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Docket Unit  
1516 Ninth Street, Mail Station 4  
Sacramento, CA 95814-5504

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Subject: **Comments on 2011 Integrated Energy Policy Report, Lead Commissioner Final Report, January 2012 (Publication No. CEC-100-2011-001-LCF)**

The Consumer Electronics Association (“CEA”) respectfully submits these comments with reference to the Lead Commissioner Final version of the *2011 Integrated Energy Policy Report*, January 2012, CEC Docket Number 11-IEP-1.

## **I. Introduction**

CEA is the preeminent trade association promoting growth in the \$202 billion U.S. consumer electronics industry. CEA represents more than 2,000 corporate members involved in the design, development, manufacturing, distribution and integration of audio, video, in-vehicle electronics, wireless and landline communications, information technology, home networking, multimedia and accessory products, as well as related services that are sold through consumer channels. For many years, CEA has supported and advanced energy efficiency in consumer electronics as part of the industry’s broader commitment to environmental sustainability. CEA’s comprehensive approach to energy efficiency includes industry initiatives related to public policy, consumer education, research and analysis, and industry standards.

## **II. We encourage the Energy Commission to conduct a “lessons learned” proceeding with respect to appliance efficiency standards rulemakings.**

The *2011 Integrated Energy Policy Report* (“2011 IEPR”) references an Energy Commission proceeding initiated in December 2010 to examine “lessons learned” during the licensing of certain solar projects and natural gas-fired power plants during 2009 and 2010. As described in the 2011 IEPR, this proceeding yielded helpful findings and new strategies.

CEA encourages the Energy Commission to conduct a lessons learned proceeding regarding the appliance efficiency standards rulemaking process. Such a proceeding would allow a more thorough review of several significant and ongoing issues and concerns which a number of stakeholders have identified in each of the Energy Commission's recent efficiency standards rulemakings concerning electronics. Among the issues and concerns are the consulting services relied upon in recent rulemakings; cost-benefit analyses and methodology; transparency in the rulemaking process; and stakeholder involvement. Since these matters have a direct impact on the Energy Commission's work in contribution to the state's goals regarding energy savings and the reduction of greenhouse gas emissions, we believe a proceeding on lessons learned would be valuable and important.

### **III. We support California's goal of cost-effective energy efficiency but question whether it is really being achieved in recent Energy Commission rulemakings.**

As noted several times in the 2011 IEPR, California's energy efficiency policies include achieving all cost-effective energy efficiency. Energy efficiency is a goal generally shared by stakeholders in the Energy Commission's appliance standards rulemakings. A key determinative factor in such rulemakings is whether a proposed regulation is cost-effective, and we have good reason to believe that the analyses relied upon by the Energy Commission to determine cost effectiveness have been flawed in each of the recent rulemakings impacting the electronics industry.

The Energy Commission's recent proceedings related to electronics included rulemakings on consumer audio/video products and external power supplies; televisions; and battery chargers. In each of these rulemakings, third-party studies commissioned by stakeholders identified several concerns and shortcomings. Stakeholders demonstrated that the core material relied upon in these rulemakings included flaws related to data, methodology and even mathematical calculations, all of which bore directly on the quality and conclusions of the cost-benefit analyses used in support of the proposed regulations.

### **IV. Dubious savings claims are repeated in the 2011 IEPR.**

Many of the flaws identified in the cost-benefit analyses used in the Energy Commission's appliance efficiency standards rulemakings for electronics have a significant impact on the Commission's estimates of California's energy savings, energy cost savings, and reduction of greenhouse gas emissions resulting from the rulemakings. Presumably, the derivative estimates and claims made by utilities would be impacted as well. In recent Energy Commission rulemakings, we have called attention to these concerns and urged correction of the flaws. However, in the 2011 IEPR, we see reiteration of questionable savings claims.

