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Comments of the Consumer Technology Association

Additional submitted attachment is included below.

BEFORE THE
CALIFORNIA ENERGY COMMISSION

In the matter of: Phase 2 Appliance Efficiency Regulations & Roadmaps	Docket No. 17-AAER-12 Low-Power Mode & Power Factor

COMMENTS OF THE CONSUMER TECHNOLOGY ASSOCIATION

The Consumer Technology Association (CTA) provides these comments in response to the Commission staff's June 20, 2018 Request for Public Comment proposing a new test method for an undefined, broad sweep of consumer electronics and appliances in an undefined "low power mode." The proposed test method tries to cover too much ground with too little foundation. The Commission should instead seek to identify existing test methods and sources of information that already can fulfill some of its objectives and identify any remaining specific gaps in coverage to be referred to the standards bodies that are best suited to develop and maintain test methods for consumer electronics.

CTA is the trade association representing the $377 billion U.S. consumer technology industry, which supports more than 15 million U.S. jobs. Our membership includes more than 2,200 companies, including manufacturers, retailers, distributors and installers of the consumer technology products that appear to be within the broad scope of this proceeding. Eighty percent of CTA's members are small businesses and startups, and others are among the world's best known manufacturer and retail brands. Our members have long been recognized for their commitment and leadership in innovation and sustainability, often taking measures to exceed regulatory requirements on environmental design and energy efficiency.

For many years, CTA has supported and advanced energy efficiency in consumer electronics as part of the industry's broader commitment to environmental sustainability. CTA's comprehensive approach to energy efficiency includes extensive support for the federal ENERGY STAR program, a foundational role in the industry Voluntary Agreements to improve the energy efficiency of set-top boxes and small network equipment, and a lead role in the development of consensus standard test methods for several categories of consumer electronics. CTA has supported the Connected Devices Alliance (CDA), a collaboration involving governments from the Group of 20 (G20) countries and industry representatives to globally coordinate actions related to energy savings from networks and networked devices. As the industry authority on market research and forecasts, technical training and education, engineering standards, and industry promotion, CTA has also facilitated other government and industry energy efficiency public policy efforts, where it advocates for approaches that are globally harmonized and flexible to keep pace with technology, innovation and economic growth.

I. A Prescriptive, Standard Test Method is Unnecessary at this Early Stage of the Commission's Inquiry.

It would be premature for the Commission to adopt a test method without first establishing that there is decisive evidence of material energy inefficiencies in particular categories of devices that need to be evaluated through precise test data. Test methods are generally developed to assure the availability of energy usage measurements that are not only consistent and reliable, but also precise. This type of precision comes at a cost; test methods typically impose strict and detailed requirements for the lab and the test setup and process that are more costly and burdensome for the company than simpler and still reasonably accurate forms of testing. At this early stage of the Commission's consideration, it would be unnecessarily costly and overbroad to impose the exacting requirements of a test method on the open-ended, broad sweep of devices apparently covered by the proposed test method. The very broad range of products that appear to be encompassed by the proposed test method includes devices for which low-power mode regulation would not be warranted, such as those used only in very small quantities, that the Commission cannot lawfully regulate, that are already very energy efficient, or that cannot support a low-power mode.

The discussion draft therefore would put the cart before the horse by imposing a test method on an overbroad range of devices. That approach would waste resources and harm consumers without the potential for eventually returning energy savings for at least some of the covered devices, in conflict with the Warren-Alquist Act's emphasis on cost-effectiveness.[1] The Commission should instead look first to other less invasive and burdensome means to collect adequate preliminary information that it could use to identify specific types of devices for which there is clear legal and evidentiary justification to consider regulation.

II. A "One Size Fits All" Test Method for a Broad, Varied Range of Devices Would Backfire, Harming Consumers and Undermining Innovation.

Energy test methods have historically been developed for specific product categories with procedures specifically tailored to the characteristics and requirements of those products. This approach is for good reason: the variation in the purpose, function, use cases, support requirements and operation of consumer electronics and home appliances is so great that it is not practicable or effective to attempt a one-size-fits-all approach to testing as proposed by the Commission's discussion draft.

