

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

In the Matter of: )  
 )  
 )  
**LG Electronics USA, Inc.** ) Case Numbers: 2017-SE-36001  
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 LG Electronics USA, Inc. (“Respondent”). The Compromise Agreement resolves a case initiated to pursue a civil penalty for distribution in commerce of units of a basic model of covered product that failed to meet the energy conservation requirements as described at 10 C.F.R. § 430.32(v).

2. DOE and Respondent have negotiated the terms of the Compromise Agreement that resolves these matters. 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, which completes the adjudication of the case.

4. Based on the information in the case file and Respondent’s admission of violation in the Compromise Agreement, I find that Respondent committed Prohibited Acts as described at 10 C.F.R. § 429.102(a)(6). *See* 42 U.S.C. § 6302.

5. Accordingly, pursuant to 10 C.F.R. § 429.120 and 42 U.S.C. § 6303, **I HEREBY ASSESS** a civil penalty of \$56,660 **AND ORDER** that the Compromise Agreement attached to this Order is adopted.

/s/  
\_\_\_\_\_  
John T. Lucas  
Acting General Counsel

2/13/2017  
\_\_\_\_\_  
Date

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In the Matter of:	)	
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<b>LG Electronics USA, Inc.,</b>	)	Case Number: 2017-SE-36001
Respondent	)	
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**COMPROMISE AGREEMENT**

The U.S. Department of Energy (“DOE”) Office of the General Counsel, Office of Enforcement, initiated this action against LG Electronics USA, Inc. (“Respondent”) pursuant to 10 C.F.R. § 429.122 by Notice of Proposed Civil Penalty alleging that Respondent had distributed in commerce in the United States units of dehumidifiers that do not conform to the 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) “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 and water conservation regulations found in Title 10, Parts 429, 430, and 431 of the Code of Federal Regulations.
- (f) “Manufacture” means to manufacture, produce, assemble, or import.
- (g) “Notice” means the Notice of Proposed Civil Penalty DOE issued to Respondent on January 6, 2017, and captioned as case number 2017-SE-36001.
- (h) “Parties” means DOE and Respondent.
- (i) “Respondent” means LG Electronics USA, 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 and water conservation requirements set forth in DOE Rules; and

WHEREAS, DOE has promulgated energy conservation standards for dehumidifiers at 10 C.F.R. § 430.32(v); and

WHEREAS, Respondent manufactures dehumidifier basic model UD701KOG2 (the “subject basic model”); and

WHEREAS, the subject basic model is a “covered product”; and

WHEREAS, on December 8, 2016, DOE issued a Notice of Noncompliance Determination in case number 2017-SE-36001, finding that the subject basic model does not comply with the applicable energy conservation standard; and

WHEREAS, the energy conservation standard set forth in 10 C.F.R. § 430.32(v) applies to all units of the subject basic model manufactured by Respondent on or after October 1, 2012; and

WHEREAS, on January 6, 2017, DOE initiated an action in case number 2017-SE-36001 to assess a civil penalty for distributing 14,900 noncompliant units of the subject basic model in commerce in the United States; and

WHEREAS, Respondent admits:

1. Respondent manufactured the subject basic model;
2. The subject basic model is subject to the energy conservation standards set forth in 10 C.F.R. § 430.32(v);
3. The subject basic model does not comply with applicable energy conservation standards; and
4. Respondent distributed in commerce in the United States at least 14,900 units of the subject basic model that were manufactured on or after October 1, 2012; 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

WHEREAS, Respondent internally tested units of the subject model in June 2016 for DOE certification purposes, the results of which indicated that the model complied with the applicable energy conservation standard; and

WHEREAS, in August 2016, during its internal verification process, Respondent questioned whether it used the proper testing protocols when testing units of the subject basic model for DOE certification purposes; and

WHEREAS, Respondent determined that the proper testing protocols were not followed, in that when calculating the efficiency of the model, Respondent used the rated capacity of the units instead of properly using the capacity of the units as measured during testing, as required pursuant to 10 CFR § 429.134(f)(1); and

WHEREAS, an independent third-party test facility tested additional units of the subject basic model, the results of which indicated that some units do not meet the applicable energy conservation standard; and

WHEREAS, the results of the original certification testing, when determined using the measured capacity of the tested units, indicate the units do not comply with the applicable energy conservation standard; and

WHEREAS, upon determining that the subject basic model may not meet the applicable energy conservation standard, Respondent immediately stopped shipping units of the model, notified its customers by letter dated October 7, 2016, that the model may not be compliant with the applicable energy conservation standard, and requested that its customer stop selling the model pending conduct of additional testing of the model; and

WHEREAS, Respondent self-reported to DOE via email on October 8, 2016, that, pending additional testing, the subject basic model may not comply with the applicable energy conservation standards; and

WHEREAS, Respondent represents that it no longer distributes units of the subject basic model;

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 are 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 \$56,660, as full satisfaction of the civil penalty proposed in the Notice, within thirty (30) calendar days of the issuance of an Adopting Order.
  - b. Respondent agrees to abide by the terms of the Notice of Noncompliance Determination, issued on January 6, 2017, captioned under case number 2017-SE-36001.
  - c. Respondent agrees to provide DOE with proof sufficient to show that Respondent regained possession of all units of the subject basic model that were not distributed to end users from Respondent's customers.
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 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 enforcement actions associated with case numbers 2017-SE-36001 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 for case 2017-SE-36001.
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 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 Notices associated with these cases, 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 will 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 constitutes a final settlement between the Parties. This Compromise Agreement resolves only issues addressed in the Compromise Agreement.
10. **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.
11. **Modifications.** This Compromise Agreement cannot be modified without the advance 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.

