

## DOCKETED

<b>Docket Number:</b>	15-IEPR-05
<b>Project Title:</b>	Energy Efficiency
<b>TN #:</b>	205011
<b>Document Title:</b>	Transcript of May 12, 2015 Lead Commissioner Workshop
<b>Description:</b>	N/A
<b>Filer:</b>	Sabrina Savala
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	6/12/2015 2:23:46 PM
<b>Docketed Date:</b>	6/12/2015

BEFORE THE  
CALIFORNIA ENERGY COMMISSION

In the Matter of:	)	Docket No. 15-IEPR-05
	)	
2015 Integrated Energy Policy )		Lead Commissioner
<u>Report (2015 IEPR)</u>	)	Workshop

Lead Commissioner Workshop on  
*Renewable Progress, Challenges and Opportunities*

CALIFORNIA ENERGY COMMISSION  
HEARING ROOM A, 1516 NINTH STREET  
ART ROSENFELD HEARING ROOM  
SACRAMENTO, CALIFORNIA

TUESDAY, MAY 12, 2015  
9:05 A.M.

Reported by:  
Kent Odell

APPEARANCESCEC Staff Present

Rachel MacDonald - CEC, Standards Implementation Office  
Tav Commins - CEC, Standards Implementation Office  
Michael Bachand - President of CalcERTS, HERS Provider  
Dave Hegarty - President of Duct Testers, Inc.  
Mark Meyers - California Building Officials, the Energy  
Advisory Committee  
Don Charles - USERA  
Eric Taylor - Third Party Quality Control Program  
George Nesbitt - HERS Rater  
Tommy Young - E3, NorCal  
Bruce Edgar - Area Manager, Energuy  
Shawn Pittard - Assistant Public Adviser  
David Meyers - CHEERS, Stockton, CA  
Charlie Bachand - CalcERTS, Folsom, CA  
Max McKinney - Energy Analysis Comfort Solutions  
Brett Dickerson - Attorney  
Greg Davis - USERA  
Alex Vantaggiato - CHEERS  
Kevin Walters - San Francisco

## I N D E X

	<b>Page</b>
<b>Introduction and Overview</b>	
Ms. Rachel MacDonald	5
- Purpose of the Workshop	
- Expected structure for the day	
- Brief overview and background on past activities	
- Public comments and stakeholder interaction	
<b>Discussion: Conflict of Interest</b>	10
The Pros and cons of Raters pulling permits and selling products	
New regulatory language	
Mike Bachand - President of CalcERTS, HERS Provider	14
Dave Hegarty - President of Duct Testers, Inc.	15
Mark Meyers - California Building Officials, Energy Advisory Committee	16
Don Charles	20
Eric Taylor - Third Party Quality Control Program	26
George Nesbitt - HERS Rater	28
Tommy Young - E3 - NorCal	38
Bruce Edgar - Area Manager, Energy	39
Shawn Pittard - Assistant Public Adviser	44
David Meyers - CHEERS	57
Charlie Bachand - CalcERTS, Folsom, CA	59
Alex Vantaggiato - CHEERS	60
Max McKinney - Energy Analysis Comfort Solutions	62
Brett Dickerson - Attorney	66
Greg Davis - USERA	67
<b>Discussion: Energy Commission Oversight of Providers</b>	68
The disciplinary action process	
Notification and disciplinary action methods	
Development of a Provider compliance web page	
Charlie Bachand - CalcERTS, Folsom, CA	72
<b><i>Lunch Break 11:50 p.m. until 1:01 p.m.</i></b>	

<b>Discussion: Provider Quality Assurance</b>	133
Introduction and Overview - Mr. Tav Commins	133
QA performance time frames	
Rater field-training "ride-alongs" and/or apprentice-type programs	
The pros and cons of Raters attending QA	
Rater QA education and training	
QA failure notification process	
Transparent Rater QA tracking process	
QA Rater Compliance and Disciplinary Processes (time permitting)	
Charlie Bachand - CalCERTS, Folsom, CA	137
Michael Bachand - President of CalCERTS, HERS Provider	139
Alex Vantaggiato - CHEERS	145
Don Charles - USERA	146
Dave Hegarty - President of Duct Testers, Inc.	150
Bruce Edgar - Area Manager, Energuy	162
Kevin Walters - San Francisco	164
 Max McKinney, Energy Analysis Comfort Solutions	 172
<b>Next Steps and Closing Comments</b>	244
How to file comments - Rachel MacDonald	
Rule-making process overview	
Staff Workshop on QA (date TBD)	
<b>General Public Comments</b>	
Adjournment	252
Reporter's Certificate	253
Transcriber's Certificate	254

1 P R O C E E D I N G S

2 MAY 12, 2015

9:05 a.m.

3 MS. MacDONALD: Okay. Good morning. Let's go  
4 ahead and get started. Okay. So welcome, first off,  
5 and my name's Rachel McDonald. I am with the California  
6 Energy Commission in the Standards Implementation Office  
7 under the Efficiency Division, and today's Workshop's  
8 about the Home Energy Rating System Program,  
9 specifically the scope of field verification and  
10 diagnostic testing issues. So welcome, and everyone on  
11 the phone, welcome.

12 And a couple housekeeping things. For those  
13 on the phone, the WebEx, you're muted upon entry. If  
14 you're logged in you can raise your hand if you have a  
15 question or a comment, you want to speak. We will pause  
16 at times to unmute those that are teleconferenced in  
17 only, that don't have Internet capability, for comments.

18 The WebEx is also being recorded and will be  
19 immediately available online in a couple days. And then  
20 we have a Court Reporter here, as well, and the  
21 transcripts from that will be available probably in  
22 about three to four weeks, I believe. Those will also  
23 be posted online.

24 We have restrooms out the door to your left,  
25 and then you turn right, men's and women's. There's

1 also snacks on the second floor. And I did not schedule  
2 breaks for the morning or the afternoon. I've just  
3 scheduled a lunch between 12:00 and 1:00.

4 So break at you need. This is being recorded  
5 and you're -- this is meant to be a friendly discussion  
6 today. And so if you feel you're missing anything,  
7 we'll have the opportunity to catch up.

8 So the purpose for today is that we are all  
9 here together and on the phone, and we're working on  
10 this openly and transparently, specific to field  
11 verification and diagnostic testing. We want to begin  
12 developing recommendations going forward so we can start  
13 drafting regulatory language.

14 And we want to have this open and facilitated,  
15 that we go forward to improve the HERS Program. The  
16 whole purpose is that -- of today, all future Workshops  
17 and interactions in general is that we're working to  
18 improve the HERS Program through this order instituting  
19 information.

20 We want to touch on procedural process time  
21 line and activities, and I'm going to do that in the  
22 following slides. So going through the comments from a  
23 Webinar that occurred March 10th, we had a Webinar that  
24 basically reupped and kicked off the OII effort, which  
25 is an informal process.

1           It's a formal process in that it's public. So  
2 an OII is the Order Instituting Information Proceeding.  
3 So we have a docket for it and it's public process, and  
4 it began in 2012 and we are kind of refreshing it, and  
5 that initial effort to refresh it was a March 10th  
6 Webinar.

7           And we took comments from that, and based on  
8 those comments for today we've identified the following  
9 issues as really high priority that we want to work on  
10 with you on the subjects of Conflict of Interest, the  
11 Energy Commission Oversight of Providers, and Provider  
12 Quality Assurance, QA.

13           So we want to do this publicly and start  
14 working on getting into more granular, finite details  
15 for writing proposed regulatory language for future  
16 rule-making. We're going to talk about some of that  
17 today.

18           And what I mean detailed, I mean in that  
19 actually getting into, if we want to look at something,  
20 a process occurring within a certain amount of days,  
21 what amount of days is reasonable, that type of detail.

22           And so overall, we just want to start working  
23 to develop processes and plans and, you know, basically  
24 the idea of brainstorming for improving the HERS  
25 Program. So I anticipate a lot of public comment, both



1 on the phone and in person here today.

2           So in doing so, if we can keep -- if you can  
3 keep your comments succinct and specific to the subject  
4 that we're talking about, that would be helpful. I also  
5 encourage everyone to submit writings and -- oh, submit  
6 writings and comments -- submit your comments in writing  
7 to the docket.

8           And within this actual presentation that I  
9 will post online, available online, you can always email  
10 me, has all the docket information. And I ask --  
11 there's a lot of different opinions on various subjects,  
12 and I just respectfully ask all people present and on  
13 the phone that we, you know, respect each other and  
14 respect staff and that we agree that everyone has  
15 different opinions.

16           So a little bit about the background of the  
17 OII that I was speaking about. The intent for the OII  
18 is to gather information, and the intent of the HERS  
19 OII, when it began in 2012, as it is today, is to  
20 improve the program, to develop and gather information  
21 to improve the program, and that will basically lead to  
22 rule-making.

23           And rule-making is how we develop and  
24 institute the regulatory process. And so once we're in  
25 the OII process right now, which is also called pre-

1 rule-making, and so that's all public. It's gathering  
2 information and brainstorming.

3           And then when we go into the rule-making  
4 process, that's formal. It's also public. When we kick  
5 off the rule-making process it occurs and it is  
6 concluded within 12 months. It again is open public  
7 participation, and that includes public Workshops,  
8 comment periods, you know, posting of documents and  
9 comment periods, and this is all to create a transparent  
10 record for public and judicial review.

