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RE: Joint Request for Extension of the Comment Period in Response to the Office of Energy Efficiency and Renewable Energy’s Notification of Proposed Interpretive Rule and Request for Comment, *Energy Conservation Program for Appliance Standards: Energy Conservation Standards for Residential Furnaces and Commercial Water Heaters*, Docket Number EERE-2018-BT-STD-0018, RIN 1904-AE39

Dear Office of Energy Efficiency and Renewable Energy:

The American Gas Association (“AGA”), the American Public Gas Association (“APGA”), Spire Inc., and Spire Missouri, Inc. (collectively “Spire”), and the National Propane Gas Association (“NPGA”) (collectively, the “Joint Movants”) respectfully request that the Department of Energy (“DOE”) extend the public comment period in the above-referenced proceeding for an additional 60 days from the date published in the Federal Register. The extension will provide stakeholders with adequate time to review and submit comments in response to the Notification of Proposed Interpretive Rule and Request for Comment, *Energy Conservation Program for Appliance Standards: Energy Conservation Standards for Residential Furnaces and Commercial Water Heaters*, Docket Number EERE-2018-BT-STD-0018, RIN 1904-AE39, 86 Fed. Reg. 48049 (Aug. 27, 2021) (“Notice”).¹

I. Introduction

On October 18, 2018, AGA, APGA, Spire, Inc., NPGA and the Natural Gas Supply Association, collectively filed a petition for rulemaking (“Petition”). On January 15, 2021, DOE published a final interpretive rule in response to the Petition determining that, in the context of residential furnaces, commercial water heaters, and similarly situated products or equipment, use of non-condensing technology (and associated venting) constitutes a performance-related

¹ Available at <https://www.federalregister.gov/documents/2021/08/27/2021-18017/energy-conservation-program-for-appliance-standards-energy-conservation-standards-for-residential>.

“feature” under the Energy Policy and Conservation Act (“EPCA”), that cannot be eliminated through adoption of an energy conservation standard.

On August 27, 2021, DOE issued a Federal Register notice of the proposed interpretive rule pertaining to performance-related features of certain appliances. DOE is now revisiting its interpretation issued on January 15, 2021. According to DOE, it proposes to return to its previous interpretation, in effect prior to the January 15, 2021 final interpretive rule, under which the technology used to supply heated air or hot water is not a performance-related “feature” that provides a distinct consumer utility under EPCA. DOE has requested comments on its proposed interpretation by September 27, 2021. For the reasons discussed below, the Joint Movants request a 60-day extension for filing comments.

II. Request for Extension of the Comment Period

The Joint Movants, who represent companies across the natural gas and propane value chain and its customers, were signatories to the Petition and are considerably impacted by the Notice and outcome of this proceeding. The Notice raises various issues that require ample time and resources to ensure the best possible record. Notably, when the Petition was filed, DOE established a comment period of approximately 90 days,² and on January 29, 2019, DOE extended the comment period for an additional 30 days until March 1, 2019.³ An additional comment period was established when DOE issued a supplemental proposed interpretive rule⁴ and DOE ultimately extended that comment period, as well.⁵ The comment period for the Petition, the related supplemental issuance, and the extensions reflect the importance of the issues raised in this proceeding, and DOE’s actions by setting months long comment periods recognized the need for stakeholders to fully consider the matter before filing comments.

The Notice and DOE’s proposal raise various factual, technical, economic, regulatory, and administrative issues that require significant time to review and respond to in a meaningful manner to inform the DOE in its decision-making process. For stakeholders to thoughtfully respond to the Notice, more time is needed. In view of the significance of the issues and the need to ensure the best possible record, DOE should extend the time for interested entities to submit comments in this matter. An extension would be consistent with DOE’s prior actions in this proceeding by establishing long comment periods and even extending them when requested to do so.

² See 83 Fed. Reg. 54883 (Nov. 1, 2018) (establishing November 1, 2018 to January 30, 2019 as the comment period). Available at <https://www.federalregister.gov/documents/2018/11/01/2018-23885/energy-conservation-program-energy-conservation-standards-for-residential-furnaces-and-commercial>.

³ See 84 Fed. Reg. 449 (Jan. 29, 2019) (Notice of petition for rulemaking; extension of public comment period). Available at <https://www.federalregister.gov/documents/2019/01/29/2019-00257/energy-conservation-program-energy-conservation-standards-for-residential-furnaces-and-commercial>.

⁴ See 85 Fed. Reg. 60090 (Sept. 24, 2020) (establishing September 24 to October 26, 2020 as the comments period). Available at <https://www.federalregister.gov/documents/2020/09/24/2020-20773/energy-conservation-program-for-appliance-standards-energy-conservation-standards-for-residential>.

⁵ See 85 Fed. Reg. 67312 (Oct. 22, 2020) (extending the comment period to November 9, 2020). Available at <https://www.federalregister.gov/documents/2020/10/22/2020-23318/energy-conservation-program-for-appliance-standards-energy-conservation-standards-for-residential>.

DOE's determinations in this proceeding will have significant implications for the natural gas and propane industry and customers. Any modifications to DOE policy, large or small, could change how DOE evaluates and determines efficiency standards for gas appliances, as well as other appliances, for years to come. Thus, the Joint Movants, who represent companies across the natural gas and propane value chain, are considerably impacted by this proceeding and its outcome. Furthermore, the Joint Movants note that stakeholders are engaged in multiple DOE related proceedings, both before the agency and the court, and each matter requires sufficient engagement. Additionally, the COVID-19 emergency remains ongoing, adversely affecting stakeholder involvement. Therefore, good cause exists to grant this extension of time. Providing a 60-day extension will not cause a significant delay in DOE's consideration of the record and any next steps.

III. Conclusion

For the foregoing reasons, AGA, APGA, Spire, and NPGA respectfully request that DOE consider this request for a 60-day extension of the comment period in response to the Notice. The Joint Movants look forward to working with DOE on this matter.

Respectfully submitted,

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