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Via e-mail:
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November 4, 2010

Mr. Michael Leao
Mr. Harinder Singh
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Subject: **2010 Rulemaking Proceeding Phase II on Appliance Efficiency Regulations;
Appliance Efficiency Standards for Battery Chargers (Docket # 09-AAER-2)**

Dear Messrs. Leao and Singh:

We, the undersigned organizations, are providing comments on the California Energy Commission's interest in appliance efficiency standards for battery chargers. We also are providing comments on the Ecos Consulting report entitled "Analysis of Standards Options for Battery Charger Systems," known as the CASE report, dated October 1, 2010, and commissioned by Pacific Gas and Electric Company (PG&E), which was recently made publicly available. Collectively, we represent more than 34,000 companies and businesses in several industry sectors which design, make or sell battery chargers for a wide range of consumer and commercial products and systems.

I. The Energy Commission's broad pursuit of battery charger regulations is unnecessary and wasteful given U.S. Department of Energy's rulemaking on battery charger systems already underway.

Pursuant to the Energy Independence and Security Act of 2007 (EISA 2007), the U.S. Department of Energy (DOE) is already well underway in a rulemaking on battery chargers which it must complete by July 2011. The DOE rulemaking is on schedule, benefits from comprehensive approach involving a large number of stakeholders, and involves several hundred pages of technical analysis as part of its proceedings. Not only is the Commission's pursuit of regulations for battery chargers unnecessary in light of the federal rulemaking already underway, it is also wasteful to the extent that California taxpayer and ratepayer money would be spent on the development of superfluous California regulations.

If the Commission believes there are energy savings opportunities with battery chargers in California, it should recognize that those savings would be dramatically larger at the national level. A national approach would benefit California consumers no matter where (in-state, out-of-state) or how (in stores, online, etc.) they purchase products with battery chargers in the future. We urge the Commission to recognize the federal rulemaking already underway and participate directly and actively in that rulemaking, which already benefits from participation by a wide range of stakeholders.

II. The Energy Commission's development of regulations which are already being developed at the federal level would create unnecessary cost and compliance burdens for the marketplace and could negatively impact product usage and technology choices.

The Commission's development of energy efficiency regulations for battery chargers, which apparently would be effective close to the time that federal regulations for battery chargers would be effective, represents an extremely inefficient approach to supporting energy efficiency. The Commission's approach suggests the potential for re-regulation, or double-regulation, of external power supplies that are already covered by energy efficiency regulations at the national level due to EISA 2007. For manufacturers to meet two sets of regulatory requirements within a narrow time frame is unnecessarily disruptive to the marketplace and would present serious cost impacts on a variety of businesses within our industries and presumably others. In some cases, manufacturers could decide to halt manufacturing of certain battery charger-related product lines between the two sets of effective dates, which could result in product supply shortages and unnecessary economic loss for manufacturers.

Additionally, our members have expressed concern that the Commission's regulation of battery chargers could force the use of certain battery technologies that would not be appropriate in all

applications, especially those related to public safety or life safety where product performance and durability are paramount.

Again, given these concerns and potential impacts, we urge the Commission to recognize the federal rulemaking already underway and participate directly in that rulemaking.

III. The PG&E/Ecos Consulting CASE report lacks technological and economic rigor and suffers from many of the shortcomings present in similar reports used to advance other regulations before the Energy Commission.

One of the most significant shortcomings in the PG&E/Ecos Consulting CASE report is the lack of current data on the power consumption of battery chargers available today. Unfortunately, the use of stale and out-of-date data has been commonplace in the CASE reports used to justify the Commission's regulations of electronics, as witnessed during the Commission's rulemakings on external power supplies as well as televisions.¹ In this proceeding on battery chargers, the CASE report presents battery charger testing data from Ecos Consulting that is several years old. Clearly, this is an inappropriate and unreasonable basis upon which to consider new regulations.

Additionally, the Commission's reliance on such reports based on old data presents concerns from an energy efficiency policy perspective. Pursuing energy efficiency standards for battery chargers using outdated data artificially inflates the estimated energy "savings" from regulation, which in turn would present misleading claims to policy makers and the public regarding contributions to California's energy savings and greenhouse gas emissions reduction goals. The Commission cannot fairly or objectively base crucial policy decisions regarding battery chargers on such inaccurate and outdated information.

