



In 2007, Congress enacted the Energy Independence and Security Act of 2007 (EISA), Public Law 110-140, which amended the EPCA by updating the energy conservation standards for those electric motors already covered by the EPCA and established energy conservation standards for a larger scope of electric motors not already covered by standards. See 42 U.S.C. § 6313(b)(2) (codifying specific standards prescribed by Section 313(b) of EISA for general purpose electric motors (Subtypes I and II), fire pump motors, and NEMA Design B general purpose electric motors). Additionally, Congress further amended the EPCA by providing DOE with the explicit authority to establish regulatory coverage over "other motors" that fall outside of one of these prescribed motor types. See American Energy Manufacturing Technical Corrections Act, Pub. L. 112-210 (December 18, 2012). Consistent with these legislative provisions, the DOE issued the Electric Motor Efficiency Standards in which it raised the efficiency standards for some electric motors, but more significantly, applied "the standards currently in place to a wider scope of motors that DOE does not [currently] regulate." 79 Fed. Reg. 30934 (May 29, 2014). Particularly relevant to the present proceeding, the Final Rule made subject to energy efficiency standards certain "definite purpose motors" and "special purpose motors" that had previously been unregulated.<sup>1</sup> The Final Rule also lists several types of electric motors that remain unregulated under this rule.<sup>2</sup> Compliance with the Electric Motor Efficiency Standards is required as of June 1, 2016.

In the Final Rule, DOE examined the market for electric motors and, particularly, the effect of the standards on small manufacturers. DOE estimated that there are about 60 manufacturers of electric motors sold in the United States, 13 of which are small businesses. 79 Fed. Reg. at 31005. It noted that some small businesses could have more difficulty complying with the standards due to reduced engineering expertise, lack of purchasing power, reduced access to capital and the need to spread costs over a smaller number of units sold. 79 Fed. Reg. at 31005-06. DOE found that small manufacturers generating a high percentage of their business from previously unregulated motors would bear the greatest burden. 79 Fed. Reg. at 31006. DOE estimated that some of these companies could be required to incur capital conversion costs of \$1.88 million and equipment conversion costs of \$3.75 million for a total cost of \$5.63 million. *Id.* It noted that these companies might need to "drastically increase their capital expenditures." *Id.*

## **B. The Application for Exception**

Reuland is a small manufacturer of electric motors headquartered in City of Industry, California, that specializes in producing custom designed electric motors. Reuland produces small batches of motors, often around three motors per order, designed to meet the unique requirements of its customers. According to Reuland, many of its customers want custom designed motors due to

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<sup>1</sup> The EPCA defines "definite purpose motor" as "any motor designed in standard ratings with standard operating characteristics or standard mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications," and defines "special purpose motor" as "any motor, other than a general purpose motor or definite purpose motor, which has special operating characteristics or special mechanical construction, or both, designed for a particular application." 42 U.S.C. §§ 6311(13)(C) and (D).

<sup>2</sup> Those motors include air-over electric motors, component sets of electric motors, liquid cooled electric motors, submersible electric motors and invert-only electric motors as well as any other motors that the Secretary exempts. 79 Fed. Reg. 31014. In addition, the Final Rule does not cover single phase and multi-speed motors. 79 Fed. Reg. at 30950-51.

space constraints, often because they are seeking to replace worn out electric motors that are a part of a larger piece of equipment. *Id.* at 3. Reuland states that the demand for such replacement motors accounts for XX% of its sales of custom designed motors. *Id.* According to Reuland, its custom designed motors include hydraulic pump motors, vertical pump motors, brake motors, break-gear motors and fluid shaft motors. *Id.* at 4.

Reuland does not exclusively produce custom designed motors, but it describes these motors as representing a significant portion of its business. In 2013 and 2014, Reuland produced an average of XXXX motors. *Id.* at 4. Of those, an average of XXX motors, or XX percent, were custom designed. *Id.* Reuland indicates that its custom designed motors were not covered under the previous standards for electric motors but will be covered under the Final Rule. *Id.* at 6. Reuland claims that an investment of approximately \$XX million for capital and equipment conversion would be required in order to bring some or all of its custom-designed motors into compliance with the new standard. *Id.* at 6; Reuland Application, Exhibit A. Reuland states that this amount is greater than its net worth and, even if recovered over a three-year payback period, would more than double the cost of producing a custom designed electric motor. *Id.* at 6.

