Consumer Electronics Retailers Coalition
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DOCKET
07-AAER-3
DATE JAN 19 2009
RECD. JAN 16 2009

January 19, 2009

Mr. Arthur H. Rosenfeld
Chairman and Presiding Member, Efficiency Committee
California Energy Commission
Docket No. 07-AAER-3C
Docket Unit
1516 Ninth Street, Mail Station 4
Sacramento, CA 95814-5504

RE: Docket No. 07-AAER-3: 2008 Rulemaking Proceeding on Appliance Efficiency Regulations

Dear Chairman Rosenfeld and Commissioners:

The Consumer Electronics Retailers Coalition (CERC) is a public policy organization consisting of the major retailers of consumer electronics products including Amazon.com, Best Buy, Circuit City, K-Mart, RadioShack, Sears, Target, Wal-Mart, and the leading industry trade associations – National Retail Federation (NRF) and Retail Industry Leaders Association (RILA).

The California Retailers Association (CRA) is a trade association representing major California department stores, mass merchandisers, supermarkets, chain drug and convenience stores, as well as specialty retailers such as auto, book and home improvement stores. Our members have more than 9,000 stores in California and account for more than $100 billion in sales annually.

On behalf of CERC and CRA, we appreciate having the opportunity to submit additional comments on the recent California Energy Commission's (CEC) staff proposal that would impose an arbitrary energy use limit on televisions. CERC was pleased to have its views emphasized by Heidi DeJong Barsuglia, Director of Government Affairs for CRA at the CEC's December 15, 2008 stakeholder's workshop.

CERC and CRA members are all fully committed to improving energy efficiency. Indeed, we see improving energy efficiency as making good sense as well as being a major market opportunity. Our members have worked tirelessly to offer consumers a wide choice of ENERGY STAR qualified electronic products and appliances.
Make no mistake, we are in the midst of a deep recession and consumers and retailers alike are suffering in the current economic climate. We have just been through the holiday shopping period when retail sales were down in virtually every category. Indeed,

consumer technology ‘brick-and-mortar’ sales experienced the first-ever decline during the critical 5 week holiday sales season beginning with ‘Black Friday.’ Revenue was down more than 8 percent compared to the same time period last year. Overall, holiday sales recorded the biggest decline on record, falling approximately 3.5%.

As of January 1, 2009, increased Advance Recovery Fees for recycling of electronics went into place inflating the cost of televisions for California consumers. By reviewing sales data, it is clear that customers already pay a premium price for ENERGY STAR qualified televisions. Our retailers as well as the Consumer Electronics Association (CEA) agree that this premium price would increase in the event that the CEC proposal passes.

Any unrealistic or unnecessary regulations that would limit the ability of our members to meet the needs of California consumers would deepen that economic pain. Recent research conducted by the CEA demonstrates the significant economic impact of the CEC imposing an unnecessary regulation. The result would be between 10 and 30 percent of existing TVs being removed from the market. Such an action that prohibits the sale of desired TV models in California would drive consumers to neighboring states and on-line options beyond the jurisdiction of the CEC.

As industry analysis has shown, such an action by the CEC would lead to store closures and retail job losses. If the CEC mandates a regulation that removes just 10 percent of TVs from store shelves, the CEA conservatively estimates that it will cost the state of California $44 million in lost tax revenue, 5,000 lost jobs and the closure of 180 storefront retailers.

Economic disruption, lost sales and lost jobs does not advance the cause of energy efficiency. If anything, it disrupts the prosperity needed to feed the natural replacement cycle of older, less efficient products with newer more energy efficient TVs and consumer products.

There is absolutely a better way to address and support continued energy efficiency in TVs. The ENERGY STAR program has been a tremendous success and a large array of ENERGY STAR qualified televisions exist and are available. Indeed, as a result of the swift marketplace adoption of the latest ENERGY STAR Version 3.0 specifications, a new and more stringent ENERGY STAR specification is now in the works. The U.S. EPA announced the latest revision of the television ENERGY STAR specification on December 12, 2008.

CERC and CRA members expect this new standard to be more stringent and energy efficient than either the current ENERGY STAR TV specification or the current Consortium for Energy Efficiency (CEE) Tier 2 standard (which represents a level -15 percent more stringent than the current ENERGY STAR TV specification). Televisions today are far more energy efficient than televisions of the past. As consumers convert from analog to digital television, this upgrade cycle will continue to yield energy savings at a state and national level through ENERGY STAR.

CERC and CRA members have been at the forefront in working with manufactures to stock and develop more energy efficient televisions and consumer electronic products in general. Every day new, more environmentally friendly and more energy efficient consumer electronics products are reaching our shelves. As retailers, we are enthusiastically 'selling green' and working with our customers to help meet their expectations.

CERC and CRA respectfully urge the CEC to turn its attention away from a punitive economically harmful regulatory approach to a more positive incentive-based approach. This approach would not only advance energy efficiency but stimulate the economy as well.

There are a number of positive initiatives which could drive consumer adoption of green products and green lifestyles without the costly and undesirable economic impacts of an arbitrary energy use limit and regulation:

- The CEC should encourage consumers to use aftermarket products like smart power strips and smart home technologies which help consumers manage and optimize power consumption throughout the home.

- The CEC should press utilities to adopt smart grid technologies which can give consumers the option to manage their energy usage all the way to the outlet level.

- The CEC should look to adopt tax and electric rate incentives to encourage consumers to purchase ENERGY STAR qualified products.

- The State of California should lead the way in its large procurement policies to ensure that the state government only purchases energy efficient products from California suppliers and properly disposes of obsolete equipment.

It is our belief that the ENERGY STAR program is the appropriate, preferred and most consumer-friendly public policy vehicle to deliver increased energy efficiency and savings in consumer electronic products. We also believe that the Commission staff's proposal to establish any energy use limits for TV as a mandatory requirement will degrade the value of the ENERGY STAR brand – which reaches across the television category into home office, and home entertainment electronics.

Consumers' trust in and influence from the ENERGY STAR label will certainly be decreased to the extent that support for the ENERGY STAR program is undermined by unnecessary energy use limits. Also, on the manufacturing side, we know there are serious concerns about the impact of artificial energy use limits on product innovation and convergence – particularly given the rapid and unpredictable pace of change in the consumer electronics market.

Our respective organizations and members would like to work together to create a virtuous cycle of economic activity which encourages consumers to act, rather than face a situation where the CEC takes away options and forces consumers to take their business outside the state. We urge the CEC and other stakeholders to adopt positive incentives rather than punitive, prescriptive and unnecessary regulations that limit consumer and retailer choice.

The CEC proposal for artificial energy use limits on TVs and stated goal of eliminating a significant share of TV models places retailers in an untenable position. Such a regulatory approach for electronics threatens to interrupt our complex supply chains, mandate a state specific product mix and make it more difficult for consumers to enjoy the benefits of home entertainment (another important California industry) all in the midst of one of the largest state and national retail and economic downturns in decades.

For the state, the Commission's draft proposal as written, will lead to a loss of tax revenue. This is neither the right time nor right approach to achieve the energy savings we all want to accomplish.

Thank you for the opportunity to submit these additional comments on behalf of CERC and CRA and we look forward to working constructively with the CEC and other stakeholders in the New Year.

Sincerely,

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