11           And I anticipate going into rule-making  
12 probably at the end of this year, early January of next  
13 year. So again, the issues that we've identified from  
14 comments and interactions are Conflict of Interest,  
15 Energy Commission Oversight of Providers and Provider  
16 Quality Assurance.

17           I understand we had asked questions in regards  
18 to rating companies, Provider categories and in staff  
19 review of that at this time, they weren't -- didn't seem  
20 like they were the highest priority for us to address  
21 that we really had burning questions about.

22           I'm not saying that those issues aren't  
23 important. What I'm saying is that for the context of  
24 today's discussion we're going to focus on these issues.  
25 And specific to Quality Assurance, we have decided

1 there's so much for QA, so much to cover, so much detail  
2 and so much discussion, we're actually going to schedule  
3 another Workshop for QA only, so specific to QA, later  
4 in June, early July.

5           So that information will be coming forth. I'm  
6 not clear if I'm going to do that in person or with the  
7 opportunity to call in or do it strictly Webinar. We  
8 can discuss that offline. I'm open to whatever works  
9 for stakeholders.

10           So we're a little early, but we can go ahead  
11 and kick into the subject of Conflict of Interest. I  
12 believe I have a lot of people on the phone calling in  
13 about that. When we talk about Conflict of Interest, I  
14 want to understand, and it's specific to the question  
15 that's being raised and heavily discussed, and that is  
16 Raters providing other services, specifically, Raters  
17 pulling permits.

18           Staff here, we need to understand, as we look  
19 forward to future development of new language, we need  
20 to understand the pros and cons of Raters either pulling  
21 permits or Raters, you know, offering other services,  
22 and that would include selling products.

23           I understand that there might be Raters or  
24 Rater companies that offer other services, and we need  
25 to explore what are the pros and cons of those things

1 occurring, because we don't want -- it's not our intent  
2 to be prohibitive of individuals prospering.

3           That's not -- you know -- we have to -- that's  
4 why we need to discuss these things and figure out how  
5 best to proceed. And so in exploring new regulatory  
6 language, we would need to understand specifics.

7           Do we get explicit with things that may or may  
8 not strictly occur or are there parts of the existing  
9 language that we strike. Those are the types of things  
10 that I want to explore today. And so for example, I've  
11 put down independent entity.

12           The actual language in black meaning,  
13 independent entity means having no financial interest in  
14 and not advocating or recommending the use of any  
15 product or service as means of gaining increased  
16 business with firms or persons specified in section  
17 1673(j).

18           The blue part is kind of what I added in  
19 there, just for the sake of discussion. I'm not married  
20 to this. I just am putting this in here for the sake of  
21 thought and evoking conversation. So if we were to  
22 discuss changing this to either expressly allow or  
23 prohibit certain practices, you know, what might that  
24 say.

25           And then right here for reference, I've

1 included the actual existing language. And if anybody  
2 in the room or on the phone needs me to toggle forth, I  
3 did provide copies of the Regs at the front, and then I  
4 have it here.

5 For those of you on the phone, the Regs or the  
6 2009 published regulations are available online, and  
7 this is the 1673(j) Conflict of Interest definition.  
8 And I think what it does is it references actual  
9 definition language, which is the independent entities.

10 This is the exception for whole house, and  
11 then I think these are the actual definitions provided  
12 that are causing some strife right now, which is  
13 "independent entity" and "financial interest."

14 And so I see someone's got their hands raised,  
15 and so with that and the fact that we're all here and on  
16 the phone, I'm going to go ahead and ask stakeholders in  
17 the room, if you have comments you can come to the mic  
18 and speak, and go ahead. I see Mike. Good morning.

19 And then also, I think there's a sign at the  
20 podium, but it also says, you know, provide your name so  
21 the Court Reporter can capture who's speaking.

22 MR. MIKE BACHAND: Good morning. Thanks,  
23 Rachel, for the Workshop and the interest and  
24 everything. I'm Mike Bachand. I'm the President of  
25 CalCERTS, HERS Provider. I want to just put a little --

1 couple of my definitions onto what your legal things are  
2 there.

3 I've seen letters from lawyers and stuff about  
4 financial interests and independent entities. Because  
5 they're different companies, HERS rating companies and  
6 HERS Raters are different entities, by definition.  
7 They're not part of the contractor's company.

8 That's one thing. The other thing is, I want  
9 people to remember that the original and the still  
10 existing regulations say that the HERS Rater is working  
11 for the homeowner, not the contractor. The money may  
12 pass through the contractor, but it shows a trail from  
13 the consumer to the contractor to the Rater on behalf of  
14 the consumer.

15 So what I think is the existing process, if  
16 that's not working, okay, we need to change that. But  
17 as regulation stands now, I believe that the homeowner  
18 is injecting all of the money into the system. That's  
19 the only place money comes from in the whole food chain.

20 And so I believe that a HERS Rater who might  
21 be pulling a permit is not pulling it for the  
22 contractor. It's making it easier, if the homeowner has  
23 asked the contractor to do it, whatever, I still think -  
24 -

25 MALE SPEAKER: Oh, he's got the wrong idea on

1 it.)

2 MR. MIKE BACHAND: -- I still think that the  
3 HERS Rater is working on behalf of the homeowner and  
4 that's the end of my comment. Thanks.

5 MS. MacDONALD: Thank you, Mike.

6 MALE SPEAKER: Got a lot of noise there.  
7 Where'd everybody go? Did we lose the connection or  
8 something? Can you hear me? I don't hear you.

9 MS. MacDONALD: We can hear you. We actually  
10 are trying to figure out some of the background feed  
11 noise right now with the WebEx.

12 MALE SPEAKER: I'm not hearing the meeting at  
13 all. Where's the meeting?

14 MS. MacDONALD: The meeting's here in  
15 Sacramento. They're not -- can you grab Rick.

16 MALE SPEAKER: Did they lose the audio or  
17 something?

18 MS. MacDONALD: No. Can you grab Rick and an  
19 IT?

20 (Pause.)

21 MS. MacDONALD: Yeah, that's weird. For those  
22 of you on the line, can you -- is it possible to send a  
23 message through if you can hear me okay? We went and  
24 grabbed IT. Do you have any idea, James? Okay. Well,  
25 hopefully, we get this resolved for those on the phone,

1 because I have full audio here in the room.

2 Dave, I see you got up to stand, so why don't  
3 you go ahead.

4 MR. HEGARTY: Thank you, Rachel. Dave  
5 Hegarty, Duct Testers, Incorporated, from Ripon,  
6 California, in comment to Mike Bachand, CalCERTS. I  
7 think, first of all, everybody knows that I oppose this  
8 Raters pulling permits, and that I think the language is  
9 clear and not ambiguous.

10 So let me read something from Title 20  
11 interpretation from the CalCERTS Rules to help decipher  
12 this thing. It says, "The HERS Raters should not have  
13 any business or financial relationship with the person  
14 or companies whose work they are inspecting. Outside of  
15 the act of performing field verification and diagnostic  
16 testing, Raters are directly responsible to the local  
17 code enforcement agencies."

18 And so if you look in all these Providers'  
19 manuals that we have available to us today, and every  
20 one of them have an example. I think it's 2.4.7, RA  
21 2.4.7, and it shows example 2.7. Have you got that,  
22 that you can pull it up?

23 MS. MacDONALD: That is in reference to the --  
24 that's for the Reference Appendices.

25 MR. HEGARTY: Yes.



1 MS. MacDONALD: For the difference between the  
2 third party Quality Control Providers and giving them  
3 explicit -- or reference that they -- I don't have it on  
4 me, no.

5 MR. HEGARTY: Okay. So in 2-7 --

6 MS. MacDONALD: It's 2-7 Reference Appendices.

7 MR. HEGARTY: -- 2-7 is an example by the  
8 State of California in their own words as to the  
9 Conflict of Interest, and it sets forth that they will  
10 also -- this is where this interpretation comes from,  
11 and if we could get the 2-7 to get up on the board,  
12 everyone can see that as it stands, I think it's clear  
13 and not ambiguous that Raters cannot pull permits, and  
14 that in every one of the Providers' manuals for teaching  
15 and training they have this example, 2-7 out of RA  
16 Manual, 2.4.7. Thank you.

17 MS. MacDONALD: Thank you. I have some people  
18 on the phone. Specifically, I know Mark Meyers has been  
19 waiting. Did you want to -- can you unmute Mr. Meyers?

20 (Pause.)

21 MS. MacDONALD: Okay. Unmute all.

22 MR. MARK MEYERS: Okay. Very good. Now, can  
23 you hear me?

24 MS. MacDONALD: Yes. Is this Mr. Meyers?

25 MR. MARK MEYERS: Yes. Thank you. This is

1 Mark Meyers. I call in today representing the  
2 California Building Officials, and specifically, the  
3 Energy Advisory Committee. We've had a meeting on this  
4 topic as recently as yesterday with the Panel and our  
5 Committee, and a number of others that are very  
6 concerned about this issue.

7 For Building Officials, we believe that the  
8 Raters are our third party inspector. They're doing  
9 work for us, and we also control some of the work they  
10 do. I know if we have advisors -- or I'm sorry -- third  
11 party inspectors that are not doing the work properly,  
12 we can every ban them from continuing to work in our  
13 jurisdictions.

14 As such, if we were to be able to obtain  
15 permits for inspectors -- I'm sorry -- for contractors,  
16 they have to have an Agency letter with that contractor,  
17 or they have to have an Agency letter with the  
18 homeowner.

