



PO Box 65491
Washington, DC 20035

p 202.580.8284
e info@aem-alliance.org
aem-alliance.org

May 4, 2018

BY EMAIL

The Honorable Robert E. Lighthizer
U.S. Trade Representative
Office of the United States Trade Representative
600 17th Street, NW
Washington, DC 20006

Re: Docket No. USTR-2018-0005, Notice of Determination and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

Dear Ambassador Lighthizer:

The Advanced Energy Management Alliance (“AEMA”)¹ appreciates the opportunity to submit comments to the United States Trade Representative Docket No. USTR-2018-0005, “Notice of Determination and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation.”²

AEMA is a trade association under Section 501(c)(6) of the Federal tax code whose members include national distributed energy resource companies and advanced energy management service and technology providers, including demand response

¹ See AEMA website for additional information: <http://aem-alliance.org>

² Reference from USTR: <https://ustr.gov/sites/default/files/files/Press/Releases/301FRN.pdf>

(“DR”) providers, as well as some of the nation’s largest demand response and distributed energy consumers. AEMA members use and deploy distributed energy resources (“DER” or “DERs”), including advanced energy management solutions, to achieve electricity cost savings for consumers, contribute to reliability and resilience, and provide sustainable solutions for a modern electric grid. This filing represents the collective consensus of AEMA as an organization, although it does not necessarily represent the individual positions of the full diversity of AEMA member companies.

The innovations that our members develop, deploy and use are sourced in a global market. AEMA has concerns regarding certain items that the Office of the United States Trade Representative (USTR) has proposed to impose additional duties of 25% on that are of Chinese-origin and imported into the United States. Much of the supply chain for companies in our association can be attributed to China and includes a variety of items on the proposed list, including thermostats (HTSUS 9032.10.00), electrical equipment, and battery components (HTSUS 8506.50.00, 8506.90.00, 8507.90.80). These products are imported, assembled, purchased and used by consumers throughout the United States to increase their energy efficiency and reliability while lowering their cost of electricity. Much of the research and development in addition to the software Intellectual Property is developed in the U.S., so these tariffs will impact the U.S. much more than they will China. In fact, we believe negative consequences will be felt by consumers, innovators, the grid, utilities, industrial and large commercial facilities, as well as small and medium sized businesses. AEMA fears that these impacts will dampen economic benefits that our nation currently enjoys because of the ability to conduct trade with our partners globally.

To provide an illustrative example, U.S. companies are market leaders in the development and sale of smart thermostats, and Chinese companies do not have a meaningful presence in the U.S. market for these products. Therefore, if USTR were to impose duties on smart thermostats, the impact of the duties would fall primarily on U.S. companies. In addition to the harm this would cause to the U.S. companies and their American workers, the additional duties would increase prices for the millions of U.S. families who rely on smart thermostats to control their energy costs and discourage their use. The duties would also harm the small and medium-sized U.S. businesses that sell and install thermostats; disrupt the efforts that utility companies and others have undertaken to use technologically advanced smart thermostats to meet energy efficiency targets; and undermine U.S. innovation in this space.

Further, it is unlikely that the additional duties would be practicable or effective in obtaining the elimination of the Chinese acts, policies, and practices that USTR is targeting, because the market leaders in this product category are U.S. and other non-Chinese companies.

AEMA respectfully requests that the aforementioned items be removed from the list of products under consideration for proposed additional duties. We appreciate the USTR's consideration of these comments; AEMA remains ready to serve as a resource to the USTR as consideration continues on implementation of duties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kathryn Hamilton". The signature is fluid and cursive, written in a professional style.

Katherine Hamilton
Executive Director
Advanced Energy Management Alliance
1200 18th St, NW Suite 700
Washington, DC 20036