

DOCKETED

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*Comment Received From: ARCXIS CEO Jonathan Risch
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Additional submitted attachment is included below.



*Formerly DPIS Builder Services, Ei Companies, Post-Tension Solutions,
Ensign Building Solutions Home Energy Division & Building Energy*

April 21, 2023

David Hochschild, Chair
California Energy Commission (CEC)
715 P Street
Sacramento, California 95814

**RE: Comments and Concerns:
Draft Staff Report – Title 24 HERS Program
Docket Number 22-BSTD-03**

Dear Chair Hochschild:

We are writing to share several concerns regarding the Draft Staff Report – Title 24 HERS Program – Docket 22-BSTD-03. We also hope this begins a dialogue on how to strengthen the Field Verification and Diagnostic Testing (FV&DT) program so that California can achieve its energy efficiency goals in service of the State’s climate goals.

Our company employs 140 Californians and is certified by CEC designated providers to conduct energy assessments in both new and existing homes completing over 60,000 homes on average every year in California. We operate in 27 states and believe we have the knowledge to assist in developing regulations that will support greater consumer adoption and benefit. We see in the draft report a strong desire, which we share, to ensure consumer protection and consumer ease to enhance adoption.

New Home Versus Existing Construction

The draft report makes little distinction between the services performed for new home construction versus existing homes when in fact the processes are quite different. As a result, any approach to stem potential conflicts of interest needs to reflect the different consumers involved in each process. Additionally, we view the emphasis on the front end of the process (e.g., who pays and who does certain things) as directly impactful of consumer ease and resulting energy efficiency improvements. In new home construction, our services are procured by the builder to ensure the installation by the contractor was done properly and the

units meet Title 24 and potential above code programs—there is no financial conflict of interest in that our work is a quality check for the builder. In existing homes—the workflow is different.

We know from experience that having the homeowner procure the services directly negatively impacts adoption. Most existing home projects do not even pull the proper permits as homeowners seek to lower their cost by not requiring the HVAC contractor to follow the proper process. As a result, these homeowners are also avoiding the required inspection. It is only the scrupulous contractors—who will not cut these corners for the homeowner—who are properly pulling permits and requiring the inspections today. We find there are two different models for the required HERS inspection to close out the permit: one initiated and paid for by the contractor and another by the homeowner. Based on our extensive experience with both models, we find that the completion of inspections is much more likely to be completed when initiated and paid for by the contractor. The completion rate, i.e., successful completion of the required inspection, is 84% higher when the inspection is part of the contractor’s service and not handled by the homeowner. Scheduling is also easier—three contacts with the homeowner on average versus six or more—and rates of nonpayment for services is lower. More challenging scheduling and higher rates of non-payment, raises the cost of conducting these inspections.

The proposed regulations suggest that a conflict of interest exists between the contractors and raters. While we appreciate that appearance, we have no incentive to deceive homeowners who receive our completed report or the contractor who needs it to close the permit. As further evidence of this, we would point to our failure rate (percent of homes failing the inspection and requiring additional work) of 8%. Contractors work directly with the homeowner, are responsible for taking out permits, and know that FV&DT inspections need to take place. Contractors are directly interested in being able to close out permits and to do the required inspection to avoid municipalities restricting them from pulling additional permits. If the implied conflict of interest that the CEC believes must be addressed, we believe that it is better addressed via the providers as part of their oversight role. Having more robust provider quality oversight ensures program fidelity and consumer ease of adoption.

Support Quality Assurance and Consumer Protections

We strongly agree that quality assurance, disciplinary actions, and training are important aspects to making sure the FV&DT is successful for consumers and the State. As we consider solutions in these areas—we must revisit the role of the providers as the oversight entity. Each of these recommendations separately can be implemented but we do worry that taken together there will be costs to the consumers that could negatively impact our common goals. With adoption already relatively low—higher costs borne by consumers will further erode participation. It would be helpful to learn more about the specific issues or problems that need to be addressed based on data, and whether the proposed solution(s) are in fact the most efficient and effective way(s) to address them.

We have the following specific comments in this area:

- The staff report cites complaints discussed in two case studies, Modesto, and Hawthorne, but provides little to no background or details that clearly delineate the problems these regulations should address. Additionally with only two cases cited it is difficult to ascertain how widespread these issues are in the field. The reports cited by the staff to support their conclusions date back to the 1980's and 1990's. We agree that decisions should be made based on research, but we also believe the data we use should be current and more comprehensive than what has been cited to date and through this docket, we have an opportunity to gain more robust data going forward.
- Most of the recommendations on quality assurance focus on audits, reporting and data collection. Some of these will result in new costs but there may be work we can do together to make sure we achieve our common goals with minimal added costs, if possible. Providers provide shadow audits and we think they are a good process to ensure program integrity. We also would encourage the Commission to consider more upfront measures to improve quality, for example looking to certification, training, and continuing education processes for Raters and Rater companies.
- We have progressive discipline for our employees. We are happy to work with CEC staff to provide an overview of our process. We have zero tolerance for employees that knowingly falsify records. We also believe that we all need more robust data to determine the specific issues that need to be addressed and how best to do so.
- Training for rater professionals is a more effective solution for problems that have been identified with data. Additionally, a more uniform disciplinary process will make the deficiencies in training much clearer and easier to address based on data. We would suggest that the training portion be launched after the disciplinary process is in place.

Again, we believe more proscriptive oversight by providers including specific audit goals can assist with each of these issues with little impact to consumer adoption.

Concerns with Recommendations and Unintended Consequences

Existing homeowners are less likely to participate in the FV&DT program if it is complicated, not timely, and costly. We estimate that there are over 1 million HVAC systems replaced annually in existing homes and over 100,000 installed in new homes. There are a few changes that will fundamentally alter how many inspections we can complete and the timeliness of those inspections. In looking at the proposed regulations, we believe the following issues must be addressed if we want a robust, successful program:

- **Limiting One Rater to Each Project, Cap on Number of Reports and Registration Limits.** Prohibiting a rater company from reassigning a new rater will create scheduling issues and result in potential delays to consumers which can also increase project costs. We want to better understand how this helps protect consumers. In addition to

the limits on registrations and number of reports per day—this could create a backlog and inconvenience customers and increase cost by not allowing more productive raters and rater companies to take advantage of efficiencies. Without the disciplinary data or more robust provider audit data it's unclear if the number of reports or which raters are on projects impacts consumers.

- **Limiting Report Access.** Rater companies divide work between the field and office. Enabling view-only access and disabling editor access to compliance documents will disrupt efficient workflow and internal quality control as well as raise costs.
- **Inspection Cost and Payment.** As mentioned above there are core differences between new home and existing home projects. There is little to no incentive for existing homeowners to pursue FV&DT inspections if the costs increase. Many homeowners replace HVAC systems without the required permits now. This will allow inefficient systems to remain in use and significantly compromise energy efficiency goals.
- **Limiting Design-Build.** Expanding the list of parties that providers and raters must be independent from to include designers can weaken quality assurance and lead to customers having inferior systems installed which will require greater costs.
- **Public Release of Employee Data.** We agree with more transparency, but we worry about the privacy of our employees and would like to better understand the consumer benefit.

We hope that these comments will begin a dialogue on how to balance our common goals to increase participation in the FV&DT, minimize new costs/processes that discourage homeowners and achieve the state's energy goals.

Sincerely,

DocuSigned by:

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Jonathan Risch
Chief Executive Officer

Cc: Commissioner J. Andrew McAllister, Ph.D.
Lorraine White, Branch Manager, Standards Compliance Branch, Efficiency Division