19 In that case they wouldn't be pulling permits  
20 for the contractor, and the contractor's required to  
21 obtain these permits. So either they've got to develop  
22 a close business relationship where they would in fact  
23 have Agency, or they are not going to be pulling the  
24 permits in fact for contractors.

25 And what we've flat out said is we've had a

1 couple of them try in our area and I know others have,  
2 as well, and we've told them, you can pull permits here  
3 but you cannot be the third party Rater on those jobs  
4 that you choose to do that.

5           And he goes, well, I can't do that because I'm  
6 supposed to be the Rater; then you'll need to obtain  
7 somebody else to get the permits on behalf of the  
8 contractor. The other thing is, this creates a business  
9 relationship between them that requires them either to  
10 make money as a part of obtaining these permits from the  
11 contractor, which means they're either the agent or they  
12 become an employee.

13           They're being paid by them. They're doing  
14 work on their benefit. So we believe this is far too  
15 close a relationship and I believe that, Ms. MacDonald,  
16 you've already received some emails in regards to this.  
17 There are more on their way.

18           But for the California Building Officials this  
19 is far too close a relationship for them to obtain their  
20 and retain their objectivity that we believe is  
21 necessary in doing this work. Thank you.

22           MS. MacDONALD: Thank you, Mr. Meyers. I have  
23 a question for you.

24           MR. MARK MEYERS: Yes.

25           MS. MacDONALD: As the language reads, and

1 should there be a change to the language, for example,  
2 as we go through rule-making and the language is  
3 expressly says, "Raters may pull permits," then what  
4 does that mean to the Building Department if it is  
5 expressed in our language that that may occur?

6 MR. MARK MEYERS: Well, after discussing this  
7 with quite a large number of building officials, most  
8 say that at that point in time we would change our local  
9 requirements and prevent them from both obtaining  
10 permits and doing the third party rating, because we  
11 believe they are losing objectivity at that point in  
12 time.

13 We also would refer back to much of the  
14 information that you've already provided this morning.  
15 One of the items that we looked to was out of the 2013  
16 Compliance Manual under the Frequently Asked Questions.

17 And you have an example in there, I think it's  
18 called 2-7. And it specifically has answers in there  
19 regarding this where HERS Raters are expected to be,  
20 "objective, independent, third parties when they are  
21 fulfilling their duties as field verifiers and  
22 diagnostic testers. In this role they are therefore  
23 serving as special inspectors for the local enforcement  
24 agency, and by law, HERS Raters must be independent  
25 entities from the builder or subcontractor, installer or

1 the energy efficiency features being tested and  
2 verified.

3 "They can have no financial interest in the  
4 installation or the improvement. HERS Raters cannot be  
5 employees of the builder or subcontractor whose work  
6 they are verifying. Also, HERS Raters cannot have  
7 financial interest in the builders or contractors'  
8 business, or advocate or recommend the use of any  
9 products or services that they are verifying."

10 That right there I think draws a very clean,  
11 clear line that in order to be a agent of the contractor  
12 they're building that relationship. They can't just  
13 pass these permits through. They're either going to be  
14 paying the premium on them or the contractor's going to.

15 So they've built in a financial interest. So  
16 in that case I believe in order to maintain the  
17 objectivity, which we believe is so necessary in this  
18 field, we would simply have to go with further  
19 legislation on the local level and block them.

20 MS. MacDONALD: Block it. Okay. Thank you.  
21 I know Don Charles is on the phone, and I can see he has  
22 his hand raised.

23 MR. CHARLES: Yeah, hi. Can you hear me?

24 MS. MacDONALD: Yes, Don. Go ahead.

25 MR. CHARLES: Okay. Completely agree with

1 Mike's comments. First of all, I want to read a little  
2 excerpt from a letter that I submitted, but it basically  
3 says, "As far as USERA is concerned and has been, we  
4 desire to enforce code and be a standard bearer in the  
5 industry for doing such.

6 "This particular matter, however, seems to be  
7 somewhat muddy as it pertains to rating companies and  
8 how this clearly written section of CEC Code applies to  
9 them. USERA does not believe that it needs to be muddy  
10 and believe that rating companies should fall under the  
11 same rules and regulations as actual Raters, since they  
12 are representing this process, just in greater volume.

13 "In fact, for this reason USERA believes that  
14 they can carry an even greater responsibility, since  
15 they are ultimately impacting greater numbers of  
16 homeowners through a single entity. USERA is not  
17 suggesting that the owners of rating companies need to  
18 be certified as HERS Raters if they themselves are not  
19 performing ratings.

20 "But USERA is saying that they need to be held  
21 to all the rules and regulations since they are in --  
22 they are in fact performing HERS ratings through the  
23 employment or contracting of HERS Raters and acquisition  
24 of contractors for that very purpose.

25 "For all intents and purposes they are

1 representing the HERS Rater industry in administrating  
2 and selling HERS rating services and benefitting  
3 financially for doing so. As such, they should, by code  
4 definition, be held to the very same standard."

5 In saying that, USERA wants to stress that it  
6 does business with some very successful rating companies  
7 and they're completely fine with the existing rating  
8 companies. But some of these concerns that are being  
9 raised are coming directly from these rating companies  
10 on this particular topic.

11 Conversely, the Third Party Quality Control  
12 Program has explicit permissions. And when I mention  
13 rating companies I also -- this also applies to Raters  
14 and rating companies. But conversely, the Third Party  
15 Quality Control Program has explicit permissions granted  
16 to them, as defined in RA 2.7, which we've been talking  
17 about, that grant them a specific ability to offer  
18 services to contractors.

19 The CEC was obviously very careful and wise to  
20 make these definitions, which state the roles and  
21 responsibilities of the various participants in this  
22 process and permissions they have and do not have, and  
23 one rule confirms and supports the other very nicely.

24 Where one has a conflict of interest clearly  
25 defined and understood by the industry at large as a

1 conflict, which I think Mike is attesting to and I've  
2 had many Raters attest to that, the other grants  
3 specific permission to sell services to installing  
4 contractors.

5 I'm really still -- I'm off my letter here  
6 now, but I think RA 2.7 I think is such a clear piece of  
7 code, as is 1673(j), it was very concisely written to  
8 separate what one party could do versus the other, and  
9 I'm really not quite sure why we're still even talking  
10 about this issue.

11 I think the CEC's intent, their code was  
12 written very specifically. There is absolutely no  
13 question in my mind, and I think in most of the  
14 industry's mind, that if a Rater is doing something  
15 outside of the confines of being an auditor and they're  
16 performing some other sort of side admin function for a  
17 contractor, there's definitely a question of whether or  
18 not they can maintain their objectivity.

19 It's not that pulling the permit itself  
20 necessarily creates that. It's the fact that they are  
21 now engaging themselves in providing other services to  
22 that contractor for the opportunity to gain their rating  
23 business.

24 There is absolutely no other reason for a  
25 Rater to pull a permit for a contractor except to get



1 their rating business. That would fall under the  
2 independent entity clause and what it means by  
3 additional services for financial gain.

4 There's absolutely no question that short of  
5 the rating, the Rater would not even offer to pull the  
6 permit. It's directly linked. I think it clearly  
7 violates code and I'm not even quite sure why we're  
8 discussing this anymore, and I'm also not quite sure  
9 what the CEC's position is moving forward.

10 I get the feeling like they're trying to  
11 figure out a way to include this in future code, and I  
12 don't understand it, because most of the industry is  
13 clearly, clearly against this.

14 MS. MacDONALD: So Don --

15 MR. CHARLES: So --

16 MS. MacDONALD: -- sorry to interrupt you.

17 MR. CHARLES: -- look --

18 MS. MacDONALD: Go ahead, Don, finish. I'm  
19 sorry.

20 MR. CHARLES: Go ahead, that's fine.

21 MS. MacDONALD: Because I have a question in  
22 the statement you just made.

23 MR. CHARLES: Yeah.

24 MS. MacDONALD: So my question to you was, you  
25 just commented saying, you know, you get the feeling

1 that we're leading, and I wouldn't say leading.

2 Exploring is a good question and that's the purpose of  
3 gathering this information.

4 And the true intent of today's meeting is that  
5 we are -- on this particular subject, it's a lively  
6 subject and we are talking about the here and now. But  
7 the intent of information gathering for pre-rule-making  
8 is to explore and think about new.

9 So leading, not necessarily. Exploring and  
10 thinking about new, yes. So by what I hear you saying,  
11 if I'm correct, then, is that if we explore and think  
12 about new regulatory language, if it did or didn't say  
13 that these types of services would be allowed, your  
14 thoughts would be no, correct?

15 MR. CHARLES: My thoughts would be most of the  
16 time when you're exploring new ideas and new  
17 opportunities it's because the industry at large is  
18 asking for it. And I think that right now it is very  
19 clear that the majority of the industry not only opposes  
20 this, but clearly, they're not asking for it.

21 So to me, it seems that the CEC is taking some  
22 sort of a lead role in trying to really explore this,  
23 and I don't understand why, because the majority of the  
24 industry is certainly not asking for it and in fact, is  
25 opposed to it.

1           So I don't even understand why, again, you  
2 know, as a business person when I ask my staff to come  
3 up with ideas it's because there's a need or there's a  
4 reason that it's so obvious to do it, not something that  
5 we are trying to fight and figure out a way and our  
6 customers are going to be upset if we do.

7           And I guess I just don't understand why it's  
8 even being explored at this point when the majority of  
9 the industry is clearly opposed to it.