In stark contrast to the PG&E/Ecos Consulting CASE report, the DOE has produced several hundred pages of detailed technical analysis concerning its rulemaking on battery chargers and external power supplies, incorporating test data that ranges from just less than one year old to just over one year old.

¹ See "Assessment of Analyses Performed for the California Energy Efficiency Regulations for Consumer Electronics Products," TIAX LLC, February 2, 2006, available at http://www.energy.ca.gov/appliances/documents/2006-01-30_workshop/2006-02-10_TIAX.PDF . See also comments by the Consumer Electronics Association to the California Energy Commission, November 2, 2009, available at http://www.energy.ca.gov/appliances/2009_tvregs/documents/comments/TN%2053944%2011-02-09%20CEA%20Comments%20Regarding%20Draft%2045-Day%20Language%20on%20Appliance%20Efficiency%20Standards%20for%20TV.pdf .

IV. Answers to questions presented during the Energy Commission's conference call on October 26, 2010 are needed to inform further comments on the PG&E/Ecos Consulting CASE report.

During the Commission's conference call on October 26, 2010, where the PG&E/Ecos Consulting CASE report was reviewed and discussed, several questions were presented to the Ecos Consulting representative that could not be answered during the call. The Commission representatives invited participants to follow up in writing with those and other questions for later response by the Ecos Consulting representatives. We ask that the Commission disseminate those responses to all stakeholders.

V. The Energy Commission's reliance on consultants with vested interests continues to be a concern, in addition to the lack of openness and transparency regarding documents that were the subject of the Commission's public workshop on October 11, 2010.

Parties with vested interests and biases in favor of regulation continue to steer the Commission's energy efficiency policy activities. As we have witnessed in the Commission's earlier rulemakings concerning consumer audio and video products, external power supplies, and most recently televisions, the Commission has promulgated regulations largely based on reports supplied by local investor-owned utilities with interests in, or incentives for, shifting regulatory and cost burdens to others. We do not question the utilities' support for energy efficiency, as indeed energy efficiency is a goal shared and supported by us and other stakeholders. However, we do question the Commission's overreliance on reports from one set of stakeholders as witnessed during recent Commission rulemakings.²

Additionally, we also are concerned that the authors of recent CASE reports supplied to the utilities and provided to the Commission are perceived as having a bias in favor of regulation rather than an independent, objective view. Ecos Consulting, author of the CASE report concerning battery chargers, and co-author of an earlier report supplied to the Commission regarding external power supplies, has been on record publicly as supporting government-mandated energy efficiency standards. In this context, it is not surprising that the CASE report concludes with a recommendation that the Commission mandate regulations for battery charger products. The CASE report fails to examine or evaluate any other policy alternatives to support energy efficiency in battery charger products.

² In the Commission's recent rulemaking on televisions, the Commission's Staff Report relied almost exclusively on conclusions supplied by a PG&E report, as described in comments by the Consumer Electronics Association to the Commission on November 2, 2009.

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Finally, with respect to the Commission's October 11, 2010 public workshop, we share the concerns expressed by other stakeholders that the CASE report on battery chargers was not made publicly available prior to the workshop. This in turn did not facilitate an open and transparent process during the meeting, and it did not enable the Commission to hear views from all parties in attendance based on the same information. Based on discussions and presentations during the workshop, it appeared that some parties, such as the Air Resources Board, had access to information in the CASE report prior to the Commission's workshop, while many workshop participants did not. Less of a concern, but still a planning issue, is the fact that the Commission scheduled the workshop on a federal holiday and just 48 hours prior to a U.S. Department of Energy public meeting on battery chargers that had been announced much earlier.

In light of these issues, concerns and shortcomings, and given the need to have several questions answered by the authors of the CASE report, we urge the Commission to reject the current PG&E/Ecos Consulting CASE report, as well as reconsider its overall approach to supporting energy efficiency in battery chargers.

Sincerely,

Association of Home Appliance Manufacturers

California Manufacturers and Technology Association

California Retailers Association

Consumer Electronics Association

Consumer Electronics Retailers Coalition

CTIA - The Wireless Association®

Power Tool Institute

PRBA - The Rechargeable Battery Association

TechAmerica

Toy Industry Association

cc: Commissioner Anthony Eggert
Commissioner Jeffrey Byron