

DEPARTMENT OF ENERGY**Office of Energy Efficiency and Renewable Energy**

[Docket Number: EERE-2016-BT-WAV-0001; Case No. RF-043]

Notice of Interim Waiver and Request for Waiver From Panasonic Appliances Refrigeration Systems Corporation of America Corporation (PAPRSA) From the Department of Energy Refrigerator and Refrigerator-Freezer Test Procedures

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

ACTION: Notice of Granting of Interim Waiver; Notice of Request for Waiver; Request for Public Comment.

SUMMARY: This notice announces receipt of a request for an extension to hybrid basic model PR6180WBC of a previously granted waiver and for an interim waiver from Panasonic Appliances Refrigeration Systems Corporation of America (Case No. RF-043) with respect to the U.S. Department of Energy's electric refrigerator and refrigerator-freezer test procedures. Panasonic seeks to apply the alternative test procedure for measuring the energy usage of similar hybrid wine chiller/beverage center basic models, which DOE required in response to prior waiver requests. Because of an error discovered in the equation used to calculate the energy usage of these products, DOE has rescinded the prior waivers and is proposing to correct this equation to ensure the accuracy of the calculations provided under the alternative test procedure. DOE solicits comments on its proposed modifications to correct the procedure contained in prior waivers issued to PAPRSA. DOE has issued an interim waiver for hybrid basic model PR6180WBC and all other PAPRSA hybrid basic models previously subject to a waiver.

DATES: DOE will accept comments, data, and information with regard to the proposed modification until February 25, 2016.

ADDRESSES: You may submit comments, identified by Case Number RF-043, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* AS_Waiver_Requests@ee.doe.gov Include "Case No. RF-043" in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-5B/

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., Room 6094, Washington, DC 20024. Please submit one signed original paper copy.

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., Washington, DC 20024; (202) 586-2945, between 9:00 a.m. and 4:00 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 waivers and rulemakings regarding similar clothes washer products. Please call Ms. Brenda Edwards at the above telephone number for additional information.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mailstop EE-5B, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-0371. Email: Bryan.Berringer@ee.doe.gov.

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-33, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585-0103. Telephone: (202) 586-8145. Email: Michael.Kido@hq.doe.gov.

SUPPLEMENTARY INFORMATION: In a petition dated August 21, 2015, Panasonic Appliances Refrigeration Systems Corporation of America ("PAPRSA") requested that the U.S. Department of Energy ("DOE") permit PAPRSA to extend the use of an alternative test procedure to a new basic model. PAPRSA also sought an interim waiver to apply this alternative test procedure immediately. The basic model at issue is a hybrid wine chiller/beverage center model that employs technology and design characteristics that prevent the testing of this basic model according to the applicable test procedure found in 10 CFR part 430, subpart B, appendix A. During the course of a negotiated rulemaking that DOE conducted under the auspices of the Appliance Standards Rulemaking Advisory Committee ("ASRAC"), DOE discovered that the alternative test procedure relied on by PAPRSA contained an error in one of the equations used to calculate the energy usage of hybrid products. See 80 FR

17355 (April 1, 2015) (announcing DOE's intention to form a working group to discuss and negotiate potential energy conservation standards for miscellaneous refrigeration products). In accordance with 10 CFR 430.27(k), DOE gives notice of its proposed modification of the prior waivers as set forth below. DOE issued an interim waiver and seeks comment on a waiver that would apply to the new basic model and the basic models covered by the prior waivers.

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94-163 (42 U.S.C. 6291-6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the electric refrigerators and refrigerator-freezers that are the focus of this notice.¹ Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for electric refrigerators and refrigerator-freezers is set forth in 10 CFR part 430, subpart B, appendix A.

DOE's regulations allow a person to seek a waiver from the test procedure requirements for a particular basic model of a type of covered consumer product when (1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics.

The granting of a waiver is subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2). As soon as practicable after the granting of any waiver, DOE will

¹ For editorial reasons, Part B of EPCA was codified as Part A in the U.S. Code.

publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule. 10 CFR 430.27(l). The waiver process also allows the granting of an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures upon a finding that it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(e). Within one year of issuance of an interim waiver, DOE will either: (i) Publish in the **Federal Register** a determination on the petition for waiver; or (ii) Publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver. 10 CFR 430.27(h)(1).

