date of the notice of ready for environmental analysis.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–10250 Filed 5–4–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL09–49–000]

The Connecticut Department of Public Utility Control and the Connecticut Office of Consumer Counsel, Complainants v. ISO New England Inc. and Unidentified Installed Capacity Resources Committed to Import Over the Northern New York AC Interface, Respondents; Notice of Complaint

April 28, 2009.

Take notice that on April 23, 2009, pursuant to section 206 of the Rules and Practice and Procedure, 18 CFR 385.206 (2009), sections 206, 222, and 309 of the Federal Power Act, 16 U.S.C. 824(e), 824(v) and 825(h) (2006), the Connecticut Department of Public Utility Control and the Connecticut Office of Consumer Counsel (collectively, the ''Connecticut Representatives''), filed a formal complaint against ISO New England Inc. (''ISO–NE'') and Unidentified Installed Capacity Resources Committed to Import over the Northern New York AC Interface (''NNY Capacity Resources'') seeking a Commission investigation and hearing into installed capacity resources who received capacity payments but never provided any capacity services when called upon.

Connecticut Representatives certify that copies of the complaint were served on the contacts for ISO–NE and New England Power Pool, Inc (''NEPOOL''), as a representative of the NNY Capacity Resources, as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on May 11, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–10253 Filed 5–4–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CAC–021]

Energy Conservation Program for Commercial Equipment: Publication of the Petition for Waiver From LG Electronics, Inc. and Granting of the Application for Interim Waiver From the Department of Energy Commercial Package Air Conditioner and Heat Pump Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of petition for waiver, granting of application for interim waiver, and request for comments.

SUMMARY: This notice announces receipt of and publishes a Petition for Waiver from LG Electronics, Inc. (LG). The Petition for Waiver (hereafter ''LG Petition'') requests a waiver from the Department of Energy (DOE) test procedure applicable to commercial package air-cooled central air conditioners and heat pumps. The waiver request is specific to the LG variable capacity Multi V (commercial) multi-split central air conditioners. Through this document, DOE is: (1) Soliciting comments, data, and information with respect to the LG Petition; and (2) announcing our determination to grant an Interim Waiver to LG from the applicable DOE test procedure for the subject commercial air-cooled, multi-split air conditioners and heat pumps.

DATES: DOE will accept comments, data, and information with respect to the LG Petition until, but no later than June 4, 2009.

ADDRESSES: You may submit comments, identified by case number ''CAC–021,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: AS_Waiver_Requests@ee.doe.gov.* Include either the case number [CAC–021], and/or ''LG Petition'' in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J/1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Please submit one signed original paper copy.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

Instructions: All submissions received must include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII)) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. Absent an electronic signature, comments submitted electronically must be followed and authenticated by submitting the signed original paper document. DOE does not accept telefacsimiles (faxes).

Any person submitting written comments must also send a copy of such comments to the petitioner, pursuant to 10 CFR 431.401(d). The contact information for the petitioner is: Mr. John I. Taylor, Vice President, Government Relations, LG Electronics USA, Inc., 1750 K Street, NW., Washington, DC 20006.

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure

should submit two copies: one copy of the document including all the information believed to be confidential, and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Docket: For access to the docket to review the background documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L'Enfant Plaza, SW., (Resource Room of the Building Technologies Program), Washington, DC, 20024; (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Available documents include the following items: (1) This notice; (2) public comments received; (3) the Petition for Waiver and Application for Interim Waiver; and (4) prior DOE rulemakings regarding similar central air conditioning and heat pump equipment. Please call Ms. Brenda Edwards at the above telephone number for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121. *Telephone:* (202) 586–9611. *E-mail: AS_Waiver_Requests@ee.doe.gov.*

Ms. Francine Pinto or Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0103. *Telephone:* (202) 586–9507. *E-mail: Francine.Pinto@hq.doe.gov* or *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency, including Part A of Title III, which establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' [1] (42 U.S.C. 6291–6309) Similar to the program in Part A, Part A–1 of Title III provides for an energy efficiency program titled, ''Certain Industrial Equipment,'' which includes commercial air conditioning equipment, package boilers, water heaters, and other types of commercial equipment.[2] (42 U.S.C. 6311–6317)

Today's notice involves commercial equipment under Part A–1. Part A–1 specifically includes definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316). With respect to test procedures, Part A–1 generally authorizes the Secretary of Energy (the Secretary) to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, and estimated annual operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

For commercial package air-conditioning and heating equipment, EPCA provides that ''the test procedures shall be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning and Refrigeration Institute [ARI] or by the American Society of Heating, Refrigerating and Air-Conditioning Engineers [ASHRAE], as referenced in ASHRAE/IES Standard 90.1 and in effect on June 30, 1992.'' (42 U.S.C. 6314(a)(4)(A)) Under 42 U.S.C. 6314(a)(4)(B), the statute further directs the Secretary to amend the test procedure for a covered commercial product if the industry test procedure is amended, unless the Secretary determines, based on clear and convincing evidence, that such a modified test procedure does not meet the statutory criteria set forth in 42 U.S.C. 6314(a)(2) and (3).