10           MS. MacDONALD: Thank you, Don. George --

11           MR. TAYLOR: Rachel, this is --

12           MS. MacDONALD: Oh, I'm sorry.

13           MR. TAYLOR: -- Eric.

14           MS. MacDONALD: Eric.

15           MR. TAYLOR: This is Eric Taylor from the  
16 state Third Party Quality Control Program. I couldn't  
17 raise my hand. I apologize if I'm stepping on somebody,  
18 but may I speak on the subject?

19           MS. MacDONALD: Eric, go ahead. We have some  
20 people in the audience, too, but go -- go for it.

21           MR. TAYLOR: Okay. I apologize. I couldn't  
22 raise my hand on the screen. My input on this subject  
23 is, is that the Third Party Quality Control Program had  
24 to adhere to rigorous, rigorous rules, probably more-so  
25 than even the Providers that had to get an approval with

1 the California Energy Commission.

2           And there needs to be an exploration of the  
3 Third Party Quality Control Program, and the subject  
4 because we have been given permission to do -- to work  
5 with contractors, to help contractors to kind of raise  
6 the bar in the marketplace to give them automated  
7 equipment that basically streamlines their operations.

8           And the CEC told us that that highest  
9 accountability and, you know, what goes along with that  
10 is a very large expenditure is all the Providers on the  
11 call will -- can attest to. And we had to innovate to  
12 get to where we're at, to have that relationship with  
13 the contractors, because we have oversight over the  
14 Providers.

15           Any Provider that wants to attach the Third  
16 Party Quality Control Program to it, we still have to  
17 upload and submit our one in 30 jobs to a Provider-ship.  
18 And so having that oversight and that understanding, I  
19 completely agree with Mark Meyers and others that are  
20 against Raters having relationships with contractors,  
21 because I know what type of relationship it takes to  
22 basically keep a contractor on board and to teach them  
23 all the rigorous rules.

24           And so I'm completely opposed to having Raters  
25 pull permits for contractors and having that business

1 relationship.

2 MS. MacDONALD: Thank you, Eric. At this time  
3 we're going to mute the lines for quality control  
4 purposes. It helps with the recording is what I'm  
5 trying to say.

6 MR. NESBITT: George Nesbitt.

7 MS. MacDONALD: Hi, George.

8 MR. NESBITT: I do wear steel-toed boots. So  
9 if you want to step on my toes you'll probably hurt  
10 yourself. So I believe in the standards in Title 20 you  
11 do actually define a HERS Rater as a special inspector  
12 to the local jurisdiction.

13 The question, and actually, I'll ask that you  
14 bring the guy from CALBO back on, is what does it mean  
15 to be a special inspector. So I'm working on a project  
16 where special inspection was required, and it's been  
17 performed by the incompetent structural engineer that  
18 did the work on the job.

19 I say that because I've had to fix his work.  
20 So at what point is a special inspector, does a special  
21 inspector have to be an independent third party. And  
22 that is the intent of our HERS Rater regulation, is that  
23 we are independent third parties.

24 So I guess that's a question, I think if we  
25 can answer that from the local jurisdiction standpoint

1 first.

2 MS. MacDONALD: Okay. Thank you, George. So  
3 you want to direct that question to Mark on the phone,  
4 Mr. Meyers?

5 MR. NESBITT: Yes.

6 MS. MacDONALD: Okay. At this time we're  
7 going to unmute Mr. Meyers. Are you still there, Mr.  
8 Meyers?

9 MR. MARK MEYERS: Yes, ma'am. And oh, we're  
10 still muted.

11 MS. MacDONALD: No. I have -- I can hear you.

12 MR. NESBITT: We can hear you.

13 MR. MARK MEYERS: Oh, okay. Very good. Yes,  
14 I'd be glad to speak to the third party. Number one,  
15 the local jurisdiction has the ability to approve all  
16 third party inspectors. And typically, we do not allow  
17 third party inspectors to ever work for the contractor.

18 In the case that was representative on special  
19 inspections for structural elements we would require  
20 that the third party work for the designer architect or  
21 the owner, but he cannot work for the contractor, which  
22 is consistent with our position on third party Raters  
23 for the Energy Commission items, as well.

24 I might also add that I believe that much of  
25 this is being driven by what people perceive is a

1 difficulty in obtaining permits. And after AB 1288 for  
2 solar requires all of our jurisdictions by this  
3 September to have in place means by which inspections  
4 can be scheduled, permits can be obtained through  
5 electronic submittal, through fax submittal and being  
6 able to obtain these permits over the Internet or other  
7 means that we find capable, we're all working towards  
8 that.

9           And for quite some period of time in my local  
10 jurisdiction we've allowed contractors to submit their  
11 application and their energy forms by fax or by email.  
12 We prepare the permit here. If they choose, they can  
13 pay for it online or they can simply come in here, pay  
14 for it, pick up their permits and be on their way.

15           So this is all about ease. I believe all  
16 departments within California are rapidly working to put  
17 these items in place, because they've been driven  
18 legislatively by 1288 and they are soon expanding it to  
19 other areas. So I believe the ease of getting permits  
20 is being addressed, as well.

21           MS. MacDONALD: Thank you, Mr. Meyers.

22           MR. NESBITT: Thank you.

23           MS. MacDONALD: So you are going somewhere  
24 with that, with the comment on the ease of permits, and  
25 that is something that we want to support, because we

1 want, as an agency we want permits being pulled,  
2 especially specific to this industry, the HVAC industry  
3 and change outs, alterations, knowing that I believe we  
4 understand that it's less than 15 percent have permits  
5 being pulled.

6 So as an agency with legislative direction and  
7 goals from our governor for energy efficiency and you  
8 mentioned AB 1288, we also have AB 758 that we want to  
9 increase permitting.

10 MR. MARK MEYERS: I guess I would also make a  
11 comment there that the greatest difficulty we have in  
12 being able to currently issue permits is the extremely  
13 difficult issue of insuring that the applicant has all  
14 of the proper forms.

15 And for a simple HVAC change out this can  
16 easily be five to six forms through the process. And  
17 while understanding that is not terribly complex,  
18 getting training to the contractors so that they  
19 understand or would use resources such as code energy  
20 ace -- Energy Code Ace to get the proper forms, get them  
21 filled out and bring them in, that is the greatest  
22 hurdle we see at the moment.

23 Now, certainly, there are contractors who are  
24 working outside the guidelines. Some may not even be  
25 licensed and others are purposely permit avoidance



1 because the work that they want to do would not meet the  
2 current code requirements, either from a life safety  
3 standpoint or from an energy consumption standpoint.

4 And I believe there are other methods that we  
5 can look at that aren't necessarily a part of today's  
6 discussion to improve that compliance.

7 MS. MacDONALD: Thank you. We're sitting here  
8 taking notes feverishly.

9 MR. CHARLES: This is Don Charles. Can I just  
10 say one quick thing?

11 MS. MacDONALD: Don, go ahead.

12 MR. CHARLES: I just wanted to also add that,  
13 you know, increasing the ease of it is one thing, but  
14 changing the responsibility of the party responsible for  
15 pulling the permit is a whole other deal.

16 I think there are many ways through technology  
17 and different means, and as Mike, you know, said, there  
18 are different ways for contractors to get educated and  
19 help out there to do their job and follow through on  
20 their responsibility.

21 Changing the rules to say where that  
22 responsibility lies is a whole other discussion. And  
23 the last comment that I just want to make on this is I  
24 have asked that while this discussion is taking place I  
25 would really like to see the CEC put a cease and desist

1 out there to any Raters that are engaged in this  
2 practice right at the moment for a couple reasons.

3 One, I think it's the commonly understood  
4 thought of what the code really means, and most people  
5 are trying to adhere to that code and not violate it.  
6 Two, if this code is changed in the future to where  
7 Raters being allowed to pull permits is allowed, you are  
8 giving an unfair market advantage to the Raters that are  
9 currently doing this against what other Raters feel is a  
10 violation of code.

11 And I think until this argument is really  
12 defined clearly I think any activity toward that end  
13 should stop immediately.

14 MS. MacDONALD: Thank you, Don. George, did  
15 that answer your questions from Mr. Meyers?

16 MR. NESBITT: Yes. So George Nesbitt again.  
17 Just to kind of hit on that, I would say in the case of  
18 a special inspector, even though they work for the owner  
19 they're the ones that perform structural engineering and  
20 they're then inspecting it.

21 I still say that's -- personally, I think that  
22 is a conflict of interest and that comes out of a lot of  
23 personal experience, which I won't get into. So the  
24 intent is that we HERS Raters are independent. We're  
25 third party.

1           We're special inspectors to the local  
2 jurisdictions. The tension here is between the ideal of  
3 what the code says and the reality of the marketplace, I  
4 think. We get a lot of our work through the  
5 contractors.

6           They're the ones that they need the HERS  
7 Rater. They pick up the phone. They contact the HERS  
8 Rater. They schedule it, so on and so forth. I think  
9 one of the difficulties is that -- well, when you fail  
10 people you never get called back. You may never even  
11 get paid, and I'm sure we've all felt that pain in this  
12 room.

13           Here's the problem. And I also think we need  
14 to sort of segment field verification, diagnostic  
15 testing, or what I'd call HERS verification from the  
16 HERS II, HERS Rating System, and further, the  
17 independent rater from the building performance  
18 contractor, because I think when you get to even a HERS  
19 II Rater you're making recommendations as to work they  
20 should do, what they should do, products they should  
21 use.

22           The building performance contractor can not  
23 only make those recommendations, but do the work,  
24 although they cannot serve as the independent third  
25 party, HERS verifier if the code triggers it. So we

1 sort of have three bins.

