

**DOCKETED**

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<b>Filer:</b>	Shelby Gatlin
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Docket 22-HERS-01

## **CHEERS Comments #2 RE: Golden State Registry Provider Application**

### **Fairness in the Application Process**

The CEC is the steward of the Energy Code. To support the HERS Program, CEC staff must treat Providers fairly. Although discretion is required to assist with approvals and evolve with new technologies, the CEC must exercise its discretion fairly and with transparency. A review of the docket indicates that the CEC is allowing the Golden State Registry (GSR) to move forward without meeting the necessary requirements, effectively bypassing standard approval procedures.

With a few exceptions, application materials for GSR are blocked from review because of confidential designations. Exhibits normally disclosed during the HERS Provider approval process are not available for review. Examples include:

- Rater Agreements or Code of Ethics
- Registry User Manuals, Videos, or software Instructions
- Quality Assurance Policies and/or Personnel Qualifications
- Training program overview and facilities

Proprietary information such as training curricula and exams have always been, and should be, protected. It is also customary for a Provider's explanations of how it meets the HERS regulations to be protected. When private information is provided, it is appropriate for that information to be redacted. Over the years, Providers have been treated differently depending on the confidentiality request and the persuasiveness of the requester's arguments. What is happening with GSR is different. Almost everything is hidden from review.

This is true even for information in GSR's application that will become public after approval. Information that will become public is not "proprietary business information or trade secrets" because it is not maintained as a secret.

As examples:

- What is GSR's QA Policy?
- How will GSR host training?
- What are GSR's user terms and conditions?
- Who are GSR's Training Instructors?
- Who are the members of the GSR QA Team, and what are their qualifications?
- Examples of the GSR Project Status Report

With CalCERTS closing, the CEC appears to be rapidly advancing another Provider's market entry. CHEERS supports the addition of a second Provider, provided that the approval process is conducted fairly and transparently, and that oversight remains balanced after approval.

As highlighted in other docket comments, there are serious concerns about GSR ownership and its connections with current HERS Rating companies and HVAC contractors. Both actual and perceived conflicts of interest need to be thoroughly addressed during the approval process.

Examples of questions HERS raters have asked CHEERS:

- How is the CEC addressing the conflicts of interest of GSR with iPermit and Arcxis?
- How is the CEC addressing the conflicts of interest with iPermit, Jonathan Johnson, Eric Jacoby, and Service Champions?
- Will Eric Jacoby be able to maintain ownership of GSR while Ian Jacoby is president of iPermit?
- Will there be conditions on approval to address the apparent conflict of interest?
- How will pricing be fair?
- How will quality assurance be administered and fair?

### **Conditions on Approval are Required**

When CHEERS was approved by the CEC, conditions of approval were imposed. These conditions prevented CHEERS from doing any HERS Rater business with ConSol. The two companies, CHEERS and ConSol, were separate but shared family ties in ownership. Conditions on approval prevented ConSol from deriving any benefit or preferential treatment by use of the CHEERS registry for all of its energy modeling and HERS rating work. At the time, ConSol was one of the largest HERS/EC companies in the state. As a result, ConSol gave up its HERS/EC business for CHEERS to be approved. Conditions on approval have been maintained in all subsequent CHEERS approvals.

An example is located here: <https://www.energy.ca.gov/filebrowser/download/4574?fid=4574>

Similar conditions must be put in place for GSR. Drafts of these conditions should be posted to the docket for public comment **before** GSR's application moves to a Business Meeting.

### **Energy Code Compliance Program**

The CEC has devoted the last couple of years to updating the HERS Program, prioritizing three critical areas: 1) Conflicts of Interest, 2) Consumer Protections, and 3) Quality Assurance. The CEC should focus on these issues and areas of concern when assessing approval of a new Provider. Application information relative to these issues should be made public. The CEC should want to provide evidence and assurances that these core concerns are being addressed within the application process.



Shelby M. Gatlin, Esq.  
Chief Compliance Officer  
CHEERS