On December 8, 2006, DOE published a final rule adopting test procedures for commercial package air-conditioning and heating equipment, effective January 8, 2007. 71 FR 71340. DOE adopted ARI Standard 340/360–2004, ''Performance Rating of Commercial and Industrial Unitary Air-Conditioning and Heat Pump Equipment,'' for small and large commercial package air-cooled heat pumps with capacities ≥ 65,000 Btu/h and < 760,000 British thermal units per hour (Btu/h). *Id.* at 71371. Pursuant to this rulemaking, DOE's regulations at 10 CFR 431.95(b)(2) incorporate by reference ARI Standard 340/360–2004, and Table 1 to 10 CFR 431.96 directs manufacturers of commercial package air-cooled air conditioning and heating equipment to use the appropriate procedure when measuring energy efficiency of those products. (The cooling capacities of LG's commercial Multi V multi-split air conditioning products, which are at issue in the waiver petition filed by LG, range from 76,400 Btu/hr to 310,000 Btu/hr, thereby resulting in these products falling within the range of ARI Standard 340/360–2004, which covers products with capacities greater than 65,000 Btu/hour.)

DOE's regulations for covered products permit a person to seek a waiver from the test procedure requirements for covered commercial equipment if at least one of the following conditions is met: (1) The petitioner's basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures; or (2) the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. 10 CFR 431.401(a)(1). The waiver provisions for commercial equipment are found at 10 CFR 431.401 and are substantively identical to those for covered consumer products. Petitioners must include in their petition any alternate test procedures known to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 431.401(b)(1)(iii). The Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 431.401(f)(4). Waivers generally terminate on the effective date of a final rule, which prescribes amended test procedures appropriate to the model series manufactured by the petitioner, thereby eliminating any need for the continuation of the waiver. 10 CFR 431.401(g).

The waiver process also permits parties submitting a Petition for Waiver to file an Application for Interim Waiver of the applicable test procedure requirements. 10 CFR 431.401(a)(2). The Assistant Secretary will grant an Interim Waiver request if it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. 10 CFR 431.401(e)(3). An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever occurs first, and it

[1] This part was originally titled part B but it was redesignated as part A in the United States Code for editorial reasons.

[2] This part was originally titled Part C but it was redesignated as Part A–1 in the United States Code for editorial reasons.

may be extended by DOE for an additional 180 days, if necessary. 10 CFR 431.401(e)(4).

II. Petition for Waiver

On April 28, 2008, LG filed a Petition for Waiver from the test procedures at 10 CFR 431.96, which are applicable to commercial package air-cooled central air conditioners, and an Application for Interim Waiver. The capacities of the LG Multi V multi-split heat pumps range from 76,400 Btu/hr to 310,000 Btu/hr, making the applicable test procedure for LG's commercial Multi V Plus II and Multi V Sync II multi-split air conditioners ARI Standard 340/360–2004, which manufacturers are directed to use pursuant to Table 1 of 10 CFR 431.96.

LG seeks a waiver from the applicable test procedures under 10 CFR 431.96 on the grounds that its Multi V multi-split central air conditioners contain design characteristics that prevent testing according to the current DOE test procedures. Specifically, LG asserts that the two primary factors that prevent testing of multi-split variable speed products, regardless of manufacturer, are the same factors stated in the waivers that DOE granted to Mitsubishi Electric & Electronics USA, Inc. (Mitsubishi) for a similar line of commercial multi-split air-conditioning systems:

- Testing laboratories cannot test products with so many indoor units; and
- There are too many possible combinations of indoor and outdoor units to test. 69 FR 52661 (August 27, 2004) (Mitsubishi); 72 FR 17528 (April 9, 2007) (Mitsubishi); 72 FR 71383 (December 17, 2007) (Fujitsu); 72 FR 71387 (December 17, 2007) (Samsung).

The Multi V systems have operational characteristics similar to other commercial multi-split products manufactured by Mitsubishi, Samsung, Fujitsu and Daikin, all of which have already been granted waivers. Each of the Multi V system indoor units is designed to be used with up to 52 other indoor units, which need not be the same models. There are 70 different indoor models. In certain high-capacity applications, LG's Multi V systems have the capability to combine two outdoor units to create a larger capacity system. Accordingly, LG requests that DOE grant a waiver from the applicable test procedures for its Multi V product designs, until a suitable test method can be prescribed.

III. Application for Interim Waiver

On April 28, 2008, in addition to its Petition for Waiver, LG submitted to DOE an Application for Interim Waiver. LG's Application for Interim Waiver does not provide sufficient information to evaluate the level of economic hardship LG will likely experience if its Application for Interim Waiver is denied. However, in those instances where the likely success of the Petition for Waiver has been demonstrated, based upon DOE having granted a waiver for similar product designs, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis. DOE has previously granted Interim Waivers to Fujitsu (70 FR 5980 (Feb. 4, 2005)), Samsung (70 FR 9629 (Feb. 28, 2005)), Mitsubishi (72 FR 17533 (April 9, 2007)), and Daikin (72 FR 35986 (July 2, 2007)), for comparable commercial multi-split air conditioners and heat pumps.

Moreover, as noted above, DOE approved the Petitions for Waiver from Mitsubishi (72 FR 17528 (April 9, 2007)), Fujitsu (72 FR 71383 (Dec. 17, 2007)), Samsung (72 FR 71387 (Dec. 17, 2007)), and Daikin (73 FR 39680 (July 10, 2008)), for their comparable lines of multi-split air conditioners and heat pumps. The two principal reasons supporting the grant of these waivers also apply to LG's Multi V products: (1) Test laboratories cannot test products with so many indoor units; [3] and (2) it is impractical to test so many combinations of indoor units with each outdoor unit. Thus, DOE has determined that it is likely that LG's Petition for Waiver will be granted for its new Multi V multi-split models. Therefore, *it is ordered that:*

The Application for Interim Waiver filed by LG is hereby granted for LG's Multi V air-cooled multi-split central air conditioners, subject to the specifications and conditions below.

