STATEMENT OF THE AMERICAN GAS ASSOCIATION

TO: **House of Representatives Committee on Oversight and Accountability Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs**

RE: **Consumer Choice on the Backburner: Examining the Biden Administration's Regulatory Assault on Americans' Gas Stoves**

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Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs
Committee on Oversight and Accountability
United States House of Representatives

Consumer Choice on the Backburner: Examining the Biden Administration's Regulatory Assault on Americans' Gas Stoves

Testimony of
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Thank you, Chairman Fallon, Ranking Member Bush, and Members of the Committee. I am Matthew J. Agen, Chief Regulatory Counsel, Energy, at the American Gas Association ("AGA"). AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 77 million residential, commercial, and industrial natural gas customers in the U.S., of which 96 percent — more than 74 million customers — receive their gas from AGA members. Today, natural gas meets more than one-third of the United States' energy needs.

AGA Supports Energy Efficiency and Conservation Efforts

I appreciate the opportunity to testify on the Department of Energy's ("DOE") Proposed Cooking Products Rule[1] because outcomes of the rule are crucial to AGA members and natural gas customers nationwide. Before addressing the proposed rule, it is important that this committee understands AGA's and our member utilities' views on energy efficiency.

First, AGA and its members have long supported energy efficiency and conservation efforts. Before DOE was formed, AGA and its members supported and promoted minimum efficiency requirements developed through the consensus process. For decades, AGA and the industry have played a positive and active role in supporting efficiency requirements for natural gas appliances. For example:

- Decades before DOE or its predecessor, the Federal Energy Administration, were formed, AGA and its members supported and promoted minimum efficiency requirements for most natural gas appliances through voluntary standards developed through the consensus process accredited by the American National Standards Institute ("ANSI").

- The ANSI-accredited standards committees, that developed and maintained the voluntary standards for gas appliances, comprised a broad cross-section of

[1] *Energy Conservation Program: Energy Conservation Standards for Consumer Conventional Cooking Products*, EERE-2014-BT-STD-0005, RIN 1904–AD15, 88 Fed. Reg. 6,818 (Feb. 1, 2023).

representatives from various private and public identities, including consumers, manufacturers, utilities, installers, governmental entities, testing laboratories, *etc*. AGA was the Secretariat of the ANSI-accredited standards that oversaw the development process and complied with the stringent development procedures required by ANSI, including provisions that encouraged an open and transparent standards development process.

- Most ANSI-accredited safety and performance standards for natural gas appliances historically included a minimum efficiency requirement that the appliances had to meet to comply.

- Detailed test methods for measuring and confirming these efficiency requirements were included in the ANSI-accredited standards.

- Gas appliances that met the ANSI-accredited standards requirements were permitted to include a seal of design certification approval and a listing in the third-party certification testing laboratories directory identifying that the model had met the ANSI-accredited standards provisions. The third-party testing laboratories including, at that time, the AGA Laboratory, implemented an annual follow-up testing program that randomly tested models from manufacturers' inventories or in the market to verify compliance with the applicable ANSI standard.

- Many states, local jurisdictions, military specifications, *etc.*, required that gas appliances bought or installed be in compliance with the ANSI-accredited standards with verification by a label or listing from an independent third-party testing agency.

- With the passage of the Energy Policy and Conservation Act ("EPCA")[2] at the federal level, the efficiency requirements were phased out of the ANSI-accredited standards for natural gas appliances because of the legislation. The federal regulations preempted the efficiency requirements in the ANSI-accredited standards. However, the support for energy efficiency by the natural gas industry did not end there. Efficiency test methods developed by the National Bureau of Standards ("NBS"), now known as the National Institute of Standards and Technology ("NIST"), took the test methods from the ANSI-accredited standards for natural gas appliances and incorporated and expanded the efficiency measurement to an annual efficiency measurement that is still incorporated in most DOE federal test methods in place today.

This commitment to energy efficiency continues today; AGA member utilities spend approximately $4.3 million per day on energy efficiency programs, supporting consumer energy reductions, installation of new, more efficient appliances, and otherwise reducing energy use. Notably, AGA member companies invested over $1.5 billion annually toward energy efficiency in recent years.[3] The pace of annual natural gas utility energy efficiency investments has increased consistently since AGA began tracking data in 2007. The acceleration of energy efficiency

[2] Energy Policy and Conservation Act, 94 P.L. 163, 89 Stat. 871 (December 22, 1975).
[3] *See* https://www.aga.org/research-policy/resource-library/natural-gas-utility-efficiency-programs/ (last visited May 22, 2023).