Reuland maintains that the estimated \$XX million in compliance costs might well force the firm to abandon its custom designed motor business line entirely. *Id.* at 6-7. According to Reuland, the discontinuation of its custom design motor business would result in the firm laying off XX of its XXX employees. *Id.* at 2, 7. Reuland further asserts that without its custom motor revenue source, it would have difficulty covering its overhead costs, putting the entire company in jeopardy. *Id.* at 6. Thus, Reuland claims that without relief it “will have difficulty remaining in business at all.” *Id.* at 12. Reuland therefore requests exception relief that would allow the firm to manufacture and sell up to 1,200 custom designed motors per year, without meeting the Electric Motor Efficiency Standards. *Id.* at 13. Reuland places no time limit on its request for exception relief.

Reuland also presents several other arguments in support of its application for exception relief. First, it asserts that its customers would be forced to bear significant compliance costs if Reuland is required to meet the new standard. Many customers, it argues, would need to modify their equipment to fit a larger, compliant motor, or would need to replace expensive equipment altogether. *Id.* at 10-11. Second, Reuland argues that the potential energy savings from requiring the firm’s compliance would be minimal since its custom designed motor business is small. *Id.* at 11. Third, Reuland claims that the new standards have placed it, and other small manufacturers, at a competitive disadvantage with larger manufacturers, thereby harming competition in the market for electric motors. *Id.* at 12-13.

Finally, Reuland argues that it merits relief because DOE, in adopting the Final Rule, did not properly account for companies such as Reuland. Reuland argues that the rule was designed more for larger manufacturers producing standard design motors rather than small specialty manufacturers such as Reuland. *Id.* at 3, 7. Reuland argues that DOE did not recognize the heavy compliance burden that the Final Rule would place on small manufacturers, and that its own compliance costs would be “far in excess” of the costs estimated by DOE. *Id.* at 6-7. Thus, Reuland contends that, in adopting the Final Rule, the agency imposed a disproportionate burden that weighs in favor of the exception relief the firm requests. *Id.* at 8.

### C. Comments and Supplemental Information

OHA received comments from two interested parties regarding Reuland's Application for Exception: (1) WEG Electric Corp. (WEG), a manufacturer of electric motors, and (2) the National Electrical Manufacturers Association (NEMA), a trade association whose members include manufacturers of electric motors. *See* Email from Dale Basso, WEG, to Fred Brown, Deputy Director, OHA (December 4, 2015) (Basso Email); Letter from NEMA to Fred Brown, Deputy Director, OHA (December 22, 2015) (NEMA Comments).

In its comments, WEG opposes the scope of the exception relief requested by Reuland, asserting that any exception relief should be limited to specific replacement products where the customer does not have viable product options. Basso Email. WEG maintains that the broad relief requested by Reuland would give the firm an unfair business advantage and undermine the intent of the regulations. WEG asserts that DOE was well aware that a capital investment would be required to bring some products into compliance. *Id.* WEG further states that "[m]any of the products covered under the expanded scope are minor variations of products that were previously covered, and Reuland, like all manufacturers, should already have premium efficient designs in place." *Id.*

In its comments, NEMA takes no position on whether OHA should grant or deny Reuland's Application for Exception. NEMA Comments at 2. However, NEMA raises several concerns for OHA's consideration. NEMA points out that there are other manufacturers besides Reuland producing custom motors in small orders for special applications. *Id.* at 5. Thus, NEMA contends that granting Reuland the requested exception relief could give Reuland an unfair competitive advantage in the market for custom electric motors, particularly for customers with size constraints who otherwise might need to make an investment to accommodate a larger, more efficient motor under the new standards. *Id.* at 8. NEMA further argues that if OHA grants Reuland exception relief, OHA would be obligated to grant the same relief to other manufacturers, thereby defeating the purpose of the Final Rule. *Id.* at 8-9.