The draft proposal to cover a broad range of products under a single test method would be particularly unwieldly because it does not clearly define the range of products that could be covered, or the requirements for the "low power" mode that would be tested. There is no agreed-

[1] Cal. Pub. Resources Code § 25402(c)(1) ("The standards adopted or revised pursuant to this subdivision shall not result in any added total costs for consumers over the designed life of the appliances concerned. When determining cost-effectiveness, the commission shall consider the value of the water or energy saved, impact on product efficacy for the consumer, and the life cycle cost to the consumer of complying with the standard. The commission shall consider other relevant factors, as required by Sections 11346.5 and 11357 of the Government Code, including, but not limited to, the impact on housing costs, the total statewide costs and benefits of the standard over its lifetime, economic impact on California businesses, and alternative approaches and their associated costs.").

upon single definition of a "low power" mode, and it would be a mistake to try to ram such diverse products through a one-size-fits-all approach to power management. The potential for harmful results is particularly acute with devices that require continuous operation to protect health and safety, such as alarm systems, medical monitoring equipment, and small network equipment that supports these devices as well as the broadband Internet access and access to 911 and other telephone services used to support vital services and which consumers expect to always be readily available.

It is not realistic to expect that test procedures for such a broad range of products could be continuously refined through the Commission's deliberate regulatory process with the necessary speed to keep up with innovation. Even in the initial discussion draft, which is woefully lacking in the details necessary for an effective test method even for any one product, it is already evident that the Commission recognizes it would need to draw up special procedures for different types of devices and for different functionality within a device category. Even if the Commission could come up with all of the differences and exceptions that would be needed for the many categories and subcategories of devices, doing so would gut the original purpose of having a single test method, since it would no longer provide an apples-to-apples comparison anyway. And the open-ended scope of the proposed test method would mean that as years go by, there would be uncertainty as to applicability of the test method to emerging new products that did not exist when the method was adopted. It would be safer and more prudent to concede that an attempt at a partial set of common terms would inevitably misfire, hurting consumers and undermining innovation.

Once the decision is made to use distinct test methods for different product categories, the Commission could and should rely where possible on existing, consensus test methods that are already in place, including the following test methods:

Existing Consensus Test Methods

Product Category	**Consensus Test Method**
Audio-visual (AV) Equipment	IEC 62087
Computers/Slates and Tablets	Computers/Slates and Tablets ES V6.1
Imaging Equipment	Imaging Equipment ES V2.0
Monitors/Displays/Signage Displays	Monitors/Displays/Signage Displays ES V7.1
Set-top Boxes	ANSI/CTA-2043
Small Network Equipment	ANSI/CTA-2049
Smart Thermostats	Smart Thermostats ES V1.0
Telephones	Telephones ES V3.0
Televisions	ANSI/CTA-2037-B and DOE test method set forth at 10 C.F.R. Part 430 App. H to Subpart B

As discussed below, if the Commission believes that any of these existing test methods are lacking in some way, it should seek to modify or supplement them rather than try to start over from scratch to develop an overlapping new test method.

The Commission should also clarify that it is not seeking to apply new requirements on products that are already regulated by the Commission or DOE, such as computers, monitors and televisions, or by a Voluntary Agreement, such as set-top boxes and small network equipment. Other categories that have only a small energy footprint, either because they use little power and/or because they are sold only in small volumes, should also be excluded as de minimis. Once various excluded products are identified, the Commission could then identify specific remaining categories where there is decisive evidence of energy inefficiencies, and then could solicit stakeholders to identify appropriate approaches specifically tailored to those product categories, rather than attempting an approach that tries to fit all but in the end fits none.

III. Any Modification of Existing Test Methods or Development of New Test Methods Should be Referred to Appropriate Expert Standards Bodies.

If the Commission does find that modifications should be considered to any of these existing test methods to better support Commission objectives, proposed changes should be submitted to the standards development organizations that approved and oversee those test methods. In product categories such as televisions, set-top boxes and small network equipment, CTA has supported the development of consensus standards for measuring power consumption through an open, accredited and multi-stakeholder process. If any new test methods are needed for categories not covered by any existing standard, the Commission and parties should seek to move that process forward in an appropriate standards body rather than try to craft a California-specific test method in this regulatory proceeding.

The Request for Comment poses a number of specific questions related to the construct of a horizontal test method applicable to a broad range of products. Attempting to answer these questions for a broad undefined universe of products is not productive since testing protocols and device characteristics vary widely among product categories. However, the Commission will find that most if not all of these questions have either already been addressed or are under ongoing consideration by stakeholders within the standards processes with respect to at least some of the test methods.