deployment in the residential, multi-family, commercial, and industrial sectors, and programs targeted at low-income consumers, reflects the commitment of the natural gas utility industry to improvements in energy efficiency, consumer energy affordability, access to reliable energy, and greenhouse gas emissions reductions. Natural gas savings in North America from these programs amounted to just about 500 million therms or 49.96 trillion Btu, the equivalent of 2.64 million metric tons of avoided CO2 emissions, in 2019 alone.[4] These programs reach nearly 7 million residential consumers, more than 380,000 low-income consumers, nearly 140,000 multi-family consumers, more than 130,000 commercial consumers, and 41,000 separate industrial program consumers. The 120+ gas utility ratepayer-funded energy efficiency programs offered span every region in the U.S., providing guidance and funding for weatherization, technical assessments, training, and existing and new building programs for equipment replacement and upgrades, *e.g.*, appliances, doors, windows, thermostats, building retrofits, commercial foodservice, process equipment, energy management systems, and custom process improvements.[5] The industry will continue to leverage these established gas energy efficiency programs to accelerate its contribution to economy-wide decarbonization efforts and goals.

These efforts have resulted in a 50% decline in residential natural gas use, on a per-customer basis, since 1970. AGA and our member companies invest heavily in energy efficiency because reducing energy use is good for our customers and good for the environment. It is important to note that regulated natural gas utilities do not profit from the commodity price of natural gas and do not stand to lose money if customers use less gas. The cost of the natural gas is passed through to customers, which is approximately a third of a customer's bill; hence a reduction in gas usage will result in a reduction of a customer's gas costs.

Second, AGA and our member utilities are serious about fighting climate change and reducing emissions. Methane emissions from natural gas utility distribution systems have declined 70% since 1990 even as natural gas utility companies added more than 760,000 miles of pipeline. Natural gas efficiency and the growth of renewable energy have led to energy-related carbon dioxide emissions hitting 30-year lows. AGA's Climate Change Commitment[6] is aimed at reducing greenhouse gas emissions through smart innovation, new and modernized infrastructure, and advanced technologies that maintain reliable, resilient, and affordable energy service choices for consumers. The gas system's ability to integrate high-value sources of energy like renewable natural gas and hydrogen is a critical component of our nation's ability to reach ambitious greenhouse gas reductions goals.

In February 2022, AGA published a study titled "*Net-Zero Emissions Opportunities for Gas Utilities*"[7] to provide a comprehensive and rigorous analysis demonstrating the multiple pathways that exist to reach a net-zero future and the role natural gas, gas utilities, and delivery infrastructure will play in advancing decarbonization solutions. The study presents a national-level approach that leverages the unique advantages of gas technologies and distribution

[4] *See* https://www.aga.org/wp-content/uploads/2022/04/eereport-part-2-final.pdf (last visited May 22, 2023).
[5] *See* https://www.aga.org/wp-content/uploads/2022/12/energy-efficiency-report-partone.pdf (last visited May 22, 2023).
[6] *See* https://www.aga.org/natural-gas/environment/climate-change-commitment/ (last visited May 22, 2023).
[7] "Net-Zero Emissions Opportunities for Gas Utilities," AGA, February 8, 2022, available at aga-net-zero-emissions-opportunities-for-gas-utilities.pdf (last visited May 22, 2023).

infrastructure and the foundational role of natural gas energy efficiency. The study underscores the range of scenarios and technology opportunities available as the nation, regions, states, and communities develop and implement ambitious emissions reduction plans. The key findings in the study include:

- Pathways that utilize natural gas and the vast utility delivery infrastructure offer opportunities to incorporate renewable and low-carbon gases, provide optionality for stakeholders, help minimize customer impacts, maintain high reliability, improve overall energy system resilience, and accelerate emissions reductions.

- The ability of natural gas infrastructure to store and transport large amounts of energy to meet seasonal and peak day energy use represents an important and valuable resource that needs to be considered when building pathways to achieve net-zero GHG emissions goals.

- Continued utilization of natural gas and the vast utility delivery infrastructure can increase the likelihood of successfully reaching net-zero targets while minimizing customer impacts.

- The U.S. can achieve significant emissions reductions by accelerating the use of tools available today, including high-efficiency natural gas applications, renewable gases, methane reduction technologies, and enhanced energy efficiency initiatives.

- Large amounts of renewable and low-carbon electricity and gases, and negative emissions technologies, will be required to meet an economy-wide 2050 net-zero target.

- Supportive policies and regulatory approaches will be essential for natural gas utilities to achieve net-zero emissions.