1. LG shall not be required to test or rate its Multi V commercial air-cooled multi-split products on the basis of the currently applicable test procedure under 10 CFR 431.96, which incorporates by reference ARI Standard 340/360–2004.

2. LG shall be required to test and rate its Multi V commercial air-cooled multi-split products according to the alternate test procedure as set forth in section IV(3), ''Alternate test procedure.''

The Interim Waiver applies to the following models:

Multi V Series Outdoor Units

Plus II 3Ø 460V 60 Hz models: ARUN076DT2, ARUN096DT2, ARUN115DT2, ARUN134DT2, ARUN154DT2, ARUN173DT2, ARUN192DT2, ARUN211DT2, ARUN230DT2, ARUN250DT2, ARUN270DT2, ARUN290DT2, and ARUN310DT2 with nominally rated cooling capacities of 76,400, 95,900, 114,700, 133,800, 152,900, 172,000, 191,100, 211,000, 230,000, 250,000, 270,000, 290,000, and 310,000 Btu/h respectively. The maximum number of connectable indoor units is 13, 16, 20, 23, 26, 29, 32, 35, 39, 42, 49, and 52 respectively.

Plus II 3Ø 230/208V 60 Hz models: ARUN076BT2, ARUN096BT2, ARUN115BT2, ARUN154BT2, ARUN173BT2, ARUN192BT2, ARUN211BT2, and ARUN230BT2 with nominally rated cooling capacities of 76,400, 95,900, 114,700, 152,900, 172,000, 191,100, 211,000, and 230,000 Btu/h respectively. The maximum number of connectable indoor units is 13, 16, 20, 26, 29, 32, 35, and 39 respectively.

Sync II 3Ø 230/208V 60 Hz models: ARUB076BT2, ARUB096BT2, ARUB115BT2, ARUB154BT2, ARUB173BT2, ARUB192BT2, ARUB211BT2, and ARUB230BT2 with nominally rated cooling capacities of 76,400, 95,900, 114,700, 152,900, 172,000, 191,000, 211,000, and 230,000 Btu/h respectively. The maximum number of connectable indoor units is 13, 16, 20, 26, 29, 32, 35, and 39 respectively.

Compatible Indoor Units for the Above-Listed Outdoor Units

Wall Mounted: ARNU073SEL2, ARNU093SEL2, ARNU123SEL2, ARNU153SEL2, ARNU183S5L2, and ARNU243S5L2 with nominally rated cooling capacities of 7,500, 9,600, 12,300, 15,400, 19,100, and 24,200 Btu/h respectively.

Art Cool Gallery: ARNU073SF*2, ARNU093SF*2, and ARNU123SF*2 with nominally rated cooling capacities of 7,500, 9,600, and 12,300 Btu/h respectively.

Art Cool Mirror: ARNU073SE*2, ARNU093SE*2, ARNU123SE*2, ARNU153SE*2, ARNU183S3*2, and ARNU243S3*2 with nominally rated cooling capacities of 7,500, 9,600, 12,300, 15,400, 19,100, and 24,200 Btu/h respectively.

4 Way Cassette: ARNU073TEC2, ARNU093TEC2, ARNU123TEC2, ARNU153TEC2, ARNU183TEC2, ARNU243TPC2, ARNU283TPC2, ARNU363TNC2, ARNU423TMC2, and

[3] According to the LG petition, up to 52 indoor units of its commercial package multi-split air conditioners may be connected in a single system. However, DOE believes that, based on communications with multi-split manufacturers and commercial testing laboratories, test room limitations at laboratory testing facilities make testing this number of indoor units extremely difficult.

ARNU483TMC2 with nominally rated cooling capacities of 7,500, 9,600, 12,300, 15,400, 19,100, 24,200, 28,000, 36,200, 42,000, and 48,100 Btu/h respectively.

2 Way Cassette: ARNU183TLC2 and ARNU243TLC2 with nominally rated capacities of 19,100 and 24,200 Btu/h respectively.

1 Way Cassette: ARNU073TJC2, ARNU093TJC2, and ARNU123TJC2 with nominally rated capacities of 7,500, 9,600, and 12,300 Btu/h respectively.

Ceiling Concealed Duct—Low Static: ARNU073B1G2, ARNU093B1G2, ARNU123B1G2, ARNU153B1G2, ARNU183B2G2, and ARNU243B2G2 with nominally rated capacities of 7,500, 9,600, 12,300, 15,400, 19,100, and 24,200 Btu/h respectively.

Ceiling Concealed Duct—Built-in: ARNU073B3G2, ARNU093B3G2, ARNU123B3G2, ARNU153B3G2, ARNU183B4G2, and ARNU243B4G2 with nominally rated capacities of 7,500, 9,600, 12,300, 15,400, 19,100, and 24,200 Btu/h respectively.

Ceiling Concealed Duct—High Static: ARNU073BHA2, ARNU093BHA2, ARNU123BHA2, ARNU153BHA2, ARNU183BHA2, ARNU243BHA2, ARNU283BGA2, ARNU363BGA2, ARNU423BGA2, ARNU483BRA2, URNU763B8A2, and URNU963B8A2 with nominally rated capacities of 7,500, 9,600, 12,300, 15,400, 19,100, 24,200, 28,000, 36,200, 42,000, 48,100, 76,400, and 95,500 Btu/h respectively.

