

<b>DOCKETED</b>	
<b>Docket Number:</b>	16-ENFORCE-03
<b>Project Title:</b>	Settlement Agreements
<b>TN #:</b>	262034
<b>Document Title:</b>	Clark Core Services LLC Settlement Agreement and Release
<b>Description:</b>	N/A
<b>Filer:</b>	Wendy Maienknecht
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	2/28/2025 9:59:39 AM
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## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (Agreement) is entered into between the California Energy Commission (CEC), with its principal office at 715 P Street, Sacramento, California 95814, and Clark Core Services, LLC (Clark), with a place of business at 2205 Old Philadelphia Pike, Lancaster, Pennsylvania 17602, collectively referred to as the Parties.

### I. RECITALS

(1) CEC's Appliance Efficiency Regulations at California Code of Regulations, Title 20, Article 4, sections 1601-1609 (Appliance Efficiency Regulations),<sup>1</sup> set forth the requirements to sell or offer for sale regulated appliances in California. The pertinent requirements include:

- Testing: The appliance is tested as required in section 1603, using the applicable test method set forth in section 1604.
- Efficiency: The appliance meets the required efficiency standards set forth in sections 1605.2 or 1605.3.
- Marking: The appliance is correctly marked and labeled as required under section 1607.
- Certification: The appliance is certified to CEC and appears in CEC's most recent Modernized Appliance Efficiency Database System (MAEDbS) as required under section 1606.

(2) CEC's enforcement authority includes the removal of non-complying appliances from MAEDbS, as set forth in section 1608, and the issuance of administrative civil penalties under section 1609.

(3) Clark distributes several models of commercial cooking products, plumbing fittings, emergency lighting and battery chargers that it sells or offers for sale in California directly.

(4) Avantco, Main Street Equipment, and Servit brand commercial cooking products; Waterloo brand plumbing fittings; and Lavex brand emergency lighting and battery chargers sold in California are subject to the testing, efficiency, marking, and certification requirements for their respective appliance classes as described in paragraph I(1) above.

(5) CEC contends that from January 2020 to July 2024, Clark sold or offered for sale in California Avantco, Main Street Equipment, and Servit brand commercial cooking products; Waterloo brand plumbing fittings; and Lavex brand emergency lighting and battery chargers that were not listed in

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<sup>1</sup> All references are to California Code of Regulations, Title 20, Article 4, unless otherwise specified.

MAEDbS as required in section 1606.

(6) Based on the above Recitals, CEC, through administrative adjudication, could impose penalties for each violation alleged, obtain injunctive relief to prohibit Clark from continuing to sell or offer for sale, non-compliant products in California, and take any other enforcement action as allowed by law.

(7) Section 1609(b)(3) and California Public Resources Code section 25402.11(a)(2) identifies the following factors CEC shall consider when determining the amount of an administrative civil penalty:

- The nature and seriousness of the violation.
- The number of violations.
- The persistence of the violation arising from the course of conduct that is subject of the enforcement proceeding.
- The length of time over which the violation occurred.
- The willfulness of the violation.
- The violator's assets, liabilities, and net worth.
- The harm to consumers and to the state that resulted from the amount of energy wasted due to the violation.

(8) Penalties must be set at levels sufficient to deter violations. In developing this Agreement, CEC considered the facts of the case and applied the above factors to determine an appropriate settlement. Further, in this case Clark cooperated with CEC in the investigation by promptly testing, certifying, and marking the units; removing the non-compliant units from the California market; and by providing to CEC sales data of non-compliant units. The efforts by Clark saved CEC time and resources in investigating the violations and minimized the impacts on the competitive business environment in California, from the non-compliant units.

(9) Clark is willing to enter into this Agreement solely for the purpose of settlement and resolution of this matter with CEC. CEC accepts this Agreement in termination of this matter. Accordingly, the Parties agree to resolve this matter completely by means of this Agreement, without the need for administrative adjudication. The Parties understand and agree that nothing in this Agreement shall constitute or be construed as an admission of liability or wrongdoing or liability whatsoever by Clark.

## **II. TERMS AND RELEASE**

In consideration of the Recitals listed above which are incorporated into this section by reference, and the mutual agreements set forth below, CEC and Clark agree as follows:

(1) This Agreement covers the Clark commercial cooking products, plumbing fittings, emergency

lighting and battery charger models listed in the attachment.