A petitioner may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition. DOE will publish any such extension in the **Federal Register**. 10 CFR 430.27(g).

II. PAPRSA's Extension of Waiver Request: Assertions and Determinations

On August 21, 2015, PAPRSA requested an extension of its previous waivers (Case Nos. RF-022, RF-031 and RF-041) ("2015 waiver request") under 10 CFR 430.27(g) to its hybrid wine chiller/beverage center basic model, PR6180WBC, with respect to appendix A to subpart B of 10 CFR part 430 (appendix A). PAPRSA, similar to its prior waiver requests, seeks to use a modified version of the test procedure that would specify the use of a higher fresh food compartment temperature during testing. DOE is publishing at the end of this notice PAPRSA's request in its entirety.

DOE granted a waiver, similar to that requested in PAPRSA's 2015 waiver request, to Sanyo E&E Corporation (Sanyo)² in a Decision and Order (77 FR 49443 (August 16, 2012)) under Case No. RF-022. On October 4, 2012, DOE issued a notice of correction to the Decision and Order incorporating a K factor (correction factor) value of 0.85 when calculating the energy consumption (77 FR 60688) ("the 2012 waiver"). DOE granted another waiver

to PAPRSA for an additional basic model in a Decision and Order (78 FR 57139 (September 17, 2013)) under Case No. RF-031 ("the 2013 waiver"). These two waivers required testing under the now-obsolete Appendix A1 but with modifications. DOE later granted a waiver (79 FR 55769 (September 17, 2014)) to PAPRSA for another basic model under Case No. RF-041 ("the 2014 waiver"); this waiver required testing under Appendix A with modifications.

In its original petition, PAPRSA sought a waiver from the DOE test procedure applicable to refrigerators and refrigerator-freezers under 10 CFR part 430 for PAPRSA's hybrid models that consist of single-cabinet units with a refrigerated beverage compartment (*i.e.*, a "fresh food compartment") in the top portion and a wine storage compartment (*i.e.*, a "chiller compartment") in the bottom of the units.³ DOE had issued guidance that specified that basic models such as the ones PAPRSA identified in its petition, which do not have a separate chiller compartment with a separate exterior door, are to be tested according to the current DOE test procedure (at that time, appendix A1) with the temperatures specified therein. PAPRSA asserted that the chiller compartment could not be tested at the prescribed temperature because the minimum compartment temperature is 45 °F. PAPRSA submitted an alternate test procedure to account for the energy consumption of its wine chiller/beverage centers. As requested, that alternate procedure would test the chiller compartment at 55 °F, instead of the prescribed 38 °F. To justify the use of this standardized temperature for testing, PAPRSA stated in its petition that it designed these models to provide an average temperature of 55 to 57 °F, which it determined is a commonly recommended temperature for wine storage, suggesting that this temperature is presumed to be representative of

³ In this notice and in the Order, DOE uses the term "fresh food compartment" to refer to a compartment of a refrigerator that can be tested at the test temperature specified in 10 CFR part 430, subpart B, Appendix A. DOE uses the term "chiller compartment" to refer to a compartment of a refrigerator that cannot be tested at the test temperature specified in 10 CFR part 430, subpart B, Appendix A. Although these terms were recommended by the Miscellaneous Refrigeration Products Working Group to apply to a new product type, miscellaneous refrigeration products, DOE believes that it would be beneficial to adopt terminology in this Case that parallels that negotiated by a wide range of interested parties in the Miscellaneous Refrigeration Products Working Group. For more information, see the docket at <http://www.regulations.gov/#/docketDetail;D=EERE-2011-BT-STD-0043>.

expected consumer use, 77 FR 19656. In granting the petition, DOE noted that the test procedures for wine chillers adopted by the Association of Home Appliance Manufacturers (AHAM), California Energy Commission (CEC), and Natural Resources Canada all use a standardized compartment temperature of 55 °F for wine chiller compartments, which is consistent with PAPRSA's approach.