Ceiling & Floor: ARNU093VEA2 and ARNU123VEA2 with nominally rated capacities of 9,600 and 12,300 Btu/h respectively.

Ceiling Suspended: ARNU183VJA2 and ARNU243VJA2 with nominally rated capacities of 19,100 and 24,200 Btu/h respectively.

Floor Standing with Case: ARNU073CEA2, ARNU093CEA2, ARNU123CEA2, ARNU153CEA2, ARNU183CFA2, and ARNU243CFA2 with nominally rated capacities of 7,500, 9,600, 12,300, 15,400, 19,100, and 24,200 Btu/h respectively.

Floor Standing without Case: ARNU073CEU2, ARNU093CEU2, ARNU123CEU2, ARNU153CEU2, ARNU183CFU2, and ARNU243CFU2 with nominally rated capacities of 7,500, 9,600, 12,300, 15,400, 19,100, and 24,200 Btu/h respectively.

This Interim Waiver is conditioned upon the presumed validity of statements, representations, and documents provided by the petitioner. DOE may revoke or modify this Interim Waiver at any time upon a determination that the factual basis underlying the Petition for Waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

IV. Alternate Test Procedure

Responding to two recent Petitions for Waiver from Mitsubishi, DOE specified an alternate test procedure to provide a basis from which Mitsubishi could test and make valid energy efficiency representations for its R410A CITY MULTI products, as well as for its R22 multi-split products. Alternate test procedures related to the Mitsubishi petitions were published in the **Federal Register** on April 9, 2007. See 72 FR 17528 and 72 FR 17533. For reasons similar to those published in these prior notices, DOE believes that an alternate test procedure is needed in this instance.

In general, DOE understands that existing testing facilities have a limited ability to test multiple indoor units simultaneously, and the large number of possible combinations of indoor and outdoor units for some variable refrigerant flow zoned systems makes it impractical for manufacturers to test. We further note that subsequent to the waiver that DOE granted for Mitsubishi's R22 multi-split products, ARI formed a committee to discuss the issue and to work on developing an appropriate testing protocol for variable refrigerant flow systems. However, to date, no additional test methodologies have been adopted by the committee or submitted to DOE.

Therefore, as discussed below, as a condition for granting this Interim Waiver to LG, DOE is including an alternate test procedure similar to those granted to Mitsubishi for its R22 and R410A products. DOE plans to consider the same alternate test procedure in the context of the subsequent Decision and Order pertaining to LG's Petition for Waiver. Utilization of this alternate test procedure will allow LG to test and make energy efficiency representations for its Multi V products. More broadly, DOE is also applying a similar alternate test procedure to other waivers for similar residential and commercial central air conditioners and heat pumps. Such cases include petitions for waiver involving multi-split products manufactured by Samsung (72 FR 71387 (Dec. 17, 2007)), Fujitsu (72 FR 71383 (Dec. 17, 2007)), and Daikin (73 FR 39680 (July 10, 2008)).

The alternate test procedure developed in conjunction with the Mitsubishi waiver has two basic components. First, it permits LG to designate a ''tested combination'' for each model of outdoor unit. The indoor units designated as part of the tested combination must meet specific requirements. For example, the tested combination must have from two to eight indoor units so that it can be tested in available test facilities.[4] The tested combination must be tested according to the applicable DOE test procedure, as modified by the provisions of the alternate test procedure as set forth below.

Second, DOE believes that an alternate test procedure is needed so that manufacturers of such products can make valid and consistent representations of energy efficiency for their air-conditioning and heat pump products. In the present case, DOE is modifying the alternate test procedure taken from the above-referenced waiver granted to Mitsubishi for its R410A and R22 CITY MULTI products. DOE plans to consider inclusion of the following waiver language in the Decision and Order for LG's Multi V commercial multi-split air-cooled heat pump models:

(1) The ''Petition for Waiver'' filed by LG Electronics, Inc. is hereby granted as set forth in the paragraphs below.

(2) LG shall not be required to test or rate its Multi V variable capacity multi-split heat pump products listed above in section III, on the basis of the currently applicable test procedures, but shall be required to test and rate such products according to the alternate test procedure as set forth in paragraph (3).

(3) *Alternate test procedure.*

(A) LG shall be required to test the products listed in section III above according to the test procedures for central air conditioners and heat pumps prescribed by DOE at 10 CFR 431.96, except that LG shall test a ''tested combination'' selected in accordance with the provisions of subparagraph (B) of this paragraph. For every other system combination using the same outdoor unit as the tested combination, LG shall make representations concerning the Multi V products covered in this waiver according to the provisions of subparagraph (C) below.

(B) Tested combination. The term ''tested combination'' means a sample basic model comprised of units that are production units, or are representative of production units, of the basic model being tested. For the purposes of this

[4] The ''tested combination'' was originally defined to consist of one outdoor unit matched with between 2 and 5 indoor units. The maximum number of indoor units in a tested combination is increased in this instance from 5 to 8 to account for the fact that these larger-capacity products can accommodate a greater number of indoor units.

waiver, the tested combination shall have the following features:

(1) The basic model of a variable refrigerant flow system used as a tested combination shall consist of one outdoor unit, with one or more compressors, that is matched with between 2 and 8 indoor units; for multi-split systems, each of these indoor units shall be designed for individual operation.

