

First, AGA hereby notifies the Court of its intention to participate in support of the Petitioners in the above referenced consolidated proceedings. The Petitioners in the consolidated proceedings are the American Public Gas Association, Spire Inc. and Spire Missouri Inc., and the Air-Conditioning, Heating, and Refrigeration Institute. AGA supports the Petitioners' petitions for review and statements of issues filed in these consolidated cases.

Second, consistent with the aforementioned support for the Petitioners, AGA hereby submits the following non-binding statement of issues:

1. Whether the Department of Energy's ("DOE") final rule, *Energy Conservation Program: Energy Conservation Standards for Commercial Packaged Boilers*, 85 Fed. Reg. 1592 (Jan. 10, 2020) ("Final Rule"), is unlawful because DOE concluded unreasonably and contrary to law that the Energy Policy and Conservation Act's clear and convincing evidence standard, *see* 42 U.S.C. § 6313(a)(6)(A)(ii)(II), did not apply to the adoption of the rule, and that DOE's interpretation of what evidence and standard was applicable was unreasonable and contrary to law.
2. Whether the Final Rule is unlawful because the justification for the standards imposed was arbitrary and capricious, unsupported by clear and convincing evidence as required by 42 U.S.C. § 6313(a)(6)(A)(ii)(II), and unsupported by substantial evidence as required by 42 U.S.C. § 6306(b).

3. Whether DOE acted in an arbitrary and capricious manner, abused its discretion, acted contrary to its own regulations, policies and procedures, acted contrary to law, or otherwise violated Administrative Procedure Act requirements in adopting the Final Rule.

Respectfully submitted,

/s/ Matthew J. Agen

MATTHEW J. AGEN

MICHAEL L. MURRAY

American Gas Association

400 North Capitol Street, N.W.

Washington, DC 20001

Telephone: (202) 824-7000

MAgen@aga.org

MMurray@aga.org

Counsel for the American Gas Association

Dated: May 18, 2020

CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2020, I electronically filed the foregoing Statement in Support of Petitioners and Non-Binding Statement of Issues on the Court's CM/ECF System, which caused it to be served on all parties or their counsel.

/s/ Matthew J. Agen

MATTHEW J. AGEN
American Gas Association
400 North Capitol Street, N.W.
Washington, DC 20001
Telephone: (202) 824-7000
MAgen@aga.org