DOE, however, recently became aware of a typographical error regarding one aspect of the equations in the 2012 waiver, the 2013 waiver, and the 2014 waiver, to be used when calculating the energy usage of a unit under test. The equation at issue—which addresses the energy use of the fresh food compartment and that DOE had previously prescribed for use as part of the calculation detailed in section 6.2.2.2 of appendix A—did not apply the specified correction factor (0.85) to the equation as intended. The equations in the waivers were as follows:

Energy consumption of the wine compartment:

$$EWine = ET1 + [(ET2 - ET1) \times (55 \text{ °F} - TW1)/(TW2 - TW1)] * 0.85$$

Energy consumption of the refrigerated beverage compartment:

$$EBeverage \text{ Compartment} = ET1 + [(ET2 - ET1) \times (39 \text{ °F} - TBC1)/(TBC2 - TBC1)]$$

Section 6.2.2.2 of appendix A requires that the average per-cycle energy consumption be calculated based on the higher of the two separate compartment calculations. With the 0.85 K factor applied only to the chiller compartment calculation as detailed in PAPRSA's current waiver request, the fresh food compartment would result in the higher per-cycle energy consumption for nearly all test units and the final energy use calculation would not incorporate the 0.85 K factor. The 0.85 K factor should have also been included to similar calculations of energy consumption in sections 6.2.2.1 and 6.2.2.3 of appendix A. In addition, for consistency with the equations in sections 6.2.2.1 to 6.2.2.3 of appendix A, the waiver equations should also have included an energy adder (known as "IET") for any products that include an automatic icemaker.

To address these issues, and pursuant to DOE's authority under 10 CFR 430.27(k), DOE is correcting the formulas noted above to read as follows:

For section 6.2.2.1 of appendix A:

$$E = (ET1 \times 0.85) + IET$$

For section 6.2.2.2 of appendix A:

Energy consumption of the cooler compartment:

² Sanyo E&E Corporation has since changed its corporate name to PAPRSA.

ECooler Compartment = $(ET1 + [(ET2 - ET1) \times (55^\circ\text{F} - TW1) / (TW2 - TW1)]) \times 0.85 + IET$

Energy consumption of the fresh food compartment:

EFreshFood Compartment = $(ET1 + [(ET2 - ET1) \times (39^\circ\text{F} - TBC1) / (TBC2 - TBC1)]) \times 0.85 + IET$

For section 6.2.2.3 of appendix A:

$E = (Ex \times 0.85) + IET$

Under the interim waiver, the corrected equations must be used, going forward, with respect to all of the basic models for which DOE has granted a waiver previously and the basic model PAPRSA identified in its new petition.

In addition to the errors in the equations, the 2012 waiver and the 2013 waiver reference Appendix A1, which is obsolete. Finally, to update the waivers to reflect the current test procedure and to modify the equations, DOE is consolidating all of the basic models under one, new, corrected interim waiver, which is subject to comment. PAPRSA must begin using a modified test procedure for the new basic model and all of the basic models of hybrid wine chiller/beverage centers that had previously been subject to a waiver. The prior, erroneous waivers are rescinded, and a new, modified, waiver is issued as an interim waiver subject to comment. Rescission of the prior waiver does not affect or invalidate tests conducted pursuant to that waiver while it was in effect.

III. Conclusion

Therefore, DOE has issued an Order, stating:

After careful consideration of all the material submitted by PAPRSA in this matter, DOE grants an interim waiver regarding basic models PR6180WBC,⁴ KBCS24RSBS, SR6180BC,⁵ SR5180JBC,⁶ and PR5180JKBC.⁷ Accordingly, it is ORDERED that:

(1) The waivers previously granted under Case RF-022, Case RF-031 and Case RF-041 are rescinded due to erroneous formulae and because the waivers in RF-022 and RF-031

⁴ New basic model in Case No. RF-043.