NEMA also raises doubts about the burden on Reuland and its customers. NEMA suggests that Reuland could reduce its capital investment costs by outsourcing production of some motor parts – such as laminations, partial motors, or stator and rotor set – to third parties. *Id.* at 8. As to the burden on customers, NEMA acknowledges that the greatest costs would be borne by customers with size-constraints. *Id.* at 6. However, it notes that all customers would reap savings by installing more energy efficient motors and that not all customers face size constraints. *Id.* Further, NEMA argues that DOE was aware when issuing the standards that size constrained customers "would be forced at some point to adjust to more efficient motors." *Id.* at 9. NEMA contends that if OHA does decide that relief is appropriate, granting an exception over an indefinite time period would not be consistent with OHA precedent. *Id.* at 10.

On January 19, 2016, Reuland filed a consolidated response (Reuland Response) to the comments filed by WEG and NEMA, in which it challenges the concerns raised in the comments and reasserts its claim for exception relief. Contrary to WEG's supposition, Reuland states that it has no

efficient motor designs already in place since, under the previous standards, less than XXX percent of its motors were subject to regulation whereas XX percent of its product line will be subject to the Electric Motor Efficiency Standards. Reuland Response at 3. Reuland rejects NEMA's suggestion that outsourcing of some component parts might be an option for reducing the firm's projected \$XX million capital investment for new equipment. According to Reuland, the costs of such outsourcing "are so high that it will not be able to produce custom designed motors." *Id.* at 3. Reuland also contests NEMA's contention that the approval of exception relief for Reuland would lead other manufacturers to seek similar relief. In this regard, Reuland cites DOE's estimate that only 13 small businesses are covered by the Final Rule. *Id.* at 5, citing 79 Fed. Reg. at 31005. Reuland therefore asserts that very few manufacturers fall into its category and that, to its knowledge, none of the remaining small manufacturers have filed an Application for Exception thus far. Reuland Response at 5.

Finally, Reuland challenges the concern raised by both WEG and NEMA regarding the scope of the exception relief requested by Reuland. Reuland claims that its requested relief, authorizing the firm to sell up to 1,200 motors per year free from efficiency regulation, is necessary and appropriate to relieve the special hardship and inequity faced by the firm. *Id.* at 6. Regarding the commenters' concern that there is no time limit set on the requested exception relief, Reuland suggests that "OHA could require Reuland to demonstrate on a periodic basis, perhaps at five-year intervals, that the burden of compliance has not changed and that exception relief continues to be justified." *Id.* Reuland notes, however, that it does not expect the circumstances to change. *Id.*

On January 28, 2016, OHA sent a letter to Reuland requesting supplemental information relating to the firm's Application. Letter from Fred Brown, Deputy Director, OHA (January 28, 2016), to Mary Ann Sullivan, Esq., counsel for Reuland. Reuland provided the requested information in a supplemental submission (Reuland Supplement) dated February 12, 2016.

## II. Analysis

Section 504 of the Department of Energy Organization Act, 42 U.S.C. § 7194(a), authorizes the Secretary of Energy to make "such adjustments to any rule, regulation, or order" issued under the EPCA, consistent with the other purposes of the Act, as "may be necessary to prevent special hardship, inequity, or unfair distribution of burdens." The Secretary has delegated this authority to the DOE Office of Hearings and Appeals (OHA), which administers exception relief pursuant to procedural regulations codified at 10 C.F.R. Part 1003, Subpart B. Under these provisions, persons subject to the various product efficiency standards of Part 430, promulgated under DOE's rulemaking authority, may apply to OHA for exception relief. *See, e.g., Sauder Fuel, Inc.*, OHA Case No. TEE-0059 (2009); *Diversified Refrigeration, Inc.*, OHA Case No. VEE-0073 (2001); *Amana Appliances*, OHA Case No. VEE-0054 (1999).

We have carefully evaluated Reuland's Application for Exception, as well as the comments received from interested parties. In performing this evaluation, we are mindful that the DOE's adoption of the Electric Motor Efficiency Standards is fully consistent with the policy objectives of the EPCA. In doing so, the revised standard will not only save money for consumers, but will also conserve significant amounts of energy for the nation as a whole. DOE estimates that the

Electric Motor Efficiency Standards will save approximately 7.0 quads<sup>3</sup> of energy over 30 years (2016 through 2045). The annualized energy savings (0.23 quad) is equivalent to one percent of total U.S. industrial primary energy consumption in 2013. *See* 79 Fed. Reg. at 30938. In view of the nation's increasing energy needs, the benefits of energy conservation cannot be overstated. Apart from these energy savings that DOE is required to consider as part of its comprehensive analysis in assessing whether a standard is technologically feasible and economically justified, the higher energy efficiency standard will also have substantial environmental benefits by contributing to the overall reduction of greenhouse gas emissions and air pollution. *Id.* Consequently, an exception to the revised efficiency standards is warranted only in those limited circumstances where relief is necessary to prevent a special hardship, inequity, or unfair distribution of burdens. 10 C.F.R. § 1003.20. As explained below, we have determined that exception relief is not warranted in this case.