The consensus standards process has proven to be the most effective forum for the development and ongoing maintenance of test procedures. The standards process is open to all stakeholders, including regulators and utilities. Public-private sector collaboration is a part of the CTA consensus standards development process. Both the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Energy (DOE) have come to rely on and reference CTA-led consensus standards that stem from that collaboration. These open forums offer an excellent opportunity for public and private sector stakeholders to collaborate again in the development of a consensus standard test method. The ANSI-accredited standards process is open to, and has benefited from, the participation of various interested parties from industry, government and the NGO community. To receive ANSI accreditation, a standards development organization must meet ANSI's "essential requirements for openness, balance, consensus and due process."[2] ANSI's exacting guidelines ensure levels of equity, fair play, and openness in standards development. These bodies already have the expertise, broad membership,

[2] Introduction to ANSI, ANSI.org, *available at* http://www.ansi.org/about_ansi/introduction/introduction.aspx?menuid=1#.UVC0X1eprlQ.

infrastructure, and policies in place to develop test procedures efficiently. It makes no sense for the Commission and investor-owned utilities to invest taxpayer and ratepayer resources to recreate the wheel to replicate that process within the Commission when there are superior and more effective forums readily available.

For example, the EPA recently elected to participate in a CTA-led standards process for a new CTA-2084 test method to support the revision of the EPA's ENERGY STAR Audio/Video Specification Version 4.0. The resulting test method will be submitted to the ANSI standards process for approval rather than adopted through an EPA or DOE regulatory process. The development of this consensus standard is currently underway, and the Commission is welcome to participate directly in this process with other stakeholders if the covered audio/visual devices are of interest for purposes of this low-power mode proceeding.

As a matter of federal policy as well as principle, it is important to defer to the long-established consensus standards process when a test method standard is needed. Mandating and locking into regulation a test procedure for California would harm the ability of both U.S. government and industry to keep pace with technology-driven changes to the test procedures used elsewhere that otherwise would be managed and harmonized through the consensus standards process. The regulatory process is too slow to be able to assure that a test procedure does not become obsolete over time. DOE adopted a test procedure for televisions in 1979 that remained in effect for years beyond its suitability. Adoption of a California-specific test method would create confusion and disparity; add to U.S. firms' testing burdens; undermine the international and U.S. consensus standards process; undermine international harmonization; and create economic diseconomies with most of the rest of the world which relies on international standards.

IV. Small Network Equipment and Set-Top Boxes Should be Excluded from this Proceeding.

The Commission should exclude small network equipment (SNE) and set-top boxes from the scope of this proceeding. As noted above, comprehensive test methods for these categories of devices are already in place through the consensus test methods in ANSI/CTA-2049 and ANSI/CTA-2043, respectively. Moreover, test results for SNE and set-top box models from all of the major providers are annually verified and reported under Voluntary Agreements by an independent auditor, D+R International and posted at www.energy_efficiency.us. Under the Voluntary Agreements' audit and verification program supervised by D+R, select models are re-tested in a third-party lab or under a supervised testing program with an accredited observer. Both of these Voluntary Agreements were recently extended through 2021, guaranteeing that comprehensive, reliable and repeatable test data for relevant new SNE and STB models will continue to be available to the Commission. A requirement to perform duplicative testing under a second Commission low-power test method would therefore be especially unnecessary.

SNE is also particularly unsuited to be lumped in with a broad range of other products because it must support always-available connectivity for Internet access, IP-telephone (including 911 calls), security systems and alarms, medical monitoring and other devices and services that consumers count on being able to be used at any time without delay. The Warren-Alquist Act requires the Commission to consider the impact any regulations would have on

"product efficacy for the consumer."[3] The discussion draft's presumption that SNE should be expected to enter a reduced-power standby mode after some number of minutes of user interaction fails to reflect proper consideration of the impact on the efficacy not only of SNE but also the services and devices that rely on SNE. In addition, SNE and set-top boxes must be designed to be compatible with specific service provider networks. Because of these unique characteristics and consumer expectations, SNE and set-top boxes should not be a part of the already-unwieldly broad scope of this proceeding.

Conclusion

CTA respects and supports the Commission's objective and obligation to promote energy efficiency in California. However, the Commission's means must be reasonably and cost-effectively tailored to further those objectives. It would be premature to develop and impose a test method just to collect general information on energy usage that needs to be considered before the Commission can properly determine whether a test method is even necessary for each particular category of devices. Worse, the imposition of a one-size-fits-all test method on an overbroad, unbounded spectrum of devices would inevitably sweep in products that either must or should be excluded, and it would likely be substantially ill-fitted to at least some of the products covered. The Commission should instead first determine if there are *specific* product categories for which additional test information is needed, seek to rely on existing test methods for that information where possible, and engage in the consensus standards process embraced by the federal government and stakeholders around the world to seek to modify or develop additional test methods as needed for the Commission's properly-tailored and supported regulations or other policy approaches.

Respectfully submitted,

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[3] Cal. Pub. Resources Code § 25402(c)(1) ("When determining cost-effectiveness, the commission shall consider the value of the water or energy saved, impact on product efficacy for the consumer, and the life cycle cost to the consumer of complying with the standard.").