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APGA and DOE Reach Settlement on Fuel Efficiency Standards

Washington, D.C. (January 14, 2013) – Today, the American Public Gas Association (APGA) and the Department of Energy (DOE) filed a joint motion for vacatur in the case *American Public Gas Ass'n v. Department of Energy*, D.C. Cir. No 11-1485. This motion asks the U.S. Court of Appeals to vacate a direct final rule (DFR) concerning furnace efficiency standards issued by DOE (76 Fed. Reg. 67037 (Oct. 31, 2011)), and to remand the rule for notice-and-comment rulemaking.

APGA filed its petition with the court in December 2011 to challenge the direct final rule issued by DOE in June and confirmed in October 2011. The DFR, which raised the annual fuel utilization efficiency (AFUE) for non-weatherized gas furnaces from 80 percent to 90 percent effective in May 2013, would have had the effect of eliminating non-condensing gas furnaces from the northern region of the country and driven consumers to less efficient electric furnaces.

DOE and APGA met this fall to discuss a possible settlement agreement through a court-supervised mediation process. As part of the settlement, DOE agreed to withdraw the DFR and initiate a traditional notice-and-comment rulemaking for new furnace efficiency standards. The settlement will be effective once the court approves the motion for vacatur.

After the filing of the motion, APGA President & CEO, Bert Kalisch, stated “APGA believed it was important to stand up for the interests of natural gas customers, natural gas utilities and overall efficiency in this litigation. APGA has believed since the outset of this proceeding that setting efficiency standards by direct final rule, versus notice-and-comment rulemaking, was both a violation of the enabling statute and a disservice to the affected consumers. We are pleased that DOE has agreed to resolve the issues through notice-and-comment rulemaking and in so doing will share the data upon which its decision is made with the public at the earliest possible time in the process. APGA looks forward to working with DOE and other stakeholders on a new furnace efficiency standard that serves the best interests of American consumers.”

APGA is a long-standing supporter of energy efficiency, and will continue to be. In fact, the direct use of natural gas is one of the most efficient uses of energy (90 percent compared to 27 percent for electricity). However, the furnace rule, in an attempt to

increase efficiency, would have inadvertently deterred consumers from purchasing direct use natural gas appliances, which are more efficient than electric appliances. Practical issues such as venting requirements would indirectly increase the cost of the more energy efficient natural gas appliance options. Consequently, consumers would be incented to buy electric appliances that are initially cheaper to install, but ultimately less efficient and therefore more costly in the long term.

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APGA is the national association of municipally and publicly-owned local distribution systems. There are about 1000 public gas systems serving more than five million customers. These public gas utilities are not-for-profit retail distribution entities that are 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 have natural gas distribution facilities.