STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the matter of:	)	Docket No. 12-HERS-1
	)	
Regulation of Home Energy Rating Programs for Residential Dwellings	)	[PROPOSED] ORDER INSTITUTING INFORMATIONAL PROCEEDING
	)	
	)	Order No. [xx-xxxx-xx]

INTRODUCTION

Public Resources Code section 25942 directs the Energy Commission to establish criteria for a statewide home energy rating system program. The Commission's regulations implementing this program, the California Home Energy Rating System (HERS), are at Cal. Code Regs., tit. 20, section 1670 et seq. The goal of the program is to create a consistent, accurate, and uniform rating system based on a single statewide rating scale that can differentiate the energy efficiency levels of California homes and allow homeowners to prioritize the investment in cost-effective home energy efficiency measures. The HERS regulations establish criteria for Providers to be certified by the Commission in order to train and certify Raters, who may then evaluate the energy efficiency of homes in the state according to the terms of their certification and Commission regulations.

Recently, the Commission considered a complaint about the oversight that one of the HERS Providers had exercised over Raters it had certified. (Complaint Against and Request For Investigation Of CalCERTS, Inc., Docket # 12-CAI-01 (CalCERTS Investigation).) The assigned Committee, consisting of Commissioners Karen Douglas, Presiding Member, and Andrew McAllister, Associate Member, determined that CalCERTS, Inc.'s process for discipline and decertification was "unrefined, informal, and seemingly improvised." Further, the Committee noted that "the process lacks features such as published written procedures and full and complete discipline-related notices. These deficiencies – as well [as] more general matters involving Provider-Rater relations – warrant broader Commission inquiry".

Accordingly, the California Energy Commission hereby adopts an Order Instituting an Informational Proceeding, whereby all stakeholders and other interested persons may participate in the process to collect the information necessary to identify potential procedures and other actions that would remedy administrative shortcomings in the HERS Program, including those that were identified in the CalCERTS Investigation.

I. AUTHORITY

Pursuant to Public Resources Code Sections 25210 and 25942, and Cal. Code Regs., tit. 20, § 1220 et seq., the Commission hereby adopts an order instituting an informational proceeding. This order directs the Lead Commissioner and Executive Director to take appropriate steps under the law, including Public

Resources Code section 25210, to collect the information necessary to improve the Commission's HERS program that implements Public Resources Code section 25942.

II. NATURE AND PURPOSE OF THIS PROCEEDING

In accordance with the Committee's review of the HERS program and recommendation in the CalCERTS Investigation, the Commission is conducting this informational proceeding to obtain comments from interested stakeholders on the following aspects of the California HERS Program:

1. The adequacy of the Provider Quality Assurance Program and related rater disciplinary processes as required in the HERS Program regulation.

The Commission is specifically interested in the following questions:

(a) Are the Provider Quality Assurance Program requirements in the HERS Regulations, Cal. Code Regs., tit. 20, Section 1673, as currently written, clear and concise enough to be adequately implemented by HERS Providers?
(b) If the current quality assurance procedures are found to be clear and concise, are there other impediments that hinder the ability of HERS providers to carry out a robust quality assurance program?
(c) If the current quality assurance procedures are not clear and concise, what improvements may be made to improve the procedures?

2. Rater Decertification and Discipline by Providers.

There are currently no processes identified in the HERS Regulations for HERS Rater decertification, suspension, or other disciplinary actions made by HERS Providers. Along with assessing the feasibility of formulating a uniform HERS Rater disciplinary process, we will evaluate what procedural requirements, if any, should be formulated and included within the HERS Regulations when HERS Providers take disciplinary actions against HERS Raters;

3. HERS Rater Companies.

The HERS Regulations do not explicitly address entities that are operated by HERS Raters or employ other HERS Raters as part of that entity, often referred to as "HERS Rater Companies". We will consider the benefits and drawbacks of explicitly including oversight of such companies in the HERS Regulations;

4. Conflicts of Interest.

The current conflict of interest rules in the HERS regulations, section 1673, subd. (j), state that:

(a) Providers shall be independent entities from Raters;
(b) Providers and Raters shall be independent entities from the builder and from the subcontractor installer of energy efficiency improvements field verified or diagnostically tested;
(c) Providers and Raters shall be independent entities from any firm or person that performs work on the home for a California Home Energy Audit or a California Whole-House Home Energy Rating.

