-002 are subject to the energy conservation standards set forth in 10 C.F.R. § 431.226;
3. Since January 1, 2010, GE distributed in commerce in the United States 30 units of basic model DR4-RTFB-23B and 177 units (of which 85 units remain in inventory) of basic model DR4-RTFB-77A-002 of traffic signal module that did not meet the applicable energy conservation standard; and

WHEREAS, GE certified in CCMS #25273 that it had ceased distribution in commerce in the United States of both models; and

WHEREAS, GE provided written notification of the noncompliance determination to all persons in the United States to whom GE has distributed units of basic models DR4-RTFB-23B or DR4 RTFB-77A-002 in the past three years; and

WHEREAS, GE provided to DOE the required written notification and list of the parties GE notified; and

WHEREAS, GE provided to DOE documentation pertaining to the acquisition, ordering, storage, shipment, or sale of units of basic models DR4-RTFB-23B and DR4-RTFB-77A-002 in the United States in the past three years; and

WHEREAS, GE has cooperated fully with DOE in connection with this investigation; and

WHEREAS, DOE, pursuant to 42 U.S.C. §§ 6296, 6302, and 6303, and 10 C.F.R. Part 429, Subpart C, is authorized to assess civil monetary penalties against any manufacturer that distributes in commerce any new covered product that is not in conformity with an applicable energy conservation standard; and

WHEREAS, DOE, as the agency charged with developing and administering a balanced and coordinated national energy policy, concludes that this Compromise Agreement properly balances the policies recognized in the Energy Policy and Conservation Act and is the appropriate way to resolve this matter;

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 GE.**
 - a. If this Compromise Agreement is executed within thirty (30) days after the date of the Notice, GE agrees to pay the sum of \$5,360, as full satisfaction of the civil penalty proposed in the Notice, within thirty (30) days of the issuance of an Adopting Order.
 - b. GE may elect to modify basic model DR4-RTFB-23B or DR4-RTFB-77A-002 to bring them into compliance with the applicable standard. A modified basic model shall be treated as a new basic model under the regulations and must be certified in accordance with the provisions of 10 C.F.R. Part 429. Prior to distribution in commerce in the United States, GE must provide DOE test data demonstrating that the modified basic model complies with the applicable standard. All units must be tested in accordance with DOE regulations, and GE shall bear the costs of all such testing that is conducted. Until DOE determines that the modified basic model complies with the applicable standard, no units of basic models DR4-RTFB-23B or DR4-RTFB-77A-002 may be sold or otherwise distributed in commerce by GE in the United States.
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 GE's payment pursuant to paragraph III.2.a in full satisfaction of the civil penalty authorized by the Act.
 - b. DOE agrees to issue promptly an Adopting Order adopting this Agreement.
 - c. DOE agrees to terminate this enforcement action with prejudice upon GE's completion of its Obligations in accordance with Paragraph 2 above.
4. **Jurisdiction.** This Compromise Agreement is entered pursuant to DOE's authority to interpret and enforce its rules for energy conservation and to enter into its own agreements interpreting and applying those rules. The Parties agree that DOE has jurisdiction over GE 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 shall 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 shall have the same force and effect as any other Order of the General Counsel.

6. **Limitations.** Nothing in this agreement binds any other agency of the United States government beyond DOE.
7. **Waivers.** GE 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 GE. If either Party (or the United States on behalf of DOE) brings a judicial action to enforce the terms of this Compromise Agreement, neither GE nor DOE shall contest the validity of the Compromise Agreement, and GE waives any statutory right to a trial *de novo*. GE 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.
8. **Final Settlement.** The Parties agree and acknowledge that this Compromise Agreement shall constitute a final settlement between the Parties. This Compromise Agreement resolves only issues addressed in the Compromise Agreement.
9. **Merger.** This Compromise Agreement constitutes the entire agreement between the Parties and supersedes all previous understandings and agreements between the Parties, whether oral or written.
10. **Modifications.** This Compromise Agreement cannot be modified without the advance written consent of both Parties.
11. **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.
12. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Compromise Agreement.
13. **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/_____
Laura L. Barhydt
Assistant General Counsel for
Enforcement
U.S. Department of Energy

_____/S/_____
(Signature)
Typed Name: Jaime Irick
Title: GM, North America Professional
Solutions
Company Name: GE Lighting
Solutions/General Electric Lighting
Solutions, LLC

April 2, 2013
Date

4/2/13
Date