### A. Reuland's Claim of Special Harship

Initially, we are unpersuaded by Reuland's contention that the firm will experience a special hardship if required to comply with the Electric Motor Efficiency Standards. To support a claim of special hardship, Reuland must show that compliance with the new standards would substantially jeopardize the financial health and viability of the firm. *See SpacePak/Unico, Inc.*, Case Nos. TEE-0010, TEE-0011 (2004); *cf. W.W. Grainger, Inc.*, Case No. EXC-13-0003 (2013). Reuland claims that the firm will be required to make an \$XX million capital investment "to bring some or all of its custom-designed motors into compliance with the new standard."<sup>4</sup> Reuland Application at 6, 9. Reuland maintains that these costs would add almost \$XXX in cost to each motor, based upon the average of XXX custom motors<sup>5</sup> that the company sold during 2013 and 2014. *Id.* at 6. Since the company has typically sold its custom motors for between \$XXXX and \$XXXX, Reuland asserts that "the disproportionate burden and the extreme hardship on Reuland and its customers is apparent." *Id.* Reuland claims that, due to the magnitude of the required investment, the firm will be unable to market its custom motors at a competitive price, thus jeopardizing the survival of its custom motor business and the viability of the company at large. However, we find Reuland's \$XX million cost projection untenable.

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<sup>3</sup> A quad is a unit of energy equal to 10<sup>15</sup> (a short-scale quadrillion) BTU.

<sup>4</sup> These projected costs are itemized in Appendix A of Reuland's exception application, which describes 24 enumerated expenditures that, according to Reuland, will be required. These costs include expenditures for new equipment and software, production modifications, and to hire and train new personnel. The major costs listed are: (1) \$XX million for XX Schuler automatic notching presses for stator and rotor slots; (2) \$XX million for XXX additional dynamometers, drives, controls, and testing software; and (3) \$XX million for XXXX progressive blanking dies, XX notching dies, and XX end ring dies. *See* Reuland Application, Appendix A at 2.

<sup>5</sup> There appears to be a discrepancy in the number of custom design motors that Reuland sold in 2013-14 that the firm states would be subject to regulation under the Final Rule. In its Application for Exception, Reuland states that its custom motors include hydraulic pump motors, vertical pump motors, brake motors, break-gear motors and fluid shaft motors. Reuland Application at 4. However, supplemental information provided by Reuland shows that these five types of motors together total only XXX motors, on average for 2013-14, while the remainder of the XXX motors that Reuland states would be subject to regulation are comprised of other types of motors (e.g. wafertin motors). *See* Reuland Supplement, Appendix B.

Reuland's projected \$XX million in capital expenditures, as well as the degree of impact upon the firm, are grossly out of proportion to those projected by DOE in the Final Rule with respect to small manufacturers. In the Final Rule, the agency specifically considered the impact of the Electric Motor Efficiency Standards upon small businesses. Based upon criteria established by the Small Business Administration (SBA), DOE determined that there were 13 domestic manufacturers of electric motors that qualified as small businesses<sup>6</sup> and were subject to the Electric Motor Efficiency Standards. *See* 79 Fed. Reg. at 31005. Upon analysis of information received from certain of these manufacturers, the agency determined that the group could be segmented into three categories for purposes of assessing the impact of the Electric Motor Efficiency Standards upon small businesses: (1) the first group (Group 1), which includes five of the 13 businesses, consists of manufacturers that produce specialty motors that were not required to meet previous Federal standards, but would need to do so under the expanded scope of the Final Rule; (2) the second group (Group 2), which includes approximately five other of the 13 small businesses, consists of manufacturers that produce a small amount of covered equipment (less than 10%) and primarily focus on other types of motors not covered by the Final Rule; and (3) the third group (Group 3), which includes approximately three small businesses, consists of manufacturers that already offer premium efficiency general purpose and specialty motors. *Id.* at 31006.