(2) The indoor units shall—

(i) Represent the highest sales model family, or another indoor model family if the highest sales model family does not provide sufficient capacity (see ii);

(ii) Together, have a nominal cooling capacity that is between 95% and 105% of the nominal cooling capacity of the outdoor unit;

(iii) Not, individually, have a nominal cooling capacity that is greater than 50% of the nominal cooling capacity of the outdoor unit;

(iv) Operate at fan speeds that are consistent with the manufacturer's specifications; and

(v) All be subject to the same minimum external static pressure requirement while being configurable to produce the same static pressure at the exit of each outlet plenum when manifolded as per section 2.4.1 of 10 CFR Part 430, Subpart B, Appendix M.

(C) *Representations.* In making representations about the energy efficiency of its Multi V variable capacity air-cooled multi-split heat pump and heat recovery system products, for compliance, marketing, or other purposes, LG must fairly disclose the results of testing under the DOE test procedure, doing so in a manner consistent with the provisions outlined below:

(1) For Multi V combinations tested in accordance with this alternate test procedure, LG may make representations based on these test results.

(2) For Multi V combinations that are not tested, LG may make representations based on the testing results for the tested combination and which is consistent with either of the two following methods, except that only method (i) may be used, if available:

(i) Representation of non-tested combinations according to an Alternative Rating Method (ARM) approved by DOE; or

(ii) Representation of non-tested combinations at the same energy efficiency level as the tested combination with the same outdoor unit.

V. Summary and Request for Comments

Through today's notice, DOE announces receipt of the LG Petition for Waiver from the test procedures applicable to LG's Multi V commercial multi-split heat pump products, and for the reasons articulated above, DOE is granting LG an Interim Waiver from those procedures. As part of this notice, DOE is publishing LG's Petition for Waiver in its entirety. The Petition contains no confidential information. Furthermore, today's notice includes an alternate test procedure that LG is required to follow as a condition of its Interim Waiver and that DOE is considering including in its subsequent Decision and Order. In this alternate test procedure, DOE is defining a ''tested combination'' which LG could use in lieu of testing all retail combinations of its Multi V multi-split heat pump products.

Furthermore, should a subsequent manufacturer be unable to test all retail combinations, DOE is considering allowing such manufacturers to rate waived products according to an ARM approved by DOE, or to rate waived products in the same manner as the specified tested combination with the same outdoor unit. DOE is also considering applying a similar alternate test procedure to other comparable Petitions for Waiver for residential and commercial central air conditioners and heat pumps. Such cases include Daikin's Petition for Waiver for its Variable Refrigerant Volume (VRV) products at 72 FR 35986 (July 2, 2007), and Mitsubishi's Petition for Waiver for its water source variable refrigerant flow products at 72 FR 17533 (April 9, 2007).

DOE is interested in receiving comments on the issues addressed in this notice. Pursuant to 10 CFR 431.401(d), any person submitting written comments must also send a copy of such comments to the petitioner, whose contact information is included in the section entitled **ADDRESSES** section above.

Issued in Washington, DC, on April 21, 2009.

Steven G. Chalk,

Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

April 28, 2008

The Honorable Alexander A. Karsner,
Assistant Secretary, Energy Efficiency and Renewable Energy,
United States Department of Energy,
Forrestal Building,
1000 Independence Avenue, SW.,
Washington, DC 20585.

Re: Petition for Waiver and Application for Interim Waiver, *LG Electronics Multi V Multi-Split Air Conditioning Systems*

Dear Mr. Karsner: LG Electronics, Inc. (LG) respectfully submits this Petition for Waiver and Application for Interim Waiver, pursuant to 10 CFR 431.401, for LG Multi V multi-split air conditioning systems, specifically Multi V Plus II and Multi V Sync II systems.[1]

Among other things, the applicable test procedure does not provide a method for testing and rating a system that utilizes so many indoor units; the applicable test procedure does not provide a method for rating systems where the type and capacity of the indoor unit can be mixed in the same system; and no testing laboratories can test products with so many indoor units.

Waiver relief has been granted for many other comparable commercial multi-splits, including Mitsubishi, Samsung, Fujitsu, Sanyo Fisher, and Daikin. *See* 69 FR 52660 (Aug. 27, 2004) (Mitsubishi); 71 FR 14858 (March 24, 2006) (Mitsubishi); 72 FR 17528 (April 9, 2007) (Mitsubishi); 70 FR 9629 (Feb. 28, 2005) (Samsung); 72 FR 71387 (Dec. 17, 2007) (Samsung); 72 FR 71383 (Dec. 17, 2007 (Fujitsu); 73 FR 179 (Jan. 2, 2008) (Sanyo Fisher); 73 FR 1207, 1213 (Jan. 7, 2008) (Daikin).

LG is a manufacturer of digital appliances, as well as mobile communications, digital displays, and digital media products. Its appliances include air-conditioners, washing machines, clothes dryers, refrigerators, refrigerator-freezers, air cleaners, ovens, microwave ovens, dishwashers, and vacuum cleaners and are sold worldwide, including in the United States. LG's U.S. operations are LG Electronics USA, Inc., with headquarters at 1000 Sylvan Avenue, Englewood Cliffs, NJ 07632 (tel. 201–816–2000). Its worldwide headquarters are located at LG Twin Towers 20, Yoido-dong, Youngdungpo-gu Seoul, Korea 150–721 (tel. 011–82–2–3777–1114) URL: *http.www.LGE.com.* LG's principal brands include LG® and OEM brands, including GE® and Kenmore®. LG's appliances are produced in Korea and Mexico.

