

**Submitted Testimony of the American Public Gas Association to the
House Committee on Energy and Commerce
Subcommittee on Energy and Power Hearing, “Home Appliance
Energy Efficiency Standards Under the Department of Energy–
Stakeholder Perspectives”**

A Consumer Perspective

On behalf of the American Public Gas Association (APGA), we appreciate this opportunity to submit testimony to this important hearing addressing the Home Appliance Energy Efficiency Standards under the Department of Energy– Stakeholder Perspectives.

APGA is the national association for publicly owned natural gas distribution systems. There are approximately 1,000 public gas systems in 37 states and over 730 of these systems are APGA members. Publicly-owned gas systems are not-for-profit, retail distribution entities owned by, and accountable to, the citizens they serve. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies that own and operate natural gas distribution facilities in their communities. Public gas systems’ primary focus is on providing safe, reliable, and affordable natural gas service to their customers.

At the most basic level, APGA represents the views of American natural gas consumers. Our members serve the homeowners and small businesses which rely on affordable natural gas to heat their homes and water, cook their meals, and dry their clothes, power their restaurants, schools and hospitals, and service businesses of all types.

As the debate on our energy future continues, it is clear that energy efficiency has to be one of the foundations on which we build our energy future. APGA is a strong proponent of energy efficiency standards; however, they must be based on sound science, transparent data, and be economically justifiable.

DOE, as an agency of our federal government, must recognize that not all consumers can afford the top-of-the-line, highest efficiency equipment. When DOE continuously promulgates regulations that increase the price of equipment and installation costs for minimal efficiency improvements, the result is that existing less efficient equipment gets repaired and remains in service, or fuel switching takes place because of consumer sticker-shock. Over its history, DOE has been an important partner in developing new technologies; however, in recent years DOE has stepped over the line in establishing “minimum” efficiency standards. In fact, DOE is really pushing for “maximum” efficiency standards, and ignoring the data showing that the market *does* move innovation without being forced by rules that cause market failures (i.e., rules that force consumers either to purchase expensive high efficiency appliances that do not result in life cycle savings or to switch to less efficient non-gas burning appliances due to the high up-front costs of the mandated high efficiency gas-fired product. . For example, in 2007, DOE reviewed the minimum residential furnace standards and declined to require a condensing furnace standard due to the fuel switching that would occur, primarily in the South; yet the market share for high efficiency condensing furnaces has grown dramatically over the last eight years, especially in the North where the life cycle savings of high efficiency furnaces warrant their purchase. Agencies must learn to defer to markets where the data shows that the market is working, as is the case with residential furnaces.

We highlight the need for sound science, transparency and economic justification not as a way to stymie energy efficiency gains but as fundamentals on which DOE must rely to develop energy efficiency standards that meet the requirements of its enabling statute. Equipment manufacturers, consumers and many other stakeholders have an interest in moving towards the adoption of the next generation of energy efficient equipment. DOE's role should be to establish minimum standards in an open and transparent manner, based on peer-reviewed scientific information.

With regards to the open and transparent rulemaking process, APGA has voiced strong concerns about the lack of transparency in regard to the manner in which the rulemaking for residential furnace efficiency standards has been handled. Specifically, in the furnace rulemaking initiated in 2015, DOE relied on proprietary data from two privately authored American Home Comfort studies in its life cycle costs calculation. To view this data, APGA was required to purchase the studies at a cost of \$15,000 and retain expert consultants to analyze the data. What this data actually revealed was the opposite of what DOE asserted it showed, and APGA has pointed that out in comments to DOE on its NOPR, along with a demonstration that the spreadsheet science upon which DOE was relying was fundamentally flawed; whether DOE actually pays attention to these comments will be a strong indicator of whether DOE is approaching its responsibilities under the Energy Policy and Conservation Act in good faith or simply manipulating data to push a pre-set agenda.

Regarding the use of proprietary data, it is APGA's position that such data should not be utilized in a DOE rulemaking unless that data is made available to the public at no cost and without limitations as to its use in the rulemaking. The perils of an agency relying on such data have been demonstrated in the furnace rulemaking proceeding where stakeholder analysis of the proprietary data showed that it rebutted, rather than supported, the point DOE was seeking to make.

In addition, DOE is now repeatedly deviating from its long standing process rule of establishing revised testing procedures, based on a full record, prior to determining if a revised energy efficiency standard is warranted. This process of establishing test procedures before setting standards allows for a very robust and engaged dialogue *at both stages* and diminishes the chance that the standard-setting exercise will go off the tracks.

Unfortunately, when DOE bypasses this two-stage process, it no longer allows stakeholders the opportunity to offer meaningful comments. It instead fosters an antagonistic relationship with those same stakeholders, who understand that a necessary predicate to setting standards is to first establish the test procedures for such standards.

Two recent examples of efficiency rulemakings proceeding on the same timeline as a test procedures rulemaking can be seen in DOE's proposed Commercial Package Boiler and Commercial Water Heater rules. Not only is DOE proposing new energy efficiency standards, they are also proposing to revise the testing procedures at the same time rather than seriatim. The finalization of any Test Procedures NOPR is a necessary precursor for stakeholders to meaningfully review and comment on the Standards NOPR. However, as currently proposed,

stakeholders will not have an opportunity to review a final rule on the test procedures prior to submitting comments on the Standards NOPR. If stakeholders do not know the exact procedure for testing equipment to determine compliance with the proposed efficiency standards, they cannot meaningfully analyze and comment on the impact of the proposed standards. By moving forward with the Standards NOPR before the Test Procedures NOPR is final, DOE will have essentially foreclosed the possibility that the test procedure could be modified in response to public comment, despite DOE's obligation to consider relevant matters presented during the comment period.

To further illustrate the stakeholder burden issue, on DOE's residential furnace rule, APGA has spent close to a million dollars in scientific and legal costs pushing back on a standard that would cause great harm to natural gas consumers by doing away with non-condensing furnaces and thereby forcing consumers to fuel switch to less efficient appliances. The furnace rule appears to be an example of ideology driving the decision-making process and not sound science. DOE tried to push the original proposal through the direct final rule process five years ago despite receiving adverse concerns from over 30 separate organizations. APGA appealed that rule, and DOE's response, after agreeing in appellate mediation to vacate the rule and remand the proceeding, was to publish an even more extreme proposal that under its own analysis would negatively impact one in five homeowners. While APGA and its members are strong supporters of energy efficiency, we are also strong opponents of proposed rules that are founded on faulty science and on non-transparent data – rules that ultimately will burden, rather than benefit, millions of consumers, driving many of them to switch from efficient natural gas appliances to less efficient alternatives. The furnace rule being proposed by DOE is falsely grounded and will

ultimately undermine efficiency goals while significantly and unnecessarily increasing consumer costs.

Conclusion

APGA appreciates the opportunity to submit testimony before the House Energy and Commerce Subcommittee on Energy and Power on this critical natural gas and public interest issue. We stand ready to work with the Committee on these and all other natural gas issues.