⁵ DOE notes that PAPRSA's petition in Case No. RF-022 identified the relevant basic models as: JUB248LB, JUB248RB, JUB248LW, JUB248RW, KBCO24LS, KBCS24LS, KBCO24RS, KBCS24RS, and MBCM24FW. Upon further review, however, DOE has determined that these are individual model numbers, rather than basic model numbers. The correct basic model designations, as determined through a review of PAPRSA's filings with DOE's Compliance Certification Management System, are KBCS24RSBS (which covers JUB248LB, JUB248RB, JUB248LW, JUB248RW, KBCO24LS, KBCS24LS, KBCO24RS, and KBCS24RS) and SR6180BC (which covers MBCM24FW).

⁶ Originally from Case No. RF-031.

⁷ Originally from Case No. RF-041.

reference an obsolete DOE test procedure.

(2) PAPRSA must, going forward, test and rate the following PAPRSA basic models as set forth in paragraph (3) below.

PR6180WBC;
KBCS24RSBS;
SR6180BC;
SR5180JBC; and
PR5180JKBC.

(3) The applicable method of test for the PAPRSA basic models listed in paragraph (2) is the test procedure for electric refrigerator-freezers prescribed by DOE at 10 CFR part 430, Appendix A, except that the test temperature for the "cooler compartment" (*i.e.*, the compartment designed to store wine) is 55 °F, instead of the prescribed 39 °F.

The K factor (correction factor) value is 0.85. The test must include (where applicable) the icemaking energy usage as defined in 10 CFR part 430, subpart B, appendix A, sec. 6.2.2.1.

Therefore, the energy consumption is defined by:

If compartment temperatures are below their respective standardized temperatures for both test settings (according to 10 CFR part 430, subpart B, Appendix A, sec. 6.2.2.1):

$E = (ET1 \times 0.85) + IET.$

If compartment temperatures are not below their respective standardized temperatures for both test settings, the higher of the two values calculated by the following two formulas (according to 10 CFR part 430, subpart B, Appendix A, sec. 6.2.2.2):

Energy consumption of the "cooler compartment":

ECooler Compartment = $(ET1 + [(ET2 - ET1) \times (55^\circ\text{F} - TW1) / (TW2 - TW1)]) \times 0.85 + IET$

Energy consumption of the "fresh food compartment":

EFreshFood Compartment = $(ET1 + [(ET2 - ET1) \times (39^\circ\text{F} - TBC1) / (TBC2 - TBC1)]) \times 0.85 + IET.$

If the optional test for models with two compartments and user operable controls is used (according to 10 CFR part 430, subpart B, Appendix A, sec. 6.2.2.3):

$E = (Ex \times 0.85) + IET.$

(5) Representations. PAPRSA may make representations about the energy use of its hybrid wine chiller/beverage center products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions set forth above and such representations fairly disclose the results of such testing in accordance with 10 CFR 429.14(a).

(6) This interim waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(h) and (l).

(7) This interim waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

(8) Granting of this interim waiver does not release PAPRSA from the certification requirements set forth at 10 CFR part 429.

IV. Summary and Request for Comments

DOE has granted PAPRSA an interim waiver from the specified portions of the test procedure for certain basic models of PAPRSA hybrid wine chiller/beverage centers and announces receipt of PAPRSA's request for extension of the existing waivers from those same portions of the test procedure. DOE is publishing PAPRSA's request for an extension of waiver in its entirety. The petition contains no confidential information. The petition includes a suggested alternate test procedure to determine the energy consumption of PAPRSA's specified hybrid refrigerators.

DOE solicits comments from interested parties on the request to extend the waiver to basic model PR6180WBC, including the suggested alternate test procedure, calculation methodology and proposed modifications to correct the procedure that PAPRSA would use going forward. In addition, DOE solicits comments from interested parties on DOE's issuing a new waiver, reflecting corrected the equations and the current DOE test procedure, for the basic models subject to the 2012, 2013, and 2014 waivers. Pursuant to 10 CFR 430.27(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is Sean R. Blixseth, Senior Legal Counsel, Panasonic Corporation of North America, 2055 Sanyo Avenue, San Diego, CA 92154-6229. All comment submissions to DOE must include the Case Number RF-043 for this proceeding. Submit electronic comments in 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. DOE does not accept telefacsimiles (faxes).