(2) For selling or offering for sale in California, commercial cooking products, plumbing fittings, emergency lights and battery chargers identified in paragraph I(5), whose model numbers are identified in the attachment, that were not certified to MAEDbS as required by section 1606, and, in consideration of the factors listed in paragraph I(7) and I(8) above, Clark shall pay as an administrative civil penalty the total sum of \$292,767.00 by electronic transfer to CEC by March 1, 2025. Banking information and instructions necessary to complete the electronic transfer shall be provided by CEC.

(3) Clark also agrees to take each of the following actions for any and all regulated appliances it will sell or offer for sale in California:

- a. Test all basic models, utilizing the applicable test method, to ensure conformance with the Appliance Efficiency Regulations.
- b. Certify all basic models in MAEDbS, and ensure listings are kept current and up to date.
- c. Add the required marking to the unit.

(4) This Agreement shall apply to and be binding upon Clark and its principals, officers, directors, receivers, trustees, employees, successors and assignees, subsidiary, identified affiliates and parent corporations, and upon CEC and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Agreement.


(5) In consideration of the payment specified above, CEC hereby releases Clark and its parent corporation, identified affiliates, principals, directors, officers, agents, employees, shareholders, subsidiaries, predecessors, and successors from any and all claims for violations of section 1608 (efficiency, marking, certification), relating to the time frame and appliances identified in paragraph I(5), whose model numbers are identified in the attachment.

(6) This Agreement constitutes the entire agreement and understanding between CEC and Clark concerning the claims and settlement in this Agreement, and this Agreement fully supersedes and replaces any and all prior negotiations and agreement of any kind or nature, whether written or oral, between CEC and Clark concerning these claims.


(7) No agreement to modify, amend, extend, supersede, terminate, or discharge this Agreement, or any portion thereof, shall be valid or enforceable unless it is in writing and signed by all Parties to this Agreement.

- (8) Clark further agrees that if the subject matter of this Agreement comes before CEC in an administrative adjudication, neither any member of CEC, nor the Executive Director, shall be disqualified because of prior consideration of this Agreement.
- (9) Each Party to this Agreement has reviewed the Agreement independently, has had the opportunity to consult counsel, is fully informed of the terms and effect of this Agreement, and has not relied in any way on any inducement, representation, or advice of any other Party in deciding to enter into this Agreement.
- (10) This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice of law rules. Any litigation arising out of or related to this Agreement shall be filed in the Superior Court of California, County of Sacramento.
- (11) Each provision of this Agreement is severable, and in the event that any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement remains in full force and effect.
- (12) The failure of any Party to enforce any provision of this Agreement shall not be construed as a waiver of any such provision, nor prevent such Party thereafter from enforcing such provision or any other provision of this Agreement.
- (13) This Agreement is deemed to have been drafted equally by the Parties; it will not be interpreted for or against either Party on the ground that said Party drafted it.
- (14) This Agreement is effective upon signature by a representative of Clark with authority to bind the company, and signature by the Executive Director of CEC. The Parties agree that fax or scanned signatures and multiple signature pages are acceptable for purposes of executing this Agreement, which may be signed in counterparts.

**California Energy Commission**

By:   
Name: Drew Bohan  
Title: Executive Director  
Date: 2/25/25

**Clark Core Services, LLC**

By:   
Name: Aaron Weber  
Title: Vice President, Durable Goods  
Date: 2/14/25

**Attachment**

Avantco Brand Commercial Hot Food Holding Cabinets:

177HEAT1836	177HEAT1836I	177HPI1812	177HPI1836	177HPI1836DC
177HPI1836DS	177HPU1812	177HPU1836	177HTI1836DC	177HTI1836DS

Main Street Equipment Brand Commercial Hot Food Holding Cabinets:

541CHP1836I	541CHP1836U
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Servit Brand Commercial Hot Food Holding Cabinets:

423CC1UFICD	423CC1UFICF	423CC1UFISD	423CC1UFISF
423CC1UFNCF	423CC2UFISF		

Waterloo Brand Public Lavatory Faucets:

750EFDMLF	750EFWM7LF	750EFWMLF
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Waterloo Brand Kitchen Faucets:

750MFD4SNGL	750PRD4X
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Lavex Brand Emergency Lights:

6951R3CBONY	6952RW2FNYC
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Lavex Brand Battery Charger:

442E126058
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