With regard to the cost impact upon these respective groups of small businesses, DOE projected capital conversion costs of \$1.88 million and equipment conversion costs of \$3.75 million for a typical small manufacturer in Group 1 (manufacturers that produce specialized motors previously not covered by Federal standards). *Id.* However, for small manufacturers in Group 2, the agency stated that “[b]ecause generally less than 10 percent of these manufacturers’ revenue comes from covered equipment, DOE does not believe new standards will substantially impact their business.” *Id.* (emphasis supplied). Finally, with regard to Group 3, DOE projected minimal conversion costs since they have already performed the design and production capitalization to bring their motors up to premium efficiency levels. *Id.*

In the present case, Reuland claims that it will incur capital costs of \$XX million, an amount more than \$X million in excess of the total \$5.63 million in capital and equipment conversion costs (\$1.88 million plus \$3.75 million) estimated by DOE for small businesses in Group 1. However, it is clear from the information provided by Reuland that the company falls squarely into Group 2, particularly with regard to its custom motor product line for which the firm seeks exception relief. Reuland states in its Application that “in 2013-14, Reuland had revenues of just under \$XXXXXX from the XXX custom designed motors it produced that would now be covered by the Final Rule.” Reuland Application at 6. Supplemental financial information provided by Reuland shows that the firm had total sales revenues of \$XXXXXX in 2013 and \$XXXX, 802 in 2014. *See* Reuland Supplement, Exhibit A. Thus, sales of custom motors that would be covered by the Electric Motor Efficiency Standards constituted only XX% of total sales in 2013 and XX% of sales in 2014.<sup>7</sup>

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<sup>6</sup> The SBA establishes a threshold of 1000 employees or less for an electric motor manufacturer to be considered as a small business. *See* 79 Fed. Reg. at 31005. Since Reuland states that it has XXX employees (Reuland Application at 2), the company qualifies as a small business under SBA standards.

<sup>7</sup> Supplemental information provided by Reuland shows that out of XXXX total motors (of all types) sold by the firm in 2015, only XXX would be subject to regulation under the Electric Motor Efficiency Standards. *See* Reuland Supplement, Exhibit B. In terms of revenue, information provided by Reuland shows that the company had estimated

Moreover, a close analysis of data provided by Reuland indicates that the company produces at least 16 various types of electric motors, and that only two of these many types of electric motors (hydraulic pump motors and vertical pump motors) will be substantially covered by the Electric Motor Efficiency Standards. *See* Reuland Supplement, Appendix B.<sup>8</sup> Hydraulic pump motors and vertical pump motors comprised only XX% of Reuland's total motor sales during 2013-2014, but they comprise XX% of XXX custom motors, on average, produced by Reuland in 2013-2014 that will be subject to regulation under the Final Rule. By contrast, Reuland's highest selling motor is the inverter duty motor. Reuland sold an average of XXXX inverter duty motors in 2013-2014; of these, only an average of XX motors per year (XX%) would be subject to regulation. *See id.* Thus, it is apparent that it is only for two types of motors (hydraulic pump motors and vertical pump motors) that Reuland may incur some degree of compliance costs. Accordingly, it strains credulity to accept that an \$XX million investment, or anything close to that figure, will be required to bring these two types of motors (XX% of its production) into regulatory compliance.

### **B. Reuland's Claims of Gross Inequity and Unfair Distribution of Burdens**

We have also concluded that Reuland has failed to demonstrate that the firm would suffer a gross inequity in the absence of exception relief. In prior proceedings, we have held that a manufacturer of a covered product will suffer a gross inequity if its compliance with the applicable DOE efficiency standard will result in a substantial detrimental impact not intended by the regulation or authorizing legislation. *See, e.g., Electrolux Home Products*, Case No. TEE-0012 (2004); *Maytag Corp.*, Case No. TEE-0022 (2005). Reuland has failed to make this showing.