For example, in the Energy Commission's recent energy efficiency standards rulemaking for battery chargers, the Commission claimed the regulations, once fully implemented, will save California ratepayers approximately \$306 million per year. While the Energy Commission purports to calculate cumulative savings "up to the point where compliant products begin replacing noncompliant products," the Commission's calculations actually estimate first year

savings attributable to the regulation after a complete turnover of the current stock. CEA and other stakeholders commissioned a third-party review which found the Energy Commission's simplistic approach to be fundamentally flawed and logically unsound as it fails to properly account for: (1) turnover of existing stock; (2) the time value of money; (3) the potential impact of a pending U.S. Department of Energy regulation for consumer battery chargers; (4) the incremental cost of compliance; and (5) technological improvements due to competition.<sup>1</sup> Moreover, the third-party review found that the Energy Commission's calculations contained arithmetic errors and were based on outdated data which overstated product savings and understated the incremental costs of compliance. Nonetheless, the Energy Commission's flawed savings claim, stated in GWh per year, is repeated in the 2011 IEPR.<sup>2</sup>

**V. Compliance is important, but the track record, as stated in the 2011 IEPR, should be clarified.**

As noted in the 2011 IEPR, on October 8, 2011, Governor Brown signed Senate Bill 454 (Pavley, Chapter 591, Statutes of 2011) into law. CEA contributed comments and recommended amendments regarding this legislation which provides new authority to the Energy Commission regarding enforcement of its appliance efficiency standards. Reasonable measures to ensure compliance are important, but the 2011 IEPR's statements concerning "widespread noncompliance by manufacturers and retailers" are misleading.

The rationale for SB 454 was based on the assertion that there is significant non-compliance with the Energy Commission's appliance efficiency standards. In earlier comments on the legislation, we noted our belief that this contention was based on erroneous presumptions and the use of a flawed statistical methodology. A market compliance survey, commissioned by the Energy Commission and administered by an outside consultant, alleged high rates of "non-compliance" across various products. But the non-compliance only related to registration with the Energy Commission, not compliance with any energy efficiency standards. Appliances that meet Title 20 efficiency standards but are not listed in the Energy Commission's appliance database were, for the purposes of the survey, still considered non-compliant. It is likely that most of the appliances that have been listed as non-compliant already satisfy the Title 20 efficiency standards.

**VI. PIER program funding has generated poor analysis impacting policy making before the Energy Commission.**

The Public Interest Energy Research (PIER) Program is highlighted and described in the 2011 IEPR. The report explains that PIER-funded research plays a key role in developing and providing supporting data to justify the Energy Commission's energy efficiency standards. In particular, the 2011 IEPR states "the 2010 Appliance Efficiency Standards included requirements for flat-screen televisions and the 2007 Appliance Efficiency

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<sup>1</sup> See appendix material of CEA's comments to the Energy Commission dated November 21, 2011, [http://www.energy.ca.gov/appliances/battery\\_chargers/documents/comments/Consumer\\_Electronics\\_Association\\_2011-11-21\\_TN-62955.pdf](http://www.energy.ca.gov/appliances/battery_chargers/documents/comments/Consumer_Electronics_Association_2011-11-21_TN-62955.pdf).

<sup>2</sup> See, for example, page 67 of the 2011 IEPR.

Standards included requirements for external power supplies – all of these resulted directly from PIER-funded research.<sup>3</sup>

As noted above, during recent Energy Commission rulemakings, stakeholders identified significant flaws in the material presented to the Commission in order to support and justify new appliance efficiency standards for electronics. For example, in the rulemaking concerning external power supplies, the Energy Commission relied upon PIER-funded research and analysis to determine the cost-effectiveness of the proposed appliance efficiency standard for these devices. CEA commissioned an independent assessment of this material which found that data relied upon for regulation was not representative of external power supplies actually on the market at that time. Consequently, as our commissioned report found, the original analysis relied upon by the Energy Commission likely significantly overestimated the energy savings of the proposed regulation. The report found additional flaws in the PIER-funded analysis with respect to incremental cost estimates and methodology.<sup>4</sup>

More recently, in the rulemaking concerning televisions, the Energy Commission relied upon PIER-funded research which during the rulemaking was demonstrated to be significantly flawed and misleading.<sup>5</sup> For example, despite the Energy Commission's recognition that television manufacturers had already made substantial reductions in energy use in the last two years alone prior to the rulemaking, the Energy Commission relied upon outdated studies and PIER-funded research that concededly excluded any new models with lower energy consumption. This inflated the baseline, which in turn exaggerated the potential savings estimates from regulation. These flaws, as well as other mathematical and conceptual errors that improperly calculated potential energy savings, were never corrected, and the proposed regulation proceeded to adoption.

## **VII. The 2011 IEPR mischaracterizes energy efficiency incentives and trends.**

In discussing the Energy Commission's Appliance Efficiency Standards, the 2011 IEPR states, "Unfortunately, the energy use (and thus the true cost) of appliances and electronic devices is often invisible to the consumer, and manufacturers lack the direct incentive (of having to pay for the energy their products consume) to design products that use energy efficiently."<sup>6</sup> This statement suggests that manufacturers have no compelling reason to design energy efficient products.