2 MS. MacDONALD: The whole house side is --

3 MR. NESBITT: Yeah.

4 MS. MacDONALD: -- we're getting to that later  
5 this summer.

6 MR. NESBITT: Yeah.

7 MS. MacDONALD: Start working on it a whole  
8 lot. And you bring a good --

9 MR. NESBITT: No. No. I just --

10 MS. MacDONALD: -- you bring up an interesting  
11 point.

12 MR. NESBITT: Because so here's the problem.

13 You say we work for the owner. Okay. We're doing  
14 change outs. We're doing 100 percent inspection because  
15 the contractor doesn't own equipment and they don't know  
16 how to use it.

17 We can work directly for the owner, right? No  
18 problem. That simple. Every owner is paying for HERS  
19 verification. Now, let's get to sampling, one in seven.  
20 Which homeowner pays for the one test, plus for the rest  
21 of the sampling?

22 No one homeowner should bear that cost. So  
23 the reality is, we have to be paid by the contractor.  
24 The contractor somehow has to figure that into all their  
25 costs.

1 MS. MacDONALD: So you're pointing to the  
2 dependence on the contractor?

3 MR. NESBITT: Yeah.

4 MS. MacDONALD: Regardless of the intent of --

5 MR. NESBITT: And obviously, there is an  
6 incentive for Raters to be able to perform services,  
7 whether it's pulling permits or whatever else, charging  
8 air-conditioners, whatever else that goes on out there,  
9 there's an incentive in order to get that work.

10 So unless you decouple the HERS Rater and the  
11 contractor completely, sort of like what happened with  
12 home appraisers, I'm not saying that what happened  
13 ultimately is good either. That's created its own  
14 problems.

15 So it's tough. You know, how do you  
16 completely separate us? Obviously, a HERS Rater could  
17 pull a permit for the homeowner as agent for the owner.  
18 That would clearly not be a conflict of interest. Yet,  
19 pulling it for the contractor certainly would seem to  
20 fall under a conflict.

21 So you know, I'm just kind of throwing it out  
22 there. I, you know, and the other thing is, we're  
23 working with contractors. Who's the best person to  
24 train contractors as to the rules, requirements, how to  
25 do things?

1           Honestly, it's the Rater. They ain't going to  
2 Stockton or wherever else. They're not going to  
3 classes. They're not getting training. They don't  
4 understand it. If you want a CF2R or a CF6R, damn it,  
5 as a HERS Rater you got to fill it out yourself, because  
6 you're never likely to see it.

7           And they're not going to put the right  
8 information on it anyway. So how do we -- you know --  
9 what we ultimately want is compliance with the code. We  
10 want things to be right, that they actually comply. And  
11 so there is a big tension.

12           Now, you know, in RESNET, RESNET allows  
13 conflict of interest between Raters and contractors.  
14 And I've spoken with Raters who actually work for  
15 companies that had conflict and they went independent,  
16 because a lot of people don't like that idea.

17           So there's this tension between the  
18 independent third party and the fact that we have to  
19 have some sort of relationship and close relationship  
20 with those that we're testing. And I'm not suggesting I  
21 know exactly how to resolve it.

22           MS. MacDONALD: Thank you, George. On the  
23 phone I understand I have a Tommy Young. Tommy, are you  
24 there?

25           MR. YOUNG: Yes, I am. I was actually typing

1 in my response and so I'll just read it verbatim. Tommy  
2 Young, E3 California, and I think this can easily be  
3 handled. I think it's an issue that can be determined  
4 by the Labor Board and EDD.

5           If a HERS Rater should be legally listed as an  
6 employee then this all becomes a moot point. It's clear  
7 to me, at least, that the Rater pulling a permit should  
8 be classified as an employee, per the EDD Guidelines.  
9 It's pretty clear that one of the questions of the top  
10 three questions is, is the work being performed part of  
11 your regular business.

12           It is. Pulling a permit is part of your  
13 regular business. If the Rater can't do it, you or you  
14 send in -- it's either you that goes and picks it up or  
15 an employee. To me, I mean, I've been over these, you  
16 know, mixed classification of laborers or employees  
17 versus independent contractors, and I just -- you know -  
18 - right or wrong, I still think it comes down to a Labor  
19 Board issue. And if anybody wants to comment, they can.  
20 Otherwise, you can just consider that my comment. Thank  
21 you.

22           MS. MacDONALD: Thank you. I have someone  
23 walking up to the podium. Go ahead. State your name,  
24 too. Good morning.

25           MR. EDGAR: Morning. My name is Bruce Edgar.

1 I'm the area manager for the Energyguy. We're a statewide  
2 rating company. We also have permit runners that pull  
3 permits for our clients, because our business is  
4 anything to do -- can do to make it easier for the  
5 contractors to fulfill all the requirements. So we do  
6 pull permits, as well.

7 I can tell you that I'm area manager. I'm  
8 also a Rater. I work in the field every day. I can't  
9 speak to the code. I don't know it as well as the other  
10 people here, but I can tell you that as a Rater it makes  
11 no difference to me whatsoever whether our company  
12 pulled the permit for a contractor or not, in my  
13 verification of what's the meaning of the code at all.

14 I also would like to say that while one of the  
15 speakers before was talking about unifying the processes  
16 for getting permits, I've heard a lot of talk about  
17 that. But I got to tell you, we go to different  
18 building departments all day long, and man, they are way  
19 far away from any kind of unification whatsoever.

20 As a matter of fact, most of them feel, and as  
21 they should, that they actually have authority to --  
22 they're actually the final authority for the code, the  
23 local code, and the local code departments. So it  
24 doesn't even matter to them what the CEC says. So  
25 unification to me is way down the road.



1           The other thing I'd like to say is that,  
2 again, even if pulling a permit may be deemed by the  
3 text of the code as a conflict of interest, I got to  
4 tell you, financial interest evidently means everything  
5 except for getting money from the contractor, because  
6 that's what we do.

7           We are hired by the contractor and all the  
8 language that says that, yeah, the money comes from the  
9 homeowner, well, in the down and dirty when it gets  
10 real, we're going to the contractor. We're trying to  
11 sell our services to the contractor, and it's a very  
12 delicate situation to be in, because we have to uphold  
13 the code and get their continued business, and that's a  
14 very difficult position to be in.

15           So what we would like to see would be an  
16 erasure of the ultimate conflict of interest that we're  
17 all in, and that is getting the money directly from the  
18 contractor. That conflict of interest pales completely  
19 in comparison to any other thing that you're talking  
20 about here today.

21           And I think it can be done. I think rating  
22 companies and Raters can market directly to homeowners.  
23 I think that that would be a benefit to the homeowners.  
24 I also think that we could deal with sampling, and if we  
25 can go that route, then all the other conflicts of

1 interests basically are very small and they go by the  
2 wayside.

3 MS. MacDONALD: Thank you. So what I'm  
4 hearing you say is for new thought, for future thought,  
5 is specifically identifying where the relationship, the  
6 financial dependence, the relationship between the Rater  
7 and the project they're rating lies, and that would be  
8 removing the contractor and targeting the homeowner. Is  
9 that what you're saying?

10 MR. EDGAR: If you want us to be loyal and  
11 have a -- if you want to see a fiduciary responsibility  
12 to the homeowner, then we should be paid and contacted  
13 by the homeowner directly.

14 MS. MacDONALD: Okay.

15 MR. EDGAR: Otherwise, it's all moot.

16 MS. MacDONALD: And can I ask you, you  
17 indicated you had permit runners.

18 MR. EDGAR: Um-hum.

19 MS. MacDONALD: So are they rating, too?  
20 They're just specifically --

21 MR. EDGAR: They're just permit runners.

22 MS. MacDONALD: -- pulling permits. They're  
23 just staff?

24 MR. EDGAR: Right.

25 MS. MacDONALD: Okay. Thank you.

1 MR. EDGAR: Okay. Thank you.

2 MS. MacDONALD: Dave, I see you in the  
3 audience.

4 MR. HEGARTY: Dave Hegarty, Duct Testers,  
5 Incorporated, Ripon, California. Just to comment on  
6 that. There is a way to do that for other Raters who do  
7 work with their supposed clients, the contractors. You  
8 ask the clients, your contractors, to ask the homeowner  
9 to pay. So it takes that completely out of the  
10 equation.

11 So you may be recommended by that contractor,  
12 but the homeowner pays you a check and that's easily  
13 done in any application, so. I'd just like to also  
14 comment on an important part, one sentence, two  
15 sentences in Example 2-7, which I would really like to  
16 see on the board.

17 "By law, HERS Raters must be independent  
18 entities from the builders or subcontractors, installers  
19 of the energy efficiency features being tested and  
20 verified." That's the first one I'd like to emphasize.

21 And then finally, in that same example it  
22 says, the Energy Commission's own words, "The closer the  
23 working relationship between the HERS Rater and the  
24 subcontractor whose work is being inspected, the greater  
25 potential for compromising the independence of the HERS

1 Raters." Those are exact, out of the 2-7 examples that  
2 I think needs to be put on the board.

3 MS. MacDONALD: Those are from the 2013  
4 Reference Appendices.

5 MR. HEGARTY: That's correct.

6 MS. MacDONALD: Yes. Thank you.

7 MR. HEGARTY: And included in every one of the  
8 -- I've looked in all of the Providers, and they all  
9 quote this one, to give you an example, and all the  
10 Providers --

11 MS. MacDONALD: They quote that in their  
12 training materials or --

13 MR. HEGARTY: Training materials, yes.

14 MS. MacDONALD: Okay.

15 MS. MacDONALD: Just clarifying.

16 MR. HEGARTY: And all of the Providers teach  
17 that. So I don't want to -- you know -- I think as Don  
18 at USERA said, and I echo his comments here, we're  
19 creating a huge issue where it already is illegal,  
20 according to code and clearly written, we're allowing  
21 people to do it that shouldn't be allowed and creating a  
22 bigger mess for the Providers to have to clean up when  
23 they don't have the money to do QA as it is now.