Issued in Washington, DC, on January 13, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

BEFORE THE U.S. DEPARTMENT OF ENERGY

Washington, DC 20585

In the Matter of: *Panasonic Appliances Refrigeration Systems Corporation of America*, Petitioner

Case Number: RF-022; RF-031; RF-041

REQUEST FOR EXTENSION OF WAIVER AND INTERIM WAIVER

Panasonic Appliances Refrigeration Systems Corporation of America ("PAPRSA") respectfully submits this Request for Extension of Waiver and Interim Waiver ("Request") pursuant to 10 CFR 430.27(g). PAPRSA intends to introduce a new basic hybrid wine chiller beverage center model ("hybrid model") that employs technology and design characteristics that prevent testing of the basic model according to the test procedures prescribed in 10 CFR 430, subpart B, appendix A and that are substantially the same as the technology and design characteristics for which PAPRSA received two previous waivers and an extension of waiver as a result.⁸ As provided in further detail below, the Department of Energy ("DOE") has previously granted PAPRSA⁹ two separate waivers and an extension of waiver from DOE's electric refrigerator and refrigerator-freezer test procedures for determining the energy consumption of substantially similar hybrid models in Case Nos. RF-022, RF-031, and RF-041 (the "waiver hybrid models"). Like the waiver hybrid models, PAPRSA has developed a new basic hybrid model, PR6180WBC, that employs substantially the same technology and design characteristics as its waiver hybrid models that make it impossible to certify, rate, and sell this new hybrid model under the existing testing procedures. PAPRSA therefore respectfully requests that DOE extend

the previously granted waivers and interim waivers to this new basic hybrid model and that it be permitted to use the alternative testing method for this new basic hybrid model that has already been approved by DOE for the waiver hybrid models.

1. Existing Waiver Background and Product Characteristics of PAPRSA's Hybrid Models

In Case No. RF-022, PAPRSA submitted the initial petition for waiver on June 2, 2011 with respect to the test procedures for its waiver hybrid models that consist of a combination of a refrigerated "beverage" compartment in the top portion of these single-cabinet units and a wine storage compartment on the bottom of the units, and for which an alternative testing procedure was necessary to certify, rate, and sell such models.

As PAPRSA has explained for all of the waiver hybrid models, PAPRSA designed the wine storage compartments to operate between a minimum temperature of 45 °F and a maximum temperature of 64 °F, with an average temperature of 55 to 57 °F. PAPRSA uses heaters to ensure that the temperature in the wine storage compartment never drops below the minimum temperature. If the temperature of a wine bottle falls below 45 °F and approaches freezing, there is an increased risk of damage to the cork. DOE's testing procedures contained in 10 CFR 430, subpart B, appendix A1, however, mandate that energy consumption be measured when the compartment temperature is set at 38 °F. Based on the design characteristics of its waiver hybrid models, PAPRSA needed a waiver with respect to DOE's testing procedures in order to properly "certify, rate, and sell such models," because the existing test procedures contained in 10 CFR 430, subpart B, appendix A1, did not contemplate a product that is designed to be incapable of achieving a temperature below 45 °F.

On April 2, 2012, DOE published PAPRSA's previous petition for waiver and sought public comment, and DOE subsequently extended the deadline for comments after PAPRSA submitted a request for extension to clarify the scope of its original petition for waiver. See **Federal Register**, Vol. 77, No. 96, 29331-29333. No comments were filed opposing the relief requested in PAPRSA's petition for waiver.

On August 9, 2012, DOE granted PAPRSA's waiver from DOE's electric refrigerator and refrigerator-freezer test procedures for determining the energy

consumption of the basic models listed in the Case No. RF-022 petition for waiver. See **Federal Register**, Vol. 77, No. 159, 49443-44. In permitting PAPRSA to test the wine chiller compartment at 55 °F, DOE noted "that the test procedures for wine chillers adopted by the Association of Home Appliance Manufacturers (AHAM), California Energy Commission (CEC), and Natural Resources Canada all use a standardized compartment temperature of 55 °F for wine chiller compartments, which is consistent with [PAPRSA's] approach." *Id.* at 49444.

