

**TESTIMONY OF CHARLES HARAK, ESQ.¹
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**BEFORE THE ENERGY SUBCOMMITTEE OF THE HOUSE ENERGY &
COMMERCE COMMITTEE**

**Hearing on “DOE Energy Efficiency and Renewable Energy Office: Impacts
of Missed Deadlines for DOE Efficiency Standards on Consumers”**

March 7, 2019

Chairman Rush, Committee members, thank you for inviting the National Consumer Law Center (NLCLC) to offer testimony at this hearing. It is truly a privilege to have the opportunity to provide NCLC’s perspective on why strong and regularly-updated appliance efficiency standards are so important for low-income consumers. To put my testimony in a nutshell: appliance standards make home energy more affordable. For low-income consumers, this means fewer terminations of their utility service, and homes that are more comfortable and healthy to live in. Even from a narrow federal budget perspective, appliance standards help stretch federal fuel assistance² dollars by lowering the household’s heating and cooling bills.

To provide some real-consumer context to my comments, I will share a series of calls I had with a low-income consumer about a month ago. The woman, whom I’ll call Susan, had been living without heat for three weeks because her landlady had done nothing to fix her heating system after it failed. The heating system was behind a locked door, so Susan couldn’t begin to determine what the problem was, even if she had the skills to do so or called in a heating contractor herself.

Susan is a working, single mom, with a young, school age child. During this period of time, Boston experienced two days of temperatures below 10 degrees – the same time that Chicago and much of the Midwest was experiencing dangerous, record-cold temperatures. Her apartment was so cold that she had a hard time getting her son up in the morning and out the door to school, as he was distressed

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² Formally, the Low-Income Home Energy Assistance Program (LIHEAP), authorized at 42 U.S.C. §§ 8621-8630.

and lethargic. While the local Board of Health eventually cited the owner for serious Sanitary Code infractions, Susan let the owner know she would go to court if the heating system was not fixed promptly – which in fact succeeded in getting the heating system up and running.

I share this story for two reasons. First, it illustrates the extent to which low-income households rely on their major appliances to be in good operating condition. Second, experience teaches that in situations like Susan’s, the owner – after receiving an order to replace the failed heating system – will often go out and buy the lowest cost – and least efficient – system that will restore heat. This is why imposing minimum appliance efficiency standards is so important for low-income people. They are disproportionately renters, by far. While the homeownership rate for the country as a whole is around 64% (2018),³ only 50% of households with income at or below median income are homeowners, and homeownership rates among low-income households (the poorest 20% of households) are around 30%. The major appliances which contribute most to their energy bills – heating systems, air conditioners, water heaters – are almost always purchased by the owner. In the absence of standards, low-income renters will be saddled with inefficient equipment and needlessly high bills for years.

While some critics voice concerns about the costs of adopting efficiency standards, the Department of Energy, in adopting or revising standards, operates under statutory mandates that require it to ensure that, overall and across all consumers, any standard adopted provides net benefits. The relevant statutory language reads:

“Any new or amended energy conservation standard prescribed by the Secretary under this section for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency, or, in the case of showerheads, faucets, water closets, or urinals, water efficiency, which the Secretary determines is technologically feasible and economically justified.”⁴

Historically, the Department has taken quite seriously those last five words, “technologically feasible and economically justified.” NCLC has been in several Department appliance standards dockets. They usually take years to complete; involve experts conducting extensive analysis of the relevant equipment and of the

³ <https://www.census.gov/housing/hvs/files/currenthvspress.pdf>.

⁴ 42 U.S.C. § 6295(o)(2)(A).

economic impacts on consumers, manufacturers, and the economy as a whole; and allow for all stakeholders to be heard. The Department's own web page states:

“DOE regulations governing covered appliances and equipment are established through a rulemaking process that provides opportunities for public review and comment. Manufacturers, product importers and distributors, energy suppliers, efficiency and environmental advocates, and other members of the public are encouraged to participate in rulemakings.”⁵

If we at NCLC would make any criticism of the Department's process, we would note that the Department has fairly consistently erred on the side of overestimating the costs of manufacturers complying with new or revised standards. As a result, products sold after the standards go into effect often cost less than was estimated, and consumer benefits have therefore been even larger than predicted.

The net benefits to consumers of the Department's standard setting efforts are quite impressive. The Department estimates that “standards saved American consumers \$63 billion on their utility bills in 2015, and cumulatively, have helped the United States avoid 2.6 billion tons of carbon dioxide emissions.”⁶ Non-profit groups that monitor the standards program agree that it has saved consumers tens of billions of dollars in the near-term, and much more in the long term.⁷

Therefore, consumers face significant harm when the Department unreasonably misses deadlines for updating appliance standards, something that Congress has clearly mandated.⁸ The failure to promptly revise standards leaves consumers worse off, as the purchase of less efficient products leads to higher energy and water costs for the life of the products purchased. For residential products that are widely used around the country – such as heating systems, air conditions, and water heaters – the aggregate loss to consumer can easily reach hundreds of millions of dollars, depending on how late the Department is in finally revising the standard. Moreover, because the more efficient products result in

⁵ <https://www.energy.gov/eere/buildings/about-appliance-and-equipment-standards-program>.

⁶ <https://www.energy.gov/eere/buildings/about-appliance-and-equipment-standards-program>.

⁷ The American Council for an Energy-Efficient Economy estimates that “national appliance efficiency standards in place today will save consumers more than \$1 trillion” in the long-term.

⁸ See, for example, 42 U.S.C. § 6295(m): “(1) In general - Not later than 6 years after issuance of any final rule establishing or amending a standard, as required for a product under this part, the Secretary shall publish—
(A) a notice of the determination of the Secretary that standards for the product do not need to be amended, based on the criteria established under subsection (n)(2); or
(B) a notice of proposed rulemaking including new proposed standards based on the criteria established under subsection (o) and the procedures established under subsection (p).”

lower energy bills, failure to revise standards can affect consumer health as well, since higher energy bills directly lead to more terminations for low-income households.

I will close with some broader context comments about the importance of appliance standards and energy efficiency not only for low-income households, but for all Americans. First, appliance efficiency standards have been one of the key tools in bending the curve of growth in energy consumption. In the state in which I live – Massachusetts – energy consumption (kWh) has been essentially flat for the past 25 years and greenhouse gas emissions are down over 20% over the 1990 baseline, yet our Gross State Product is up 21% (inflation-adjusted) just in the past decade.⁹ Using energy more efficiently and wisely is completely compatible with strong economic growth. It leaves more money in household budgets for other expenses, and allows business to invest more in growth. Second, implementation of appliance standards improves public health. The less we burn of fossil fuels, the fewer emissions of soot, particulates, mercury, lead and other unhealthful combustion by-products. All citizens benefit. Third, by reducing inefficient energy consumption, appliance standards help address the problems that climate change is already causing. Make no mistake, low-income households tend to suffer the most when hurricanes (such as Hurricanes Katrina, Irma, Harvey, Maria) or wildfires (such as hit Paradise, California) destroy homes and communities. They are less likely to have insurance that covers losses, less likely to have friends or relatives who can take them in, less able to relocate. Appliance standards not only save energy, they can help to save lives.

In conclusion, NCLC applauds the Committee for holding this important hearing. We hope the Committee will succeed in getting the Department to meet all required deadlines.

⁹ “Global Warming Solutions Act, 10 Year Progress Report”, presented to the Massachusetts Energy Efficiency Advisory Council (January 23, 2019); *available at*: <http://ma-eeac.org/wordpress/wp-content/uploads/EEAC-Jan-23-GWSA-10-Year-Progress-Report.pdf>.