24 So those special inspections or those  
25 complaint processes that we all go through that are so

1 expensive for the Providers, it makes a bigger mess for  
2 them to have to try to go back and clean up from those  
3 that are doing it now and investigating that. Thank  
4 you.

5 MS. MacDONALD: Thank you, Dave. I do know at  
6 this time -- hold on, George -- I have our public  
7 adviser in the room, Shawn Pittard, and I was asked, we  
8 have an individual that wanted their docketed comment  
9 read onto the record, and so our Public Adviser's Office  
10 will do so.

11 MR. PITTARD: Great. Thank you, Rachel. My  
12 name is Shawn Pittard. I'm the Assistant Public Adviser  
13 and I will read Mr. Jeff Shields comment into the  
14 record. Okay. This is a memo to Rachel from Mr.  
15 Shields. He's the General Manager, South San Joaquin  
16 Irrigation District. This was filed and docketed on  
17 April 28, 2015, in preparation for the previous Webinar.

18 "This memo is in support of preserving the  
19 independence and professional integrity of HERS  
20 Compliance Raters as required under Title 20. The  
21 public is increasingly frustrated by conflicts growing  
22 out of, with protecting the public trust and assuring  
23 that industries that operate under their jurisdiction do  
24 so according to statute.

25 "As we have seen with the CPUC, relationships

1 that are required to be independent and objective have  
2 become blurred by internal rationalization and/or staff  
3 interpretation of regulations.

4 "In the end, it is the credibility of the  
5 regulatory agency that is tarnished for condoning a  
6 culture of conflicts of interest." Mr. Shields cites  
7 CEC Residential Compliance Manual, CEC-400-2013-001-CMF.

8 "While there may be a convenience associated  
9 with a HERS Rater engaging directly with a builder to  
10 secure a structural permit from the local government,  
11 there is also a perceived, if not legal, conflict  
12 created between the builders, Rater and local  
13 jurisdiction.

14 "I suspect that this issue has not been  
15 discussed in a public proceeding on the Commission's  
16 Agenda. To that end, I would ask that the Commission  
17 take the opportunity to debate this issue during a  
18 public hearing.

19 "Thank you for considering this communication.  
20 I am happy to come to Sacramento and discuss this in  
21 more detail, should you wish to do so."

22 MS. MacDONALD: Thank you. Well, we are in a  
23 public setting right now discussing this. So thank you,  
24 Mr. Shields, for your comments on the record, and thank  
25 you, Shawn, for reading that.

1 MR. PITTARD: Sure.

2 MR. NESBITT: George Nesbitt, just a couple  
3 quick things. When a contractor goes to a Building  
4 Department, pays for the permit, I don't think we  
5 perceive that as a conflict of interest between the  
6 contractor and the Building Department, the inspectors.

7 So the thing is our standards, the rules, our  
8 sampling, is all based on a contractor, and in order to  
9 sample, you know, it has to be the same contractor, the  
10 same jurisdiction and obviously, you can't have multiple  
11 Raters sampling those groups.

12 So the question is, how do we actually, then,  
13 pull it apart. Unless the contractor pays the Building  
14 Department fees for the HERS Rater and the HERS Rater  
15 gets paid from the Building Department, you know, that  
16 or, you know, the thing is if we only get paid from the  
17 homeowner and now we've got to collect from 30  
18 homeowners that are being sampled, that's, you know,  
19 physically that doesn't work.

20 Twenty-nine of them won't pay. So you know,  
21 we sort of -- it's difficult and I'm -- you know -- like  
22 I said, it's not fair for the one homeowner to get  
23 sampled to pay for the other six. Yeah.

24 MS. MacDONALD: Thank you, George. On the  
25 phone I understand Don Charles.

1           MR. CHARLES: Yeah. I just wanted to address  
2 the Rater that spoke before Dave. You know, he talked  
3 about the financial piece between him and the contractor  
4 being a delicate issue. And totally understand, which  
5 is really what comes to the heart of why this is such a  
6 conflict of interest.

7           We are not necessarily saying that by pulling  
8 the permit that necessarily means that you're going to  
9 wink, wink, nod, nod on the quality of the HERS rating,  
10 but we are saying that it represents a direct conflict,  
11 in that you are providing an additional service in order  
12 to acquire the HERS rating itself.

13           That is very clear. That's where the delicate  
14 -- you're trying to get a market advantage by providing  
15 a different level of service. Let's just use another  
16 industry here really quickly. Let's just say I own a  
17 carwash and I'm competing in the industry and I wash  
18 cars.

19           And my competitor across town decides to go  
20 pick up their clients' car and bring it to the carwash,  
21 wash it and bring it back, and they're willing to do  
22 that for free. Now, the quality of the carwashes might  
23 be exactly the same and no difference, and they may both  
24 do an outstanding job of washing the car.

25           But which carwash do you think the client will



1 choose, the one where they have to drive down there, sit  
2 in their car, go through the carwash, take their own  
3 time to do it, or the one who's offering, even if for  
4 free, to go pick up their car, take it to the carwash,  
5 wash it for them, bring it back and they didn't have to  
6 do anything to do that.

7           Clearly, the customer's going to choose the  
8 one who offers to pick up the car. Now, that may be  
9 fine in the car washing industry, but in the HERS rating  
10 industry, it's a conflict of interest because you're  
11 using that permitting process directly to acquire the  
12 HERS rating.

13           And I hope that that's a clear explanation,  
14 but again, not saying necessarily that the HERS rating  
15 itself would be compromised, but to use additional  
16 products and/or services for convenience sake, even if  
17 being offered for free, to gain the HERS rating is a  
18 direct conflict of code.

19           MS. MacDONALD: So Don, let me ask you, you  
20 stated this earlier. So to keep us moving forward in  
21 the intent of today that we are looking at new language  
22 -- I know we're sitting here and we're debating the  
23 status -- what we're -- the current language, but if you  
24 could change the language what would you request or want  
25 to see in the language, proposed language, specific to

1 Conflict of Interests and these types of relationships?

2 MR. CHARLES: Well, it's kind of funny. I  
3 mean, we're even going through some of this stuff on a  
4 national level with the Supreme Court. And again, I  
5 think it gets back down to what the intent is, and I  
6 think the intent -- I know the intent of the CEC was  
7 that HERS Raters would be independent auditors.

8 And therefore, I think they should remain  
9 independent auditors. It is the contractor's job,  
10 responsibility, to pull their own permit. That's part  
11 of their job.

12 MS. MacDONALD: Okay.

13 MR. CHARLES: That's what they're supposed to  
14 be doing in the market. They should not be having  
15 anybody else do that except an employee of their own  
16 firm. Again, it's their job, their responsibility. So  
17 I guess if we have to add that specific language to the  
18 code, even though I think the intent is very clear, then  
19 I think maybe we should add it.

20 But to say that the responsibility should  
21 change or that it's okay to change the responsible  
22 party, I think again plays right into the conflict of  
23 interest, and clearly, it's being used as a means to  
24 gain the real business for the HERS Rater, which is the  
25 HERS rating itself, by providing an additional service

1 to make it easier for the contractor to choose them.

2 MS. MacDONALD: Thank you, Don. Bruce.

3 MR. EDGAR: Bruce Edgar again, the Energuy.

4 Again, some people may interpret this as a conflict of  
5 interest according to what's written in the codes. It  
6 certainly is a way of getting more business, because you  
7 know, businesses try to provide services so that they  
8 can charge for them. That's what businesses do.

9 And it would be a shame if the CEC said that,  
10 you know, we couldn't make it easier for our clients, we  
11 couldn't -- you know -- they have to do things the hard  
12 way. The other thing is that, you know, with any other  
13 instance of government, every person, every company has  
14 the right of agency, has the right to hire somebody to  
15 represent them, to deal with especially government,  
16 whether it be federal or state or local, municipal.

17 And so I can hire an attorney. I can hire an  
18 import/export contractor to deal with that part of the  
19 requirements. I can hire all sorts of people to  
20 represent me if I can't do something or if I feel  
21 somebody can do something better for me in  
22 representation of me in front of the government.

23 And it seems that any contractor should also  
24 have the opportunity to hire some kind of representative  
25 so they wouldn't have to deal with these things that are

1 in many instances becoming harder and harder to deal  
2 with.

3           So again, it may be interpreted as a conflict  
4 of interest according to the code by some people, but it  
5 is completely -- again, completely pales in comparison  
6 to the conflict that exists when we are taking money  
7 from the contractor to do their HERS testing.

8           And as far as sampling is concerned, I don't  
9 know why people who get work done on their house  
10 couldn't opt or opt out of HERS testing. If they opt  
11 out and into a sampling group they could pay a smaller  
12 fee. I think that those are details that could be  
13 ironed out.

14           But compared to the huge conflict of interest  
15 that that represents, I think that the details could be  
16 worked out. So I say, let the market decide what the  
17 market wants, and let CalCERTS and the Providers insure  
18 that the ratings are done in a quality manner. Thank  
19 you.