On September 26, 2012, DOE issued a correction to its August 9, 2012 order that incorporated the K factor (correction factor) value of .85 that PAPRSA should utilize when calculating the energy consumption of its waiver hybrid models. See **Federal Register**, Vol. 77, No. 193, 60688-89. Accordingly, DOE ultimately directed PAPRSA to utilize the following test procedure for its waiver hybrid models:

Energy consumption is defined by the higher of the two values calculated by the following two formulas (according to 10 CFR part 430, subpart B, Appendix A1):

Energy consumption of the wine compartment:

$$EWine = (ET1 + [(ET2 - ET1) \times (55 \text{ °F} - TW1) / (TW2 - TW1)]) * 0.85$$

Energy consumption of the refrigerated beverage compartment:

$$EBeverage \text{ Compartment} = ET1 + [(ET2 - ET1) \times (38 \text{ °F} - TBC1) / (TBC2 - TBC1)].$$

See **Federal Register**, Vol. 77, No. 193 at 60689.

On April 29, 2013 in Case No. RF-031, PAPRSA submitted a second petition for waiver and interim waiver for a substantially similar hybrid model, SR5180JBC, that shares the same design characteristics that led DOE to approve PAPRSA's waiver request in Case No. RF-022. No comments were filed opposing the relief requested in PAPRSA's second petition for waiver and interim waiver. On September 17, 2013, DOE again granted PAPRSA a waiver from DOE's electric refrigerator and refrigerator-freezer test procedures for determining the energy consumption of basic hybrid model SR5180JBC. See **Federal Register**, Vol. 78, No. 180, 57139-41.

On September 17, 2014 in Case No. RF-041, the DOE granted an Extension of Waiver to PAPRSA for hybrid model PR5180JKBC based on Case Nos. RF-022 and RF-031 but under the new procedures in 10 CFR 430, subpart B, appendix A. See **Federal Register**, Vol. 79, No. 180, 55769-55772.

⁸ All current references to the test procedures cite to 10 CFR 430, subpart B, "appendix A," which became effective on September 15, 2014. References to testing procedures in effect prior to that date cite to 10 CFR 430, subpart B, "appendix A1."

⁹ The first waiver granted in Case No. RF-022 was issued to SANYO E&E Corporation. Effective April 1, 2013, SANYO E&E Corporation changed its corporate name to Panasonic Appliances Refrigeration Systems Corporation of America. Throughout this Petition, PAPRSA will be used to refer to both SANYO E&E Corporation and Panasonic Appliances Refrigeration Systems Corporation of America, unless otherwise indicated.

PR5180JKBC employed the same technology and design characteristics as the basic hybrid models in Case Nos. RF-022 and RF-031 that led the DOE to grant waivers in those cases. No comments had been filed opposing the relief requested in PAPRSA petition for extension of waiver and interim waiver.

2. Request to Extend Scope of Previously Granted Waivers, Interim Waivers, and Extension of Waiver to New Basic Hybrid Model under Previously Approved Alternative Testing Procedure

As indicated above, PAPRSA has developed a new basic hybrid model, PR6180WBC, that shares the same design characteristics that led DOE to approve PAPRSA's two prior petitions for waiver and extension of waiver. This new basic hybrid model is a single cabinet hybrid model that would be classified as a compact refrigerator with automatic defrost without through-the-door ice service, but which has a wine-chiller compartment designed for an average temperature of 55 to 57 °F. Just as with PAPRSA's waiver hybrid models, this new basic hybrid model contains a heater that prevents the temperature of the wine-chiller compartment from reaching a temperature below 45 °F. Thus, testing this new hybrid model at 39 °F is simply not possible and not representative of the energy consumption characteristics of this new basic hybrid model.

