



Office of the Secretary

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

May 16, 2012

Matthew Tangeman
President
Custom Glass Machinery Ltd.
1069 Harrison Ave.
Columbus, OH 43201

*Re: In the Matter of Serious Energy, Inc.
File No. 112 3001, Docket No. C-4359*

Dear Mr. Tangeman:

Thank you for commenting on the Federal Trade Commission's proposed consent agreement in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

Your comment asserts that Serious Energy, Inc. ("Serious") "has some serious responsibility to clearly state the case for any energy savings claimed," and raises several questions or points relating to the proposed consent agreement. Among other things, you ask what "scientific proof" the proposed consent agreement would require Serious to have in support of its savings claims, including "up to" savings claims. You also suggest that "up to" claims should "include a basis for comparison," *i.e.*, disclosure of the specific circumstances under which a consumer could achieve the touted savings. Additionally, you opine that such disclosures "should be required of all residential window manufacturers and installers."

After consideration of your comment, the Commission has determined that the relief set forth in the consent agreement is appropriate and sufficient to remedy the law violations alleged in the complaint in this matter. The consent agreement sets a clear substantiation standard for the respondent, and for other manufacturers who are not bound by the agreement but nonetheless may look to it for guidance. It establishes that Serious' savings claims and other energy-related claims must be non-misleading and substantiated by competent and reliable scientific evidence as more fully defined in the consent agreement.¹ This rigorous but flexible standard does not

¹ As defined in the consent agreement, "competent and reliable scientific evidence" must be "sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that a representation is true."

mandate specific tests or testers because technology, tests, and test facilities will change over time, and mandating specific tests or testers could impose unnecessary and overly burdensome compliance costs.

Under the consent agreement, Serious is prohibited from making any “up to” energy savings claims unless all or almost all consumers are likely to achieve the maximum represented savings. To the extent that Serious makes any claim that consumers will achieve “up to” certain energy savings under specified conditions, such as when replacing a window of a particular composition, the order already requires Serious to prominently disclose those conditions, and further requires Serious to possess substantiation that all or almost all consumers are likely to achieve the represented savings under the specified conditions.

Issuing the complaint and decision and order would not prevent the Commission from investigating or taking enforcement action regarding other residential window manufacturers and installers if the public interest warrants doing so.

Accordingly, the Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without modification. The final Decision and Order and other relevant materials are available from the Commission’s website at <http://www.ftc.gov>. It helps the Commission’s analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission, Commissioner Rosch and Commissioner Ohlhausen not participating.

Donald S. Clark
Secretary