20           MR. CHARLES: I have a --

21           MS. MacDONALD: But I have a question for you.  
22 That question is, and as I'm standing up here and I'm  
23 asking, we have the existing. I don't know how you  
24 interpret the existing, and what, if you were to change  
25 it, what might that look like.

1           MR. EDGAR:  Again, I would go right back to  
2 the owner.  That would be that the Rater must be hired  
3 and paid for directly by the owner.  I think that one  
4 change would wipe out all of this other conflict of  
5 interest and I think it would benefit the entire  
6 industry.

7           Yeah, we'd have to market more, but gee, who's  
8 better to counsel the homeowner on what they need to do  
9 to their house than the HERS Rater?

10          MS. MacDONALD:  Do you think, just as there's  
11 a feeling that -- by some -- that if a permit is pulled  
12 by a Rater on behalf of the contractor and then they  
13 rate that project that there's an interest, do you think  
14 on behalf of the contractor -- or that on behalf of the  
15 homeowner if a Rater were to pull a permit on behalf of  
16 the homeowner and then rate that project, is that any  
17 different?

18          MR. EDGAR:  I don't see that the permit makes  
19 any difference to me personally whatsoever, whether it's  
20 pulled by the homeowner or pulled by the contractor.

21          MS. MacDONALD:  But you're representing the  
22 homeowner's interest?

23          MR. EDGAR:  What does make a difference is  
24 that we're going to contractors and saying, hey, can you  
25 hire me to do this Title 24 job.  And then we go do it

1 and then we say, you know what, I can't pass this, you  
2 have to come back and do this, and then you're going to  
3 have to pay me again to come back and revisit and make  
4 sure it's right.

5 And by the way, I see you got another job next  
6 week, can you hire me for that one, too. That doesn't  
7 make sense. It doesn't make sense and there's where the  
8 conflict of interest lies.

9 MS. MacDONALD: So you'd like to see maybe  
10 specific interests that was -- or specific interests,  
11 excuse me -- specific language that was directed at the  
12 homeowner?

13 MR. EDGAR: We would love to see that.

14 MS. MacDONALD: Okay. Thank you. I have Mike  
15 Meyers on the phone.

16 MR. MARK MEYERS: Is Energuy currently -- just  
17 a question for you -- are you guys currently in the  
18 process of pulling permits for your contractors right  
19 now?

20 MR. EDGAR: Yes, we have permit runners that  
21 do that.

22 MR. MARK MEYERS: Okay. Thank you.

23 MS. MacDONALD: So I have a question to ask  
24 directly, and then that is, if there's any -- I know  
25 we've really been talking about Raters pulling permits -

1 - but the other side of that question, too, has to do  
2 with services.

3           So is there any circumstance where it'd be  
4 okay for a Rater to provide -- are there any  
5 circumstances where it'd be okay for a Rater to provide  
6 a product or a service to a contractor? Would you  
7 support eliminating the words, "for the purpose of  
8 gaining increased business," in the current definition  
9 we have here for independent entity. This is thinking  
10 about new language. This is just a general question to  
11 the audience. Dave, I see you at the podium. So we'll  
12 start with Dave.

13           MR. HEGARTY: I can answer that. Dave  
14 Hegarty, Duct Testers, Incorporated, Ripon. As you  
15 quoted the question, you're saying for the purpose of  
16 getting business. The Business and Professional Code  
17 Section 17,200 through 17,210, prohibit that anyway.  
18 There's --

19           MS. MacDONALD: Well, who's -- I'm sorry. I'm  
20 sitting up here taking notes, too. What was that, what  
21 code was that?

22           MR. HEGARTY: Business and Professional Code,  
23 Sections 17,200 through 17,210 specifically prohibit you  
24 doing that and for the active purpose of gaining more  
25 business, especially discounting those permits which all

1 five of the agencies who do it, do discount the permits  
2 and advertise that they do.

3 So those are the terms that are in the  
4 Business and Professional Code that were adopted by the  
5 CEC in the language that you're expressing.

6 MS. MacDONALD: Thank you. On the phone do we  
7 have Mr. Meyers still on the phone? Are they muted?  
8 Okay. Don, do you have any comments, or I have another  
9 question and that is, are there other individuals on the  
10 phone that provide permit pulling services that would  
11 like to comment, whether you're a rater or not?

12 I know, I understand because I've received  
13 contact from an individual that strictly provides permit  
14 pulling services. He is not a Rater. So I'd like to  
15 reach out to those of you on the WebEx and on the phone.  
16 Mark. Okay. We're getting through our technical  
17 difficulties. Stand by. Thank you. Go ahead.

18 MR. MARK MEYERS: Okay. Am I there now?

19 MS. MacDONALD: Yes, you're here.

20 MR. MARK MEYERS: Okay. A couple of concerns  
21 that had come up through the conversation that I wanted  
22 to mention, for agencies that get involved in  
23 enforcement requirements, enforcing a permit that has  
24 been obtained by a contractor is a much easier task than  
25 enforcing a permit that has been obtained by a



1 homeowner, an agency or third party.

2           And recently, we've done a lot of work with  
3 the Contractor State License Board, and I want to tell  
4 you, they've been fantastic as far as we're concerned in  
5 pursuing contractors that have had as many as 140 open  
6 permits that they have not resolved.

7           And we've been able, because we've been able  
8 to produce those records in their name, in their  
9 business process, and been able to pursue them and get  
10 resolution. So for enforcement agencies it's much  
11 better to have the permit in the name of the contractor.

12           So there are other benefits besides simply  
13 insuring who's doing the work. Also, I believe, once  
14 again, we're talking about easing the process of getting  
15 permits and I believe we're all working on that  
16 diligently, and we can continue to work with the various  
17 enforcement agencies throughout the state to try and  
18 improve that. And believe me, all building officials  
19 are interested in improving that. Thank you.

20           MS. MacDONALD: Thank you, Mark. Anyone else?  
21 I know CHEERS is in the room. Did any Providers want to  
22 say anything? Thank you.

23           MR. CHARLES: This is Don Charles again. Are  
24 you --

25           MS. MacDONALD: Hold on just a sec, Don. Go

1 ahead.

2 MR. DAVID MEYERS: David Meyers, with CHEERS,  
3 Stockton, California. I won't belabor the point here,  
4 because I think a lot of good comments have been made.  
5 So George, I'm not going to take as much time as you.  
6 No.

7 MS. MacDONALD: Thank you.

8 (Laughter.)

9 MR. DAVID MEYERS: I think part of this is --  
10 I think it just comes down to common sense for CHEERS.  
11 If you look at the code and you just look at the  
12 financial business relationships between the installers  
13 and the Raters, this is really -- I'm baffled how we're  
14 at the point we're having these conversations, because  
15 it's a conflict.

16 I do agree with Energuy's position that, you  
17 know, if you really want to have an independent third  
18 party QA system you've got to have a relationship  
19 between the homeowner and the Rater. So anything short  
20 of that you're QA program is going to be in question,  
21 and the integrity of it. So thank you.

22 MS. MacDONALD: Thank you. Don.

23 MR. CHARLES: Yeah. I agree a lot with what  
24 he said, except for the last part. You know, QA is QA.  
25 If we're doing our QA job we're going to be able to

1 catch failures in the QA process at the Provider level.  
2 So again, it doesn't necessarily mean that there's going  
3 to be a problem with the rating.

4 But clearly, clearly, clearly, again, there's  
5 a conflict of interest and I would really, seriously  
6 like to see, for not wanting to be overly  
7 confrontational here, but this is such an issue where  
8 the industry I think is divided on probably a 90/10, I  
9 would say that 90 percent of the people in the industry  
10 agree that permit pulling is a conflict.

11 And again, I think that the CEC needs to issue  
12 an immediate cease and desist until this issue is  
13 fleshed out, because again, you are providing an unfair  
14 market advantage for those -- if this code gets changed  
15 down the road, and if it does we'll enforce it when it  
16 changes, or if it does change, but for in the meantime  
17 you're giving a hand up to those Raters who are taking  
18 advantage of what they feel may be a loophole in the  
19 language, even though I don't feel there is, and they're  
20 going to get a market advantage of several months of  
21 going out to contractors and acquiring their permit  
22 pulling while the other rates and people in the industry  
23 and Providers are simply trying to follow the code as it  
24 is written.

25 So I would really like to see the CEC take a

1 much stronger stance on this issue until it's figured  
2 out.

3 MS. MacDONALD: Thank you, Don. Is there  
4 anyone else? Oh, I see Charlie. Hold on just a sec on  
5 the phone. I'm going to ask, as we look like we're  
6 getting ready to close this subject out here shortly,  
7 and we'll have a pass at the phone callers one last time  
8 here in a moment.

9 MR. BACHAND: Hello. Charlie Bachand,  
10 CalCERTS, Folsom, California. I want to take a quick  
11 minute to talk about some more generalities about the  
12 conflict of interest rules, besides this discussion that  
13 we're having that I think that we need to have to day at  
14 the CEC.

15 I want to point out that the rules regarding  
16 conflict of interest are being discussed today about  
17 whether or not they're clear or not, but there are no  
18 real rules in Title 24 how a Provider is meant to  
19 investigate conflict of interest rules and violations,  
20 what the possible penalties might be, what powers we  
21 have to ask Raters questions, or contractors or  
22 homeowners or Building Departments, et cetera, how we  
23 should weigh that evidence.

