

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

In the Matter of:

Precision Trading Corp.,
Respondent

)
)
)
)
)
)
)

Case Number: 2014-SEW-20005

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 Precision Trading Corp. (“Respondent”). The Compromise Agreement resolves the case initiated to pursue a civil penalty for the distribution in commerce in the U.S. of units of a basic model of covered product that failed to meet the energy and water conservation requirements as described at 10 C.F.R. § 430.32(g).

2. DOE and Respondent have negotiated the terms of the Compromise Agreement that resolve 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, 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 ORDER** that the Compromise Agreement attached to this Order is adopted.

/S/
Steven P. Croley
General Counsel

3/24/15
Date

II. RECITALS

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

WHEREAS, DOE has promulgated energy conservation standards for residential clothes washers at 10 C.F.R. § 430.32(g); and

WHEREAS, DOE, on December 4, 2014, issued a Notice of Noncompliance Determination with respect to the basic model that includes individual model (b) (4) (the “subject model”), distributed in commerce by Respondent; and

WHEREAS, residential clothes washers are a “covered product” as defined in 10 C.F.R. § 430.2; and

WHEREAS, DOE, on December 5, 2014, initiated an action to assess a civil penalty for Respondent’s distribution in commerce in the United States of the subject model; and

WHEREAS, DOE, on December 11, 2014, entered an agreement with the original equipment manufacturer of the subject model, (b) (4), as part of case number (b) (4), which, *inter alia*, included a commitment from DOE not to seek civil penalties from Respondent for distribution of units of the subject model;

WHEREAS, on January 14, 2015, the original equipment manufacturer paid the assessed civil penalty amount; and

WHEREAS, Respondent admits:

1. Respondent imported the subject model;
2. Respondent has distributed in commerce at least 108 units of the subject model as individual model PWMA231PM;
3. The subject model is a residential clothes washer subject to the conservation standard set forth at 10 C.F.R. § 430.32(g); and
4. The subject model does not meet the applicable energy and water conservation standard as set forth in 10 C.F.R. § 430.32(g); 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 knowingly distributes in commerce any new covered product that is not in conformity with an applicable energy or water conservation standard; and

WHEREAS, DOE, as the agency charged with developing and administering a balanced and coordinated national energy policy, concludes that, in light of the circumstances, this Compromise Agreement properly balances the policies recognized in the 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. **Obligations of Respondent.** Respondent agrees to abide by the terms of the Notice of Noncompliance Determination, issued on December 4, 2014, captioned under case number 2014-SEW-20005.
2. **Obligations of DOE.** 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 performance pursuant to Paragraph III.1 above in full satisfaction of the penalty authorized by the Act.
3. **Jurisdiction.** This Compromise Agreement is entered pursuant to DOE's authority to interpret and enforce its rules for energy efficiency 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.
4. **Effective Date.** The Parties agree that this Compromise Agreement shall become effective on the date on which the General Counsel issues the Adopting Order. Upon release, the Adopting Order and this Compromise Agreement shall 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 shall constitute a separate violation of an agency Order, entitling DOE to exercise any rights and remedies attendant to the enforcement of an Agency Order.
5. **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.
6. **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.
7. **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.
8. **Modifications.** This Compromise Agreement cannot be modified without the advance written consent of both Parties.
9. **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.