Americans Support the Direct Use of Natural Gas in Homes and Businesses

Despite attempts to limit customer access to gas appliances and natural gas utility service, natural gas remains very popular with customers and businesses. Polling shows 71% of American adults have a favorable opinion of natural gas. More than one new residential customer signs up for natural gas service every minute, and approximately 80 businesses begin new natural gas service every day. The natural gas distribution system serves approximately 187 million Americans, and 5.5 million businesses use natural gas.

It is easy to see why natural gas is so popular – America's abundance of natural gas resources and our extensive infrastructure can satisfy energy demand while keeping prices affordable for decades into the future. Natural gas is 3.4 times more affordable than electricity and will cost significantly less than electricity for the next thirty years. Commercial and industrial customers have saved more than half a trillion dollars over the last decade by using natural gas. Moreover, the natural gas delivery system is 92% efficient from production to the customer. Furthermore, the U.S. natural gas system delivers three times more energy on the coldest day of

the year than the electricity grid provides on the hottest.[8] In some regions on a peak demand day, the natural gas network delivers up to four times as much energy as the electric network on a peak day.[9]

Natural Gas is Affordable

Households that use natural gas for heating, cooking and clothes drying save an average of $1,068 per year compared to homes using electricity for those applications. In fact, the low cost of natural gas has saved families a total of $147 billion over 10 years.

Affordable energy is crucial to all of us, but especially to low-income Americans. According to the National Energy & Utility Affordability Coalition, 34 million households are eligible for Low Income Home Energy Assistance Program ("LIHEAP") funding and less than 5.4 million, or less than 16% of the eligible population received LIHEAP funding (latest data, 2021). Over 70% of LIHEAP recipients nationwide have at least one vulnerable member in their household, including household members that are elderly over the age of 60, disabled, or children under the age of 6.

DOE's Proposed Cooking Products Rule Suffers from a Series of Procedural and Legal Errors that Render it Unlawful

AGA respects and supports DOE's role in setting efficiency standards for appliances. The natural gas industry is ready, willing, and able to support cost-effective, consumer-friendly efficiency measures that are economically justified and technologically feasible.

The fact that natural gas is clean, affordable, and reliable, is a large part of why AGA has such sincere concerns over DOE's Proposed Cooking Products Rule. Unfortunately, DOE's proposal is an attempt to remove a large portion of natural gas cooking products from the market. The proposal would remove popular features from gas cooktops such as cast-iron grates and high input power burners. This is one of many attempts by DOE to limit customer access to gas appliances, such as DOE's proposal to remove a large number of gas furnaces from the market. DOE's Proposed Rule is not an energy efficiency measure, it is an improper effort to remove gas appliances from the market in violation of EPCA that would only result in nominal energy and costs savings.

DOE's testing in support of the proposed rule resulted in a 96% failure rate among the test samples. When DOE later accounted for additional models, that were not included in its testing, it estimated that the Proposed Cooking Products Rule would wipe out 50% of the current gas cooktop models in the market. Eliminating anywhere from 50-96% of available gas stoves from the market is simply not justifiable. Eliminating, at minimum, half of the gas stoves available to consumers prevents customers who want a gas stove from obtaining one. Further, the proposed

[8] Based on Energy Information Administration and market data.
[9] "Investing in the US Natural Gas Pipeline System to Support Net-Zero Targets," Center on Global Energy Policy at Columbia University SIPA, April 2021, at 25 available at https://www.energypolicy.columbia.edu/research/report/investing-us-natural-gas-pipeline-system-support-net-zerotargets (last visited May 22, 2023).

rule would eliminate features that make gas stoves so popular, such as high-input rate burners that allow for faster cooking and cast-iron grates that allow for a level cooking surface and the ability to slide items safely on the surface of the cooktop. Removing these features is a back-handed way of eliminating access to gas stoves and the features people rely on.

Regarding the purported benefits of the proposal, DOE's analysis projects that this extraordinary regulatory action would result in consumer cost savings for gas cooktops amounting to a scant $1.51 per year. In other words, a savings of just $21.89 for the entire projected 14.5-year life span of the appliance.

Not only is the proposed rule ill-conceived, analytically unsupportable, and anti-consumer, the proposed rule suffers from a series of procedural and legal errors that render it unlawful. DOE's own process rule and the Administrative Procedure Act require that stakeholders have a meaningful opportunity for comment on rulemakings. As part of this process stakeholders made repeated requests for additional information and time to comment. While eventually more time was granted, and some additional information was provided, interested stakeholders should not have to plead with DOE to follow its own rules. Additionally, DOE received a request to permit alternative test procedures prior to issuing the Proposed Cooking Products Rule, but it proceeded to issue the proposal anyway. DOE decided to issue a notice concerning the petition to use alternative procedures after the comment period for the Proposed Cooking Products Rule had closed. In other words, DOE was aware that there were substantial concerns with the test procedure, but instead of addressing those first it decided to issue the Proposed Cooking Products Rule without resolving the testing issues.