Further, just as PAPRSA's waiver hybrid models, 0.85 should also be the employed K factor (correction factor) for this new basic hybrid model because it will have a door-opening usage aligned with household freezers. See Appendix B to Subpart 430, 5.2.1.1, because Subpart 430 does not recognize wine chiller as a category.

In short, there are no material differences between this new basic hybrid model and PAPRSA's waiver hybrid models as it impacts this Request. The design differences between the new basic hybrid model and the waiver hybrid models are the introduction of a more efficient compressor, other sealed system and electrical components for increased efficiency, improved venting, and new external aesthetic features. Although the new basic hybrid model will be more energy efficient, the design characteristics of the new basic hybrid model are the same as the characteristics of PAPRSA's waiver hybrid models that led DOE to grant the prior waivers. For these reasons, PAPRSA respectfully requests that it be permitted to use the following testing

procedure for its new basic hybrid model:

Energy consumption is defined by the higher of the two values calculated by the following two formulas (according to 10 CFR part 430, subpart B, appendix A):

Energy consumption of the wine compartment:

$$E_{\text{Wine}} = (ET1 + [(ET2 - ET1) \times (55^\circ\text{F} - TW1)/(TW2 - TW1)]) * 0.85$$

Energy consumption of the refrigerated beverage compartment:

$$E_{\text{Beverage Compartment}} = ET1 + [(ET2 - ET1) \times (39^\circ\text{F} - TBC1)/(TBC2 - TBC1)].$$

PAPRSA respectfully requests that it be permitted to use this approved alternative testing method to test, certify and rate the new basic hybrid models in the same manner as its waiver hybrid models subject to the existing waivers and extension of waiver.

3. Grounds for Interim Waiver

Pursuant to 10 CFR part 430.27(b)(2), applicants for an interim waiver should address the likely success of their petition and what economic hardships and/or competitive disadvantages are likely to arise absent the grant of an interim waiver.

As detailed above, it is highly likely that DOE will grant this Request, as PAPRSA is simply seeking to test a new basic hybrid model under the alternative testing procedure already approved by DOE for PAPRSA's waiver hybrid models subject to the existing waivers. The new basic hybrid model contains no materially different design characteristics that should warrant a different result.

DOE has engaged in a rulemaking process to develop comprehensive test procedures for miscellaneous refrigeration products, which would apply to PAPRSA's new basic hybrid model, but the rulemaking process is not complete. As DOE has previously stated, "[f]ully recognizing that product development occurs faster than the test procedure rulemaking process, the Department's rules permit manufacturers of models not contemplated by the test procedures . . . to petition for a test procedure waiver in order to certify, rate, and sell such models." GC Enforcement Guidance on the Application of Waivers and on the Waiver Process at 2 (rel. Dec. 23, 2010).¹⁰

Certain manufacturers design comparable hybrid models so that the

beverage center compartment does not reach below 40 °F, and thus are not covered products under DOE's regulations. Unless PAPRSA is granted an interim waiver, it will be at a competitive disadvantage by being unable to introduce the new basic hybrid model to compete with manufacturers that design their hybrid models in a manner that falls outside of DOE's jurisdiction.

Given that this Request is likely to be granted and PAPRSA will face economic hardship unless an interim waiver is granted, permitting PAPRSA to immediately certify the new basic hybrid model under the alternative testing method already approved by DOE is in the public interest.

Respectfully submitted,

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16-31-000]

Sage Grouse Energy Project, LLC v. PacifiCorp; Notice of Complaint

Take notice that on January 19, 2016, pursuant to Rules 206(a) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206(a), Sage Grouse Energy Project, LLC (Complainant or Sage Grouse) filed a formal complaint against PacifiCorp (Respondent) alleging that Respondent improperly determined that Sage Grouse is not a Qualified Facility within the meaning of the Public Utility Regulatory Policies Act of 1978 and conducted Sage Grouse's Feasibility Study erroneously, as more fully explained in the complaint.

Complainant certifies that copies of the complaint were served upon each person designated on the official service list compiled by the Commission in this proceeding.

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 and

¹⁰ Available at http://energy.gov/sites/prod/files/gcprod/documents/LargeCapacityRCW_guidance_122210.pdf.