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May 5, 2006

California Energy Commission
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Dear Commissioners:

RE: Docket 06-AAER-1

We understand that you are considering amendments to the appliance efficiency regulations that would require digital television adaptors or set-top boxes to meet an eight-watt active power and a one-watt standby power requirement. Because these requirements would substantially increase the cost to consumers of DTV conversion equipment, we encourage the Commission to hold this proposal in abeyance until it has had an opportunity to consider its unintended effects on low-income consumers' access to over the air television service.

By way of background, we are a public interest legal organization, founded in 1986, that represents 62 other national organizations in selected communications policy matters. Our clients include essentially all of the nation's civil rights organizations, as well as several labor and religious associations.

After February 2009, when the television industry completes its transition to digital service, a low income family's ability to remain connected to the broader society through free over the air television will depend critically on the availability of affordable set-top boxes. Consequently, in April 2003, on behalf of a coalition of 24 of these organizations, we urged the FCC to establish a voucher program to enable low-income families to purchase DTV converters. 1/ We noted that nearly 12% of American families still live in

1/ Comments of Civil Rights Organizations in MB Docket 03-15 (Conversion to Digital Television), April 21, 2003 ("Civil Rights Organizations' Comments"). This coalition of organizations included the National Urban League, the League of United Latin American Citizens, the American Federation of Television and Radio Artists, the Communications Workers of America, and the National Council of Churches.

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poverty, 2/ and that for many of these families, “it is simply impossible...to suddenly produce even a few hundred dollars for any purpose, no matter how urgent.” 3/ Indeed, many low-income families cannot afford even to pay for a funeral. 4/

As part of the 2005 Budget Reconciliation Act, Congress did adopt a voucher plan, but that plan only provides \$40 per voucher. That sum is inadequate to cover all of the anticipated cost of a converter box. The proposals under consideration in this docket could substantially increase the cost of DTV conversion equipment for California consumers. A set-top box cost that is much above \$40 per box could place these set-top boxes (and thus any home television service) out of reach for millions of low-income consumers.

In 2004, we urged the Federal Communications Commission to recognize that “[t]he exclusion of the least fortunate Americans from the community of television viewers would even further deepen America’s seemingly intractable social class divisions. It should matter to all of us whether low-income families receive accurate and timely information about, jobs, health care, school closing and homeland security.” 5/ For the same reason, the full inclusion of all Americans in the television universe is essential to your ability to perform your key function of consumer education. If, for example, only 95% (rather than the current 99%) of the public has access to over the air television, it will be impossible for the State of California to provide comprehensive, multilingual energy conservation education and to effectively warn the entire public about any hazards that might come to be associated with energy use.

For these reasons, we respectfully encourage you to defer action on the proposed amendments.

Sincerely,

David Honig

David Honig
Executive Director

2/ Id. at 8 and n. 8, citing U.S. Census Bureau, Current Population Survey, 1960-2002 Annual Demographic Supplements (the poverty rate in 2001 was 11.7%).

3/ Civil Rights Organizations Comments at 10-11.

4/ Id. at 11. See also Letter to Hon. Michael Powell, Chairman, Federal Communications Commission, from David Honig, Executive Director, MMTC, November 13, 2004, MB Docket 04-210 (Digital Television Transition) (“MMTC DTV Transition Letter”) (“without a voucher plan, millions of consumers with analog sets could lose local service altogether. These families, many living paycheck to paycheck, as well as elderly and disabled persons surviving on social security, cannot suddenly yield up the cost of a converter box without foregoing a week of food.”)

5/ MMTC DTV Transition Letter, supra.