LG's Multi V systems are beneficial products, each consisting of a single outdoor unit, using a scroll type inverter compressor with variable capacity, that can connect to multiple indoor units and that uses variable refrigerant flow and control systems. (In certain high capacity applications [152,900 Btu/h and above], a consumer can choose between a system using a single outdoor unit and a system using two outdoor units.) These multi-splits are intended to be used in zoning systems where an outdoor unit can be connected with up to between 13 and 52 separate indoor units in a zoned system, which need not be the same models. The operating characteristics allow each indoor unit to have a different set temperature and a different mode of operation (*i.e.,* on/off/fan). All of the indoor units are capable of operating independently, with their own temperature and fan speed setting. Based on those controls, the outdoor unit will then determine the cooling or heating capacity delivered into the zones. The system therefore offers great flexibility and

[1] This request is a revision of the request dated April 16, 2008. It adds some outdoor models and changes certain model numbers.

convenience to the consumer, permitting precise space conditioning control throughout the building, and thus saving energy. The cooling capacities of the systems are between 76,400 and 310,000 Btu/h. There are 29 outdoor units and 70 indoor units. Model numbers and related descriptions are set forth in Appendix A.

The variable speed, constant speed or dual compressors and the associated system controls can direct refrigerant flow throughout the system to precisely meet the various heating or cooling loads required in the conditioned areas. The compressor is capable of reducing its operating capacity to as little as 10 percent of its rated capacity. The outdoor fan motor also has a variable speed drive to properly match the outdoor coil to indoor loads. Zone diversity enables the system to have a total connected indoor unit capacity of up to 130 percent of the capacity of the outdoor unit.

As discussed above, up to between 13 and 52 indoor units can be matched with each related outdoor unit. Thus, for each outdoor unit there is a multitude of possible combinations of indoor units that can be matched in a system configuration. And since there are 29 outdoor units and 70 indoor units, there is an enormous total of possible combinations.

A waiver and interim waiver for LG Multi V systems are warranted because test procedures under the Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6291 *et seq.,* namely 10 CFR 431.96, evaluate the basic models in a manner so unrepresentative of their true energy consumption characteristics as to provide materially inaccurate comparative data, and/or the basic models contain one or more design characteristics that prevent testing of the basic model according to the prescribed test procedures. In such circumstances DOE ''will grant'' waiver relief. 10 CFR 431.401(e)(3), (f)(4). In that regard:

—The test procedure provides for testing of a pair of indoor and outdoor assemblies making up a typical split system, but does not specify how LG Multi V systems, with so many combinations of indoor units for each outdoor unit, could be evaluated. The situation is further complicated by the fact that there are 29 outdoor units. It is not practical to test each possible combination, and the test procedure provides no alternative rating method for generating efficiency ratings for systems with more than one indoor unit. Thus, the test procedure does not contemplate, and cannot practically be applied to, LG Multi V systems.

—Testing laboratories cannot test products with so many indoor units. In that regard, the testing of multi-splits when all indoor units are connected cannot be physically located in a single room.

—The test procedure provides for testing ''matched assemblies,'' which does not apply to LG Multi V systems. Indoor and outdoor coils in split systems are typically balanced; that is, the capacity of the outdoor coil is equivalent to the capacity of the indoor coil. The test procedure's application to ''matched assemblies'' contemplates such a balance between indoor and outdoor coil capacity. With the Multi V systems, however, the sum of the capacity of the indoor units connected into the system can be as much as 130 percent of the capacity of the outdoor coil. Such unbalanced combinations of LG indoor and outdoor units are permitted by the zoning characteristics of the system, the use of electronic expansion valves to precisely control refrigerant flow to each indoor coil, and the system intelligence for overall system control. The test procedure designed for ''matched assemblies'' therefore does not contemplate or address testing for substantially unbalanced zoning systems such as the LG Multi V systems.

—The indoor units are designed to operate at many different external static pressure values, which compounds the difficulty of testing LG Multi V systems. A test facility could not maintain proper airflow at several different external static pressure values for the many indoor units that would be connected to the outdoor unit.

* * *

For all of these reasons, the existing test procedures evaluate the LG Multi V systems in a manner so unrepresentative of their true energy consumption characteristics as to provide materially inaccurate comparative data and/or the basic models contain one or more design characteristics that prevent testing of the basic model according to the prescribed test procedures. Therefore, DOE should grant a waiver for LG Multi V systems. *See* 10 CFR 431.401(a)(1). The waiver should continue until a test procedure can be developed and adopted that will provide the U.S. market with a fair and accurate assessment of the LG Multi V system energy consumption and efficiency levels. LG intends to work with DOE, stakeholders, and the Air-Conditioning and Refrigeration Institute (ARI) to develop the appropriate test procedure.

There are no alternative test procedures known to LG that could evaluate these products in a representative manner (other than perhaps the procedures provided by DOE in its waiver decisions for comparable products).

That a waiver is warranted is borne out by the fact that DOE has granted waiver relief to Mitsubishi, Samsung, Fujitsu, Sanyo Fisher, and Daikin for comparable commercial multi-splits.

Manufacturers of all other basic models marketed in the United States and known to LG to incorporate similar design characteristics as found in the LG Multi V systems include Mitsubishi Electric and Electronics USA, Mitsubishi Heavy Industries Climate Control, Inc., Samsung Air Conditioning, Fujitsu General Limited, Sanyo Fisher (USA) Corp., and Daikin AC (Americas), Inc.