Reuland asserts in its exception application that “[t]he same facts that show the special hardship the Final Rule imposes on Reuland also support the conclusion that the Final Rule imposes a gross inequity on Reuland.” Reuland Application at 7. As discussed in the foregoing section of this decision, however, Reuland has failed to substantiate its allegations, by presentation of reliable evidence, that the firm will suffer a special hardship as a result of its compliance with Electric Motor Efficiency Standards. Moreover, the impact of the Final Rule upon small manufacturers such as Reuland was fully contemplated by the DOE and the EISA 2007 in extending electric motor efficiency standards to previously unregulated definite purpose and special purpose motors. *See* 79 Fed. Reg. 30940. Thus, we find that any detrimental impact upon Reuland is consistent with the policy objectives of DOE regulations and pertinent legislation.

We similarly find that Reuland has not shown that the firm will suffer an unfair distribution of burdens as a result of its compliance with the Electric Motor Efficiency Standards. We have found

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total revenues of \$XXXXXX in 2015. If we were to use the average revenue per custom motor in 2013-2014, \$XXXX (\$XXXXX ÷ XXX), we can estimate that Reuland's 2015 sales of custom motors that would now be covered by regulation constituted XX% of total sales revenue in 2015.

<sup>8</sup> Reuland's data shows that XXX of the XXX, and XXX of the XXX hydraulic pump motors sold by Reuland in 2013 and 2014, respectively, would be subject to regulation under the Final Rule. Similarly, the data shows that XX of the XX, and all XX of the vertical pump motors sold by the company in 2013 and 2014, respectively, would be subject to regulation. The data shows that of the remaining types of motors produced by Reuland, significantly lower percentages will be subject to regulation.

that an unfair distribution of burdens exists where a manufacturer will suffer a grossly disproportionate impact in comparison to similarly situated firms in the industry. *See, e.g., Philips Lighting Co., et al.*, Case Nos. EXC-12-0001, *et al.* (2012); *cf. Refricenter International*, Case No. TEE-0024 (2002). Reuland argues that the firm will suffer an unfair distribution of burdens because the Final Rule “puts manufacturers like Reuland in the untenable position of needing to drastically increase capital expenditures in absolute terms as well as relative to larger competitors, despite having significantly less access to capital.” Reuland Application at 9.

We find that this argument fails since Reuland has not validated its claim that insurmountable capital expenditures will be required in order to bring its product line into compliance. As discussed above, DOE thoroughly assessed the potential impact of the Electric Motor Efficiency Standards upon small manufacturers. Based upon the agency’s analysis, the projected cost of Reuland’s compliance will not be grossly disproportionate to other small business manufacturers; instead, based upon the relatively low percentage of Reuland’s gross revenues that will be attributable to covered products, we believe that the impact on the firm will be insubstantial.

Finally, we further observe that the impact of any required capital expenditures would have been lessened had Reuland already begun to take steps to bring some portion of its custom product line into compliance, in anticipation of the Final Rule. In the December 6, 2013, Notice of Proposed Rulemaking, 78 Fed. Reg. 73589, leading to the adoption of the Final Rule, DOE clearly stated its intention to extend efficiency standards to certain previously unregulated motors produced by Reuland. Reuland admittedly chose not to make any capital investment toward compliance at that time based upon its position that the total required capital investment (allegedly \$XX million) was prohibitive. *See* Reuland Supplement at 8. However, as discussed in this decision, the \$XX million investment cited by Reuland is unrealistic and, consequently, does not form a plausible rationale for the firm’s decision to take no action toward compliance. It is well settled in OHA decisions that we will not grant exception relief to alleviate a burden attributable to a discretionary business decision. *See, e.g., GE Appliances & Lighting*, Case No. TEE-0077 (2011); *Felix Storch, Inc.*, Case No. EXC-14-0001 (2014).

It Is Therefore Ordered That:

- (1) The Application for Exception filed by Reuland Electric Co., on November 19, 2015, OHA Case No. EXC-15-0001, is hereby denied.
- (2) Any person aggrieved or adversely affected by the denial of a request for exception relief filed pursuant to § 504 of the Department of Energy Organization Act, 42 U.S.C. § 7194, may appeal to the Federal Energy Regulatory Commission, in accordance with the Commission’s regulations.

Poli A. Marmolejos  
Director

Office of Hearings and Appeals

Date: March 25, 2016