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June 23, 2023

Submission Via Docket

California Energy Commission
Docket Unit, MS-4
Docket No. 22-BSTD-03
715 P Street
Sacramento, California 95814

Re: **Comments of the Joint Committee on Energy and Environmental Policy and Western States Council of Sheet Metal, Air, Rail and Transportation Workers on Revised Draft Staff Report: 2025 Update of the Field Verification and Diagnostic Testing Requirements**

Dear Commissioners and Staff:

We write on behalf of the Joint Committee on Energy and Environmental Policy and Western States Council of Sheet Metal, Air, Rail and Transportation Workers to comment on the Revised Draft Staff Report: 2025 Update to the Field Verification and Diagnostic Testing Requirements (“Revised Draft Staff Report”).

We are concerned with the Revised Draft Staff Report’s recommendation to modify the field verification and diagnostic testing (“FV&DT”) program nomenclature to Energy Code Compliance (“ECC”) because the FV&DT program is not the only compliance program within the Energy Code, and Home Energy Rating System (“HERS”) Raters are not the only party responsible for ensuring Energy Code compliance. For example, certified acceptance test technicians (“ATTs”) perform acceptance testing of either lighting controls or mechanical systems to ensure compliance with the Energy Code.

To eliminate any potential confusion, the Commission should not make any changes to the program name.

I. INTRODUCTION

In October 2022, the Commission released a Draft Staff Report with proposed updates to FV&DT requirements.¹ Generally, Staff recommended that the Commission move the FV&DT requirements from Title 20 to Title 24.² Staff also proposed improvements to regulations governing certification and oversight of the parties who are responsible for ensuring compliance with FV&DT program requirements, including HERS Raters, Rater Companies, and Providers.³

Although not specifically discussed in the Draft Staff Report, the proposed regulations included new terms for FV&DT stakeholders.⁴ A HERS Rater would be re-identified as a FV&DT Technician.⁵ A HERS Provider would be re-identified as a FV&DT Administrator.⁶ And the newly designated HERS Rater-Company would be identified as FV&DT Technician-Company.⁷

In June 2023, the Commission released the Revised Draft Staff Report discussing updated proposed changes to the FV&DT program.⁸ Among the updates included in the Revised Draft Staff Report is a recommendation to change the naming convention to the ECC Program.⁹ While the Revised Draft Staff Report briefly acknowledges the proposed name change, it does not elaborate on the basis for the modification.¹⁰

¹ California Energy Commission, Draft Staff Report – Title 24 HERS Program (Oct. 14, 2022) (hereinafter “Draft Staff Report”), *available at* <https://efiling.energy.ca.gov/GetDocument.aspx?tn=246542&DocumentContentId=80755>.

² *Id.* at p. 19

³ *Ibid.*

⁴ California Energy Commission, Field Verification and Diagnostic Testing Pre-Rulemaking Workshop 11-15-22 Presentation (Nov. 15, 2022) p. 12, *available at* <https://efiling.energy.ca.gov/GetDocument.aspx?tn=247469&DocumentContentId=81862>.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ California Energy Commission, Revised Draft Staff Report: 2025 Update to the Field Verification and Diagnostic Testing Requirements (May 24, 2023) (hereinafter “Revised Draft Staff Report”), *available at* <https://efiling.energy.ca.gov/GetDocument.aspx?tn=250297&DocumentContentId=85033>.

⁹ California Energy Commission, CEC-057 Notice of Availability – Revised Draft Staff Report, FV&DT Regulations (May 25, 2023), *available at* <https://efiling.energy.ca.gov/GetDocument.aspx?tn=250345&DocumentContentId=85081>.

¹⁰ Revised Draft Staff Report at p. 20.

At a Commission-led workshop held on June 9, 2023, Commission staff explained that HERS Raters, Providers, and Rater Companies would be referred to as ECC-Rater, ECC-Provider, and ECC-Rater Company in the Energy Code, but in practice, the parties could retain the existing HERS nomenclature.¹¹

II. THE COMMISSION SHOULD NOT MODIFY THE PROGRAM NAME

Energy Code compliance is not exclusively performed by HERS Raters through the FV&DT program. For example, acceptance testing for HVAC controls, lighting controls, and other covered processes in nonresidential and certain multifamily projects must be performed by certified ATTs.¹² Acceptance test requirements specify targeted inspections and functional performance tests that demonstrate that the building components, equipment, systems and interface conform to the Energy Code.¹³ This helps ensure that the building achieves the energy savings potential specified in its design and protects installing technicians by providing demonstrable proof that the system functioned as required by the code when it was installed.¹⁴

Like HERS Raters, ATTs must complete specific compliance documentation. Certificates of acceptance are completed by the certified ATT and must be submitted to the enforcement agency during the final inspection phase and prior to the enforcement agency issuing the certificate of occupancy.¹⁵ Certificates of verification are completed by HERS Raters, but may be waived if the related certificate of acceptance is completed by a certified ATT.¹⁶

Identifying the FV&DT Program as the ECC Program would cause considerable confusion and overstate the role of HERS Raters with respect to Energy Code compliance. In addition, the proposed name change would not simplify the identification of program stakeholders. Moreover, HERS programs have operated under that name for almost 30 years. Changing the name of the program now would simply cause confusion in the marketplace with no discernable

¹¹ California Energy Commission, FV&DT Staff Final Presentation June 9 Workshop (June 8, 2023) p. 4, available at

<https://efiling.energy.ca.gov/GetDocument.aspx?tn=250544&DocumentContentId=85325>.

¹² California Energy Commission, 2022 Nonresidential and Multifamily Compliance Manual (May 11, 2022) p. 2-2, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=250098>.

¹³ *Id.* at p. 14-1.

¹⁴ *Id.* at p. 14-2.

¹⁵ *Id.* at p. 2-3.

¹⁶ *Ibid.*

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benefit. The fact that Commission staff have indicated that HERS companies could continue to call themselves HERS Raters even with the name change underscores just how confusing and unnecessary this name change would be. The Commission should return to its original proposal in the Draft Staff Report and continue to identify program stakeholders in a manner that accurately reflects the work they perform.

III. CONCLUSION

Energy Code compliance is the responsibility of many different parties, not just HERS Raters performing field verification and diagnostic testing. The proposed name change would cause unnecessary confusion in a well-established marketplace and misleadingly elevate the FV&DT program and HERS Raters above others that ensure compliance with Energy Code requirements. Therefore, the Commission should retain the nomenclature initially proposed in the Draft Staff Report.

Sincerely,



Andrew J. Graf

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