LG also requests immediate relief by grant of an interim waiver. Grant of an interim waiver is fully justified:

—The petition for waiver is likely to be granted, as evidenced not only by its merits, but also because DOE has already granted waiver relief to Mitsubishi, Samsung, Fujitsu, Sanyo Fisher, and Daikin for their commercial multi-splits. In such instances, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

—Without waiver relief, LG will be at a competitive disadvantage in the market and suffer economic hardship. LG would be placed in an untenable situation: the Multi V systems would be subject to a set of regulations that DOE already acknowledges should not apply to such a product, while at the same time other manufacturers are allowed to operate relieved from such regulations.

—Significant investment has already been made in LG Multi V systems. Lack of relief would not allow LG to recoup this investment and would deny LG anticipated sales revenue. This does not take into account significant losses in goodwill and brand acceptance.

—The basic purpose of EPCA is to foster purchase of energy-efficient products, not hinder such purchases. LG Multi V systems produce a benefit to consumers and are in the public interest. To encourage and foster the availability of these products is in the public interest. Standards programs should not be used as a means to block innovative, improved designs.[2] DOE's rules should accommodate and encourage—not act to block—such a product.

—Granting the interim waiver and waiver would also eliminate a non-tariff trade barrier.

—Grant of relief would also help enhance economic development and employment, including not only LG Electronics USA's operations in New Jersey, Illinois and Alabama, but also at major national retailers and regional dealers that carry LG products. Furthermore, continued employment creation and ongoing investments in its marketing, sales and servicing activities will be fostered by approval of the interim waiver. Conversely, denial of the requested relief would harm the company and would be anticompetitive.

Conclusion

LG respectfully requests that DOE grant a waiver and interim waiver from existing test standards for LG Multi V multi-split systems until such time as a representative test procedure is developed and adopted for such products.

We would be pleased to discuss this request with DOE and provide further information as needed.

We hereby certify that all manufacturers of domestically marketed units of the same product type have been notified by letter of this petition and application, copies of which letters are attached (Appendix B).

Sincerely,

John I. Taylor
Vice President, Government Relations
LG Electronics USA, Inc.
1750 K Street, NW.
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Of counsel:

John A. Hodges
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[2] *See* FTC Advisory Opinion No. 457, TRRP 1718.20 (1971 Transfer Binder); 49 FR 32213 (Aug. 13, 1984); 52 FR 49141, 49147–48 (Dec. 30, 1987).

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Appendix A

Multi V Series Outdoor Units

Plus II 3O 460V 60 Hz models: ARUN076DT2, ARUN096DT2, ARUN115DT2, ARUN134DT2, ARUN154DT2, ARUN173DT2, ARUN192DT2, ARUN211DT2, ARUN230DT2, ARUN250DT2, ARUN270DT2, ARUN290DT2, and ARUN310DT2 with nominally rated cooling capacities of 76,400, 95,900, 114,700, 133,800, 152,900, 172,000, 191,100, 211,000, 230,000, 250,000, 270,000, 290,000, and 310,000 Btu/h respectively. The maximum number of connectable indoor units is 13, 16, 20, 23, 26, 29, 32, 35, 39, 42, 49, and 52 respectively.

Plus II 3O 230/208V 60 Hz models: ARUN076BT2, ARUN096BT2, ARUN115BT2, ARUN154BT2, ARUN173BT2, ARUN192BT2, ARUN211BT2, and ARUN230BT2 with nominally rated cooling capacities of 76,400, 95,900, 114,700, 152,900, 172,000, 191,100, 211,000, and 230,000 Btu/h respectively. The maximum number of connectable indoor units is 13, 16, 20, 26, 29, 32, 35, and 39 respectively.

Sync II 3O 230/208V 60 Hz models: ARUB076BT2, ARUB096BT2, ARUB115BT2, ARUB154BT2, ARUB173BT2, ARUB192BT2, ARUB211BT2, and ARUB230BT2 with nominally rated cooling capacities of 76,400, 95,900, 114,700, 152,900, 172,000, 191,000, 211,000, and 230,000 Btu/h respectively. The maximum number of connectable indoor units is 13, 16, 20, 26, 29, 32, 35, and 39 respectively.

Compatible Indoor Units for the Above-Listed Outdoor Units

Wall Mounted: ARNU073SEL2, ARNU093SEL2, ARNU123SEL2, ARNU153SEL2, ARNU183S5L2, and ARNU243S5L2 with nominally rated cooling capacities of 7,500, 9,600, 12,300, 15,400, 19,100, and 24,200 Btu/h respectively.

Art Cool Gallery: ARNU073SF*2, ARNU093SF*2, and ARNU123SF*2 with nominally rated cooling capacities of 7,500, 9,600, and 12,300 Btu/h respectively.

Art Cool Mirror: ARNU073SE*2, ARNU093SE*2, ARNU123SE*2, ARNU153SE*2, ARNU183S3*2, and ARNU243S3*2 with nominally rated cooling capacities of 7,500, 9,600, 12,300, 15,400, 19,100, and 24,200 Btu/h respectively.

4 Way Cassette: ARNU073TEC2, ARNU093TEC2, ARNU123TEC2, ARNU153TEC2, ARNU183TEC2, ARNU243TPC2, ARNU283TPC2, ARNU363TNC2, ARNU423TMC2, and ARNU483TMC2 with nominally rated cooling capacities of 7,500, 9,600, 12,300, 15,400, 19,100, 24,200, 28,000, 36,200, 42,000, and 48,100 Btu/h respectively.