On the contrary, for consumer electronics, there are significant incentives to encourage the efficient use of electricity. Many of these incentives have been in place for a long time, and they include: design and engineering incentives (related to reducing energy and thus heat that

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<sup>3</sup> 2011 IEPR, page 169.

<sup>4</sup> "Assessment of Analyses Performed for the California Energy Efficiency Regulations for Consumer Electronics Products; Final Report to the Consumer Electronics Association," TIAX LLC, February 2, 2006.

<sup>5</sup> See CEA's comments to the Energy Commission dated November 2, 2009, [http://www.energy.ca.gov/appliances/2009\\_tvregs/documents/comments/CEA%20comments%20to%20CEC%2011-2-09.pdf](http://www.energy.ca.gov/appliances/2009_tvregs/documents/comments/CEA%20comments%20to%20CEC%2011-2-09.pdf).

<sup>6</sup> 2011 IEPR, page 66.

can damage components); cost-related incentives (reducing energy and heat reduces component costs); product convergence (leading to more efficient designs incorporating previously separate devices and functions); and competition (through voluntary, market-oriented programs such as ENERGY STAR).

### **VIII. We support the Energy Commission's direct engagement in federal proceedings.**

The 2011 IEPR includes the recommendation that the Energy Commission engage in U.S. Department of Energy (DOE) proceedings that are developing federal test methods and appliance standards.<sup>7</sup> We agree with this recommendation which suggests the importance of a more efficient national (if not international) approach to energy efficiency.

For example, CEA raised concerns about the Energy Commission's recent pursuit of a duplicative rulemaking (which is now adopted) on consumer battery charger systems given the ongoing rulemaking on the same consumer device category at the national level by the DOE. As stated in our November 2011 comments to the Energy Commission<sup>8</sup>:

CEA recognizes that DOE is not addressing battery charger systems in the commercial market, where CEC certainly has an opportunity to pursue a rulemaking. However, CEC also has chosen to pursue its own regulation for consumer-related battery charger systems despite legitimate concerns about costly redundancy. Not only is the Commission's pursuit of regulations for battery charger systems in the consumer market unnecessary in light of the federal rulemaking already underway for these devices, it is also wasteful to the extent that California taxpayer and ratepayer money is being spent by the CEC and investor-owned utilities on the development of California regulations that to a large extent are superfluous.

As we and several other organizations have stated, if the CEC believes there are energy savings opportunities with battery charger systems for consumers 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.

The CEC'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. For manufacturers to meet two sets of regulatory requirements within a narrow time frame is unnecessarily disruptive to the marketplace and costly for manufacturers. Additionally burdensome and unnecessary is the CEC's proposed marking requirements for battery charger systems, which would mandate that manufacturers apply a California-specific label to their products.

Unfortunately, with respect to "efforts to avoid unnecessary duplication" as described in the Energy Commission's Initial Statement of Reasons for its proposed battery charger

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<sup>7</sup> 2011 IEPR, page 71.

<sup>8</sup> CEA comments to the Energy Commission dated November 21, 2011, [http://www.energy.ca.gov/appliances/battery\\_chargers/documents/comments/Consumer\\_Electronics\\_Association\\_2011-11-21\\_TN-62955.pdf](http://www.energy.ca.gov/appliances/battery_chargers/documents/comments/Consumer_Electronics_Association_2011-11-21_TN-62955.pdf).

regulation, the CEC gave only passing acknowledgement of the DOE's battery charger rulemaking.<sup>9</sup>

## **IX. Conclusion**

Energy efficiency is a shared priority, and CEA appreciates the Energy Commission's consideration of these comments. We look forward to working with the Energy Commission and other California policy makers and stakeholders on addressing the issues and concerns identified above.

Respectfully submitted,

/s/

Douglas Johnson  
Vice President, Technology Policy

cc: Governor Edmund G. Brown Jr.

Senator Alex Padilla, Chair, Senate Committee on Energy, Utilities and  
Communications

Assemblymember Steven C. Bradford, Chair, Assembly Committee on Utilities and  
Commerce

Michael R. Peevey, President, California Public Utilities Commission

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<sup>9</sup> See Initial Statement of Reasons: Proposed Amendments to Appliance Efficiency Regulations, October 7, 2011, page 14.