Moreover, the proposal would violate EPCA because it would result in the unavailability of gas cooktops due to its drastic elimination of gas products from the market. EPCA authorizes DOE to establish energy conservation standards for certain "covered products;"[10] however, Congress was careful to ensure that energy conservation standards would not eliminate the availability of appliances or product features that consumers desire and on which they depend. Eliminating 50% of the total market and 96% of the market for desirable cooktops makes gas cooktops—particularly those with features most desirable to consumers, such as high input burners and a continuous cast-iron grate—unavailable in violation of EPCA. DOE is violating the "unavailability" provision of EPCA by foreclosing cooktop designs with continuous cast-iron grates, multiple high input burners, and other characteristics of "commercial" or "professional" style cooktops.

Designers and manufacturers of gas cooktops are likely to leave the market rather than spend the millions of dollars required to redesign their products to comply with the Proposed Cooking Products Rule. Notably, the Proposed Cooking Products Rule would have significant anticompetitive effects on small businesses that exclusively produce gas cooktops. DOE analyzed 15 small business manufacturers of gas cooking tops, and of those 15, six exclusively produced gas cooktops. While DOE claims that the average conversion and testing costs for small businesses would be $2,099,380 to comply with the proposed standards, the costs for conversion and testing for the six exclusive gas cooktop small business manufacturers would be $3,452,508, a 40% increase over the average for all small businesses analyzed. One small business DOE analyzed

[10] 42 U.S.C. §§ 6295(a), (e), (f).

would face conversion and testing costs of $4,021,220 compared to an annual revenue of $5,000,000, a commitment of 80% of its annual revenue in testing and conversion costs. Another would face conversion and testing costs of $2,227,050 compared to annual revenue of $2,730,000, a commitment of 83% of its annual revenue in testing and conversion costs. DOE's data illustrates the disproportionate anticompetitive effect the Proposed Cooking Products Rule would have on small business manufacturers of gas cooktops, and are so extraordinary, that it would be an easy decision for small manufacturers to leave the market altogether, further reducing competition amongst manufacturers. The disproportionate impact increases the already high likelihood that gas cooktops—especially those with features desirable to many consumers—will be rendered unavailable. Congress specifically prevented DOE from using its authority in this way.

Furthermore, the test procedure used by DOE is flawed because it includes a pre-determined bias against gas as compared to electric burners. DOE's test procedure tests only one task: simmering specified quantities of water. The key concern is that, when compared to electric burners, most gas burners are tested with a larger mass of water despite simulating the same function. The electric cooktops determine pot and water quantities based on the footprint of the coil. Gas cooktops use Btu content, which is not equal and not a comparable test. This means that the amount of water tested on a gas burner is 58% to 106% higher than the amount tested for a comparable electric cooktop, which is important in view of the test procedure's built-in bias against high input rate burners.

DOE's Proposed Cooking Products Rule is not its only effort to limit access to gas appliances. DOE currently has rulemakings pending that would remove a large number of natural gas furnaces from the market and increase costs for customers, including seniors and low-income customers. This is in addition to efforts to reduce the market for various gas products such as water heaters, boilers, and various other gas products. DOE is also attempting to eliminate natural gas from new and renovated federal buildings by 2030 in contradiction of its statutory requirements and in a manner that deprives the federal government of the option to use cost-effective, high-efficiency natural gas systems to provide critical building services. DOE is not alone in attempting to restrict access to affordable natural gas. For example, the Environmental Protection Agency ("EPA") is proposing to revise the Energy Star program in a manner that would eliminate the Energy Star labeling for gas furnaces. Furthermore, the Consumer Product Safety Commission ("CPSC") issued a request for information related to cooking with natural gas in the wake of one CPSC Commissioner stating that a ban was on the table for gas stoves.

AGA has requested that DOE rescind the Proposed Cooking Products Rule. Once DOE addresses the critical and material issues with the proposal and the test procedures, AGA encourages DOE and stakeholders to develop a solutions-oriented approach to energy conservation that ensures any proposed minimum efficiency standards for cooktops reduce energy use, protect consumers, and preserve natural gas cooking products with the utility and features that customers desire and need.