

M E M O R A N D U M

To: DOE Office of General Counsel

From: William T. Miller

Date: August 20, 2014

Re: August 20, 2014 meeting with DOE representatives regarding the remand of the DOE Direct Final Rule as it relates to efficiency standards for non-weatherized gas furnaces

This memorandum provides an overview of the meeting between representatives of the American Public Gas Association (APGA) and of the Department of Energy (DOE). Present for APGA were Dave Schryver and Dan Lapato and its General Counsel, William T. Miller of McCarter & English, LLP. Present for DOE were John Cymbalski and Dan Cohen.

The purpose of the meeting was for APGA to discuss several issues regarding the remanded notice-and-comment rulemaking resulting from the Court's order in *APGA v. DOE*, No. 11-1485, issued April 24, 2014. The key points discussed at the meeting were the following:

- The fuel switching survey done by GTI, showing that adoption of a condensing furnace standard for all non-weatherized gas furnaces would cause substantial fuel switching from natural gas to electricity; the survey is publicly available on the web sites of APGA and the American Gas Association.
- The impact analysis done by AGA with the assistance of GTI, showing that the impact of adopting a condensing furnace standard for all non-weatherized gas furnaces, and utilizing the fuel switching survey data noted above, would be to increase overall energy costs, increase source energy usage, and increase CO₂ emissions. This impact analysis was provided to the DOE Representatives, who indicated they would post it on the DOE web site.
- The importance and reasons for identifying condensing and non-condensing furnaces as separate product classes under the EPCA and relevant DOE precedents.
- The expected timing of the release of the Technical Support Document.