

DOCKETED

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April 6, 2020

Mr. Jim Hodgson
Executive Director
Consol Home Energy Efficiency Rating Services, Inc.
1610 R Street, Suite 200
Sacramento, California 95811

Dear Mr. Hodgson:

On December 23, 2019, Consol Home Energy Efficiency Rating Services, Inc. (CHEERS) submitted to the California Energy Commission (CEC) a request to amend its Home Energy Rating System (HERS) Provider application approved on October 14, 2019. This amendment seeks approval to change its name from Consol Home Energy Efficiency Rating Services, Inc. or CHEERS (nickname) to California Energy Registry, Inc. or CalEnergy (nickname). This request was assessed for compliance with existing laws and potential impacts by the CEC.

For the reasons stated below, I am recommending the CEC deny this request.

The proposed name, "California Energy Registry," bears similarity to the name "California Energy Commission," and the name "#CalEnergy" is used by the CEC in one of its social media outlets. Under these circumstances, we are concerned this may be interpreted to suggest an affiliation between your organization and the California Energy Commission or the State of California, or imply a false governmental affiliation, approval or endorsement which may confuse stakeholders, market participants, and the public.

We also note section 17533.6 of the California Business and Professions Code provides as follows:

It is unlawful for any person, firm, corporation, or association that is a nongovernmental entity to ... solicit the purchase of or payment for a product or service ... by means of a mailing, electronic message, or Internet website that contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any state or local government connection, approval, or endorsement....

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Additionally, regulations promulgated by the Secretary of State provide that a proposed name is likely to mislead the public by implying government affiliation under the following circumstances:

A proposed name may imply a government affiliation if the proposed name contains the recognized name or abbreviation of a city, county, state, country, region or recognized subdivision within a state or country and/or includes a word or words that commonly denote governmental organization or authority. (Section 21005 of Title 2 of the California Code of Regulations.)

I believe these authorities support the conclusion that the names "California Energy Registry" and "CalEnergy" could be reasonably interpreted or construed as implying a government affiliation or endorsement, and that approval of the proposed amendment may conflict with these authorities.

For these reasons, I have determined that this proposed name change has the potential to affect your compliance with the HERS regulations, and must be approved by the Energy Commission pursuant to section 1674(f). To the extent that your letter was intended as an application for the California Energy Registry/ CalEnergy to be certified as a HERS Provider under section 1674(a), I am recommending the CEC deny the request. The CEC may act on this recommendation at its scheduled business meeting per section 1674(c)(5) on May 13, 2020, unless CHEERS chooses to withdraw this request.

Since California Energy Registry, Inc. or CalEnergy is not an approved HERS Provider, California Energy Registry, Inc. OR CalEnergy must cease and desist all activities associated with training and certification of HERS raters, providing HERS rater oversight, processing HERS compliance documents, and acting as a HERS registry.

Sincerely,



Drew Bohan
Executive Director

cc: Commissioner J. Andrew McAllister, Ph.D.
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