Energy Storage Association

1800 M ST., NW, Suite 400S
Washington, D.C., 20036
p. 202.293.0537
f. 202.530.0659

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Ambassador Robert Lighthizer
United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508
301investigation@ustr.eop.gov

Re: Comments in Docket USTR-2018-0018 - USTR 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 Energy Storage Association ("ESA") respectfully requests the removal from the Section 301 China import product list those products in HTSUS 8507, namely 8507.80.40 ("Other storage batteries nesoi, of a kind used as the primary source of electrical power for electrically powered vehicles of 8703.90") and 8507.80.81 ("Other storage batteries nesoi, other than of a kind used as their primary source of power for electric vehicles"). These products are collectively referred to in this comment as "batteries" and include battery cells, battery packs and relevant components thereof.

ESA is the national trade association dedicated to energy storage, working toward a more resilient, efficient, sustainable and affordable electricity grid – as is uniquely enabled by energy storage technologies. With more than 160 member companies, ESA represents a diverse group of companies, including independent power producers, electric utilities, energy service companies, financiers, insurers, law firms, installers, manufacturers, component suppliers and integrators involved in deploying energy storage systems around the globe. ESA members work with a range of energy storage technologies, including battery storage systems.

The grid battery energy storage industry is a fast-growing source of jobs and capital formation in the United States. The U.S. battery energy storage industry employed over 50,000 Americans in 2017, with the preponderance of such jobs in project planning, construction and operations.[1] Installations of batteries in the U.S. electric system in 2018 are expected to match the capacity

[1] National Association of State Energy Officials and Energy Futures Initiative, *2018 U.S. Energy and Employment Report,* May 2018, available at https://www.usenergyjobs.org/s/2018-US-Energy-and-Employment-Report-6akj.pdf.

installed in the prior three years combined, accounting for over $800 million in economic activity.[2]

Energy storage technologies enable electricity supplied from any source to be saved for use at a later time, precisely when, where and in whatever form it is most needed. That very simple concept enables an enormous amount of capabilities for the electric grid—be it supplying back-up power, reducing peak system demands, relieving stressed grid infrastructure, filling in the gaps from variable generation sources, or maintaining the optimal function of inflexible generation sources. These capabilities are, at heart, more efficient ways to ensure that supply and demand reliably match, and to make that balance resilient to a greater range of threats. Indeed, energy storage is the hub of an efficient, resilient, sustainable and affordable energy system that can adapt to any supply mix.

ESA member companies are installing battery storage directly on the electric grid and integrated into power plants, as well as in industrial facilities, commercial buildings and residential buildings to better control electric consumption, save money on electric bills and ensure greater resilience to electric service disruptions—of particular concern as more and more businesses rely on computerized systems to function. Grid batteries are a nascent but growing industry where technologies continue to evolve, and a variety of battery chemistries are either currently operating on the electric grid or under development for future deployment.

Batteries included under tariff provisions 8507.80.40 and 8507.80.81 would include technologies that are either in early commercial adoption or undergoing improvement via applied research and development, including but not limited to flow batteries, solid-state batteries, sodium-based batteries and emerging variants of lithium-based batteries. As U.S. electric companies and storage project developers plan future grid battery projects, having a variety of battery technologies commercially available is critical to ensure the most cost-effective investments for the particular grid need at hand, ultimately making electric service more affordable and reliable.

The tariffs proposed for HTSUS 8507 technologies would raise the costs to utilities and electric customers of using such batteries for electric system modernization and resilience at a time when the U.S. government has identified grid resilience as a priority.[3] Furthermore, the proposed tariffs would have disproportionate adverse effects on innovative companies and customers that seek to utilize newer battery technologies in their projects, effectively driving greater adoption of substitutes that might otherwise be more expensive--translating to potentially greater costs to U.S. consumers. Additionally, given that the proposed tariffs have no termination date, innovative companies seeking to commercialize new battery technologies will face greater uncertainty and ultimately may reduce investment and hiring in these

[2] GTM Research, *U.S. Energy Storage Monitor: Q2 2018*, June 2018, available at https://www.greentechmedia.com/research/report/u-s-energy-storage-monitor-q2-2018.
[3] Department of Energy, "Staff Report to the Secretary on Electricity Markets and Reliability," Aug 2017, available at https://www.energy.gov/downloads/download-staff-report-secretary-electricity-markets-and-reliability.

domains. Ultimately, it is not in the U.S. interest to take actions that slow the otherwise fast-growing and job-creating U.S. energy storage industry.

Therefore, ESA respectfully requests that USTR remove technologies used in U.S. battery storage projects from the Section 301 China import product list.

Sincerely,

Jason Burwen
Vice President of Policy
Energy Storage Association