We will look at the scope of the conflict of interest provisions of the HERS Regulations and consider whether appropriate changes need to be made.

III. PROCEDURE GOING FORWARD

The Commission hereby authorizes the Lead Efficiency Commissioner and the Executive Director to conduct workshops and hearings to gather information and develop recommendations to improve the Commission's HERS program that implements Public Resources Code section 25942. The Lead Commissioner and Executive Director may solicit written comments and conduct one or more public hearings designed to gather and assess information by allowing interested stakeholders the opportunity to provide their opinions, recommendations, and any pertinent information that may assist the Commission in performing its duties.

At this time, the Commission requests the entities listed immediately below to submit comments addressing the issues identified above. Responses are requested by January 18, 2013.

CalCERTS, Inc.,
31 Natoma Street, Suite 120
Folsom, CA 95630

CBPCA HERS Providership
P.O. Box 460
Nevada City, CA 95959

ConSol Home Energy Efficiency Rating Services, Inc.
7407 Tam O Shanter Drive,
Stockton, CA 95210

Valley Duct Testing
Division of JaaR Sales, Inc.
2272 Sierra Meadows Drive, Ste. A
Rocklin, CA 95677

It is anticipated that this proceeding will cover, at a minimum, the topics described in detail above and may result in recommendations for Commission consideration in a future rulemaking.

IV. PUBLIC PARTICIPATION

The Commission encourages public participation. Petitions to intervene are not necessary. The first public workshop will be held on March 6, 2013, at the offices of the Commission, 1516 Ninth Street, Sacramento, California.

The Lead Commissioner or Executive Director will issue a notice stating the scheduled time and room of the workshop and provide additional information about participating.

The Energy Commission may hold additional workshops to address these issues, or may reschedule the March 6, 2013 workshop. If any changes to or additional workshops are scheduled, they will be publicly noticed as provided below and in accordance with applicable laws.

The workshop will be wheelchair accessible.

Remote Access will be available by computer or telephone via WebEx™.

Any person present at a hearing or workshop shall be afforded reasonable opportunity to make comments. Written comments are also welcome. Please submit written comments to:

California Energy Commission - Docket Unit
Attn: Docket No. 12-HERS-1
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.ca.gov

The Energy Commission encourages comments by e-mail and electronic submission, up to 5 MB. Please include your name and any organization name. Comments should be in a downloadable, searchable format such as Microsoft® Word (.doc) or Adobe® Acrobat® (.pdf). For additional information, see Standing Order re: Proceedings and Confidentiality Procedural Requirements for Filing, Service, and Docketing Documents with the Energy Commission, available at: http://www.energy.ca.gov/dockets/documents/2011_Standing_Order_for_Documents.pdf.

Please note that your written and oral comments, attachments, and associated contact information (e.g. your address, phone, email, etc.) become part of the viewable public record. Additionally, this information may become available via Google, Yahoo, and any other internet search engines.

Interested persons who would like to receive subsequent notices of actions in this proceeding should subscribe to a Building Energy Efficiency Standards Enforcement list server at http://www.energy.ca.gov/efficiency/listservers.html to receive email updates about the proceeding.

Please note that by subscribing to this List Server, you are authorizing the Energy Commission to provide you information, notices, and other communications by electronic mail.

The Energy Commission's Public Adviser's Office provides the public assistance in participating in Energy Commission proceedings. If you want information on how to participate in this forum, please contact the Public Adviser's Office at PublicAdviser@energy.ca.gov or (916) 654-4489 (toll free at (800) 822-6228).

Media inquiries should be sent to the Media and Public Communications Office at mediaoffice@energy.ca.gov or (916) 654-4989.

If you have questions on the subject matter of this meeting, please contact Jenny Wu at jenny.wu@energy.ca.gov or (916) 651-3738.