2 Way Cassette: ARNU183TLC2 and ARNU243TLC2 with nominally rated capacities of 19,100 and 24,200 Btu/h respectively.

1 Way Cassette: ARNU073TJC2, ARNU093TJC2, and ARNU123TJC2 with nominally rated capacities of 7,500, 9,600, and 12,300 Btu/h respectively.

Ceiling Concealed Duct—Low Static: ARNU073B1G2, ARNU093B1G2, ARNU123B1G2, ARNU153B1G2, ARNU183B2G2, and ARNU243B2G2 with nominally rated capacities of 7,500, 9,600, 12,300, 15,400, 19,100, and 24,200 Btu/h respectively.

Ceiling Concealed Duct—Built-in: ARNU073B3G2, ARNU093B3G2, ARNU123B3G2, ARNU153B3G2, ARNU183B4G2, and ARNU243B4G2 with nominally rated capacities of 7,500, 9,600, 12,300, 15,400, 19,100, and 24,200 Btu/h respectively.

Ceiling Concealed Duct—High Static: ARNU073BHA2, ARNU093BHA2, ARNU123BHA2, ARNU153BHA2, ARNU183BHA2, ARNU243BHA2, ARNU283BGA2, ARNU363BGA2, ARNU423BGA2, ARNU483BRA2, URNU763B8A2, and URNU963B8A2 with nominally rated capacities of 7,500, 9,600, 12,300, 15,400, 19,100, 24,200, 28,000, 36,200, 42,000, 48,100, 76,400, and 95,500 Btu/h respectively.

Ceiling & Floor: ARNU093VEA2 and ARNU123VEA2 with nominally rated capacities of 9,600 and 12,300 Btu/h respectively.

Ceiling Suspended: ARNU183VJA2 and ARNU243VJA2 with nominally rated capacities of 19,100 and 24,200 Btu/h respectively.

Floor Standing with Case: ARNU073CEA2, ARNU093CEA2, ARNU123CEA2, ARNU153CEA2, ARNU183CFA2, and ARNU243CFA2 with nominally rated capacities of 7,500, 9,600, 12,300, 15,400, 19,100, and 24,200 Btu/h respectively.

Floor Standing without Case: ARNU073CEU2, ARNU093CEU2, ARNU123CEU2, ARNU153CEU2, ARNU183CFU2, and ARNU243CFU2 with nominally rated capacities of 7,500, 9,600, 12,300, 15,400, 19,100, and 24,200 Btu/h respectively.

Appendix B

Certification

This is to certify that LG Electronics, Inc. has sent by next day delivery a copy of its petition for waiver and application for interim waiver for LG Multi V multi-split air conditioning systems, known to LG, of domestically marketed units of the same product type (as listed the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6311). The cover letter to each person states that the person may submit comments to DOE.

Attached are the names and addresses of each person to whom a copy of the petition and waiver was sent by next day delivery.

Certified by:

John I. Taylor,
Vice President, Government Relations,
LG Electronics USA, Inc.,
1750 K Street, NW.,
Washington, DC 20006,
Phone: 202–719–3490,
Fax: 847–941–8177,
E-mail: jtaylor@lge.com

Date: April 28, 2008

April 28, 2008
To Whom It May Concern:
Re: *LG Electronics, Inc. Petition for Waiver and Application for Interim Waiver; Opportunity for Comment*

This is to notify you by next day delivery of LG Electronics Inc.'s enclosed Petition for Waiver and Application for Interim Waiver of the United States Department of Energy (DOE) regulations on energy conservation test procedures. In accordance with DOE rules, we are also advising you of your opportunity to comment to DOE. The Assistant Secretary for Conservation and Renewable Energy will consider timely written comments.

Comments are to be submitted to: Assistant Secretary for Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0107

Pursuant to DOE's rules, please provide us with a copy of any comments.

Sincerely,

John I. Taylor,
Vice President, Government Relations,
LG Electronics USA, Inc.,
1750 K Street, NW.,
Washington, DC 20006,
Phone: 202–719–3490,
Fax: 847–941–8177,
E-mail: jtaylor@lge.com

Daikin AC (Americas), Inc., 1645 Wallace Drive, Suite 110, Carrollton, TX 75006, *Attn:* Yoshinobu Inoue, President

Fujitsu General America, Inc., 353 Route 46 West, Fairfield, NJ 07004, *Attn:* Roy Kuczera, Senior Vice President of HVAC Sales, and Arturo Thur De Koos, Engineering & Technical Support

Mitsubishi Electric & Electronics USA, Inc., 4300 Lawrenceville-Suwanee Road, Suwanee, GA 30024, *Attn:* S. William Rau, Senior Vice President and General Manager, HVAC Advanced Products Division

Mitsubishi Heavy Industries Climate Control Inc., 3030 E. Victoria Street, Rancho Dominguez, CA 90221, *Attn:* Caesar Ceballos, Technical Support Manager

Samsung Air Conditioning, Samsung Electronics Products, LTD., 2865 Pellissier Pl., Whittier, CA 90601, *Attn:* John Miles, Director, Engineering & Technical Support

Sanyo Fisher (USA) Corp., 1690 Roberts Blvd., Suite 110, Kennesaw, GA 30144, *Attn:* Gary Nettinger, Vice President, Technical and Service

Air-Conditioning and Refrigeration Institute, 4100 North Fairfax Drive, Suite 200, Arlington, VA 22203, *Attn:* Stephen R. Yurek, Esq., President

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