24 The list goes on and on. I would request in  
25 very strong language that we make it very clear in Title

1 20 what the conflict of interest rules are, one, but  
2 two, how they are supposed to be enforced and  
3 investigated, and how those investigations should be  
4 reported to the CEC for oversight so that in the future  
5 when there are disputes like this it doesn't become a  
6 burden on the Providers to figure out not only what is  
7 true and what is false, but what they have the power to  
8 investigate and how much money they have to spend to do  
9 it, to be perfectly frank. So that's my only comment.

10 MS. MacDONALD: Thank you. On the phone, do  
11 we have anyone on the phone that has comments?

12 MR. VANTAGGIATO: Yeah, Alex with USERA.

13 MR. MARK MEYERS: Hello.

14 MS. MacDONALD: Alex, I hear Alex from USERA.  
15 Go ahead.

16 MR. VANTAGGIATO: Yeah, Rachel. I think one  
17 of the things that I would like to see in the language  
18 of the code coming up is just some clarity about the  
19 HERS process regarding entities that incorporate a  
20 number of HERS Raters, combine them together in order to  
21 form a company.

22 I mean, we have companies, rating companies  
23 that are on different sides of the fence that are  
24 certified through USERA. So I guess I'd like to see  
25 what the CEC moving forward is going to develop language

1 about what it means for a HERS rating company to bring  
2 together individual certifications, which is what code  
3 is.

4 Code is set for individual Raters who are  
5 certified within a Providership, and what it means for a  
6 company to bring together certifications of many Raters,  
7 bring them together and then offer services as a  
8 company.

9 So I think that there's a lot of language  
10 about what a Providership is, a lot of language about  
11 what a contractor is, a lot of language about what a  
12 HERS Rater is. There needs to be more language about  
13 these other types of entities and the processes in which  
14 they can and can't do particular things. So I'd just  
15 like some clarity in the language moving forward on that  
16 issue.

17 MS. MacDONALD: So Alex, thank you, Alex.  
18 Alex, that would be -- are you saying that that would be  
19 specific to conflict of interest and that these large  
20 HERS rating companies that have multiple facets and  
21 branches, that there be more clear language specific to  
22 those types of HERS rating companies?

23 MR. VANTAGGIATO: Well, isn't that part of the  
24 crux of the issue, is that an individual Rater, as Mr.  
25 Edgar had said, you know, can go out in the field and

1 he's not -- he's on (indiscernible) about whether a  
2 permit has been pulled for them or not by his company,  
3 and I totally understand that.

4           So I think what needs to happen is that there  
5 just needs to be some clarity about what that  
6 relationship is when a company brings together a number  
7 of certified Raters then offers other services, because  
8 I think that's where a lot of the frustration lies on  
9 both sides of the fence, you know, is that the one  
10 particular HERS Rater is not out soliciting services,  
11 but their certification is being utilized within the  
12 scope of the company.

13           So I think moving forward there needs to be  
14 some language that describes whether -- you know -- what  
15 are and what aren't conflict of interest in regard to,  
16 you know, incorporated groups that bring in certified  
17 Raters for the purpose of offering HERS ratings along  
18 with other services.

19           MS. MacDONALD: Okay. There was someone --  
20 I've got someone walking up to the podium. Sorry.

21           MR. McKINNEY: Hi. This is Max McKinney,  
22 Energy Analysis Comfort Solutions. And I really like  
23 what Charlie Bachand just said. The issue isn't so much  
24 what is the conflict of interest until we define  
25 everything.

1           What the other issue is going to be, even more  
2 importantly, is being able to track it. We have  
3 currently, I know of several rating companies that are  
4 part of a contractor, that they do their own ratings on  
5 that contractor, which is a direct conflict of interest,  
6 but they have it under different names.

7           So one of the issues that's going to run up in  
8 the permit pulling issue is, okay, I have ABC Rater.  
9 I'm going to make XYZ permit service. They're going to  
10 be separate under legal terms as far as separate  
11 entities, but not necessarily on the conflict of  
12 interest.

13           And that is going to become a huge burden on  
14 Providers or the CEC or the state government somewhere  
15 to be able to track, this rating company is also  
16 affiliated or related to this contractor, or this  
17 permitting service is part of a rating company.

18           So great. Let's define out exactly what the  
19 Energy Commission wants as far as, you know, is it  
20 legal, is it not, is it a conflict of interest or not.  
21 But we also have to have the mechanism and the  
22 supporting structure to be able to track it and enforce  
23 it with defined penalties.

24           MS. MacDONALD: Thank you. And on the phone?

25           MR. DICKERSON: Hello.



1 MS. MacDONALD: Yes.

2 MR. DICKERSON: Hello?

3 MS. MacDONALD: Yes, I can hear you. Go  
4 ahead.

5 MR. DICKERSON: Oh, okay, good. Brett  
6 Dickerson. How are you?

7 MS. MacDONALD: Hi, Brett.

8 MR. DICKERSON: Hi. I'm Brett Dickerson. I'm  
9 in Oakdale, California. I've had a lot of  
10 communications with the CEC on this matter. I'm an  
11 attorney. I work with Dave Hegarty, not only on this  
12 matter, but also on a previous conflict of interest  
13 matter that ended up going to a hearing several years  
14 ago.

15 You know, I had a little presentation that I  
16 was going to make, but I'm not sure that there's  
17 anything I can necessarily add to what has been said.  
18 In a nutshell, based upon what we've heard, this is not  
19 even a close call.

20 It's very clear that under the language as it  
21 exists today this is a conflict of interest. This is  
22 worse than being an employee. You have Raters who,  
23 within the context of providing or procuring permits,  
24 enter into an agency relationship with it, and thereby,  
25 they have fiduciary obligations that they now owe to the

1 person who ultimately they need to provide an inspection  
2 to.

3 As I said, several years ago we had to go  
4 through this. We were successful in showing that  
5 there's a conflict of interest. It took an enormous  
6 amount of time, an enormous amount of money on behalf of  
7 my clients.

8 This one is, if anything, is worse. It's more  
9 egregious. I believe that where the focus needs to be  
10 is to, for the CEC at least, is to maintain the  
11 integrity of this system and avoid any hint that there's  
12 anything going on there that compromises the quality of  
13 these inspections that are being done.

14 Ultimately, the CEC's role in this is to  
15 protect the consuming public and insure that what is  
16 being conducted out there within the context of these  
17 rating inspection is above board, and there's not even a  
18 hint that there could possibly be a compromise in the  
19 quality of the work that's being done.

20 We're hearing from, you know, the building  
21 inspectors, everyone, and I don't understand. It seems  
22 as though the CEC is almost monolithically standing and  
23 saying, no, this is not the way we are reading it, when  
24 it's really very, very clear.

25 You simply cannot have Raters, if they are

1 going to be independent parties and representing the  
2 building officials, be involved in a fiduciary  
3 relationship with that same contractor that you're  
4 providing work for.

5           Again, it's just facially not a pretty  
6 picture. I agree with Mr. Charles, the position on this  
7 should not be that we're going to allow it to continue,  
8 or at least the CEC's position should not be that  
9 they're going to allow it to continue until they hear  
10 otherwise.

11           This needs to stop immediately if the  
12 integrity and the credibility of the system is going to  
13 be maintained. That's all I got.

14           MS. MacDONALD: Thank you.

15           MR. MARK MEYERS: Ms. MacDonald, one last  
16 comment from Mark Meyers.

17           MS. MacDONALD: Go ahead, Mr. Meyers.

18           MR. MARK MEYERS: I guess my final comment  
19 would be is, your original question asked for changes in  
20 language. I guess the only change in language I would  
21 request is a clarification that obtaining permits by  
22 anybody other than the contractor or the owner is not  
23 acceptable.

24           MS. MacDONALD: Thank you.

25           MR. CHARLES: This is Don. Can I ask that

1 Greg Davis chime in on a particular issue from USERA,  
2 both -- just from USERA, but also from a Rater  
3 standpoint? Would that be possible? Greg, are you  
4 there?

5 MR. DAVIS: Okay. I've unmuted myself  
6 successfully. Rachel?

7 MS. MacDONALD: Yes, go ahead, Greg.

8 MR. DAVIS: Thank you very much. My comment  
9 may not fall under the Title 20 conflict of interest  
10 clause, but clearly, we need to define what an  
11 authorized representative is on signing the Certificate  
12 of Installation where Raters are currently acting as an  
13 authorized representative.

14 Since that is also a service they're  
15 providing, it could fall under the conflict of interest  
16 clause and I think we need some more definition of that.

17 MS. MacDONALD: Thank you.

18 MR. DAVIS: Or a clearer definition of that.

19 MS. MacDONALD: Yes.

20 MR. MARK MEYERS: Recently, Greg, were you not  
21 -- the reason I brought it up when Mr. Dickerson  
22 referred to an agency agreement, was there not a  
23 contractor in your market that recently, possibly  
24 contacted you about providing services and said that  
25 they had in fact signed such an agreement with another

1 rate to do those types of services?

2 MR. DAVIS: Yeah. That's more speaking to the  
3 current code than maybe, you know, future code. But for  
4 this conversation I was contacted by a contractor, and  
5 through my conversation they shared with me that their  
6 rating company provided a document for them to sign,  
7 authorizing them to sign documents on their behalf.

8 And in fact, that does create an agency. That  
9 does create a fiduciary relationship and that, in my  
10 opinion, strikes at the independent entity issue that  
11 we're discussing.

12 MS. MacDONALD: Okay. So I'm going to go  
13 ahead and move on from this subject. Do I have any last  
14 comments? I'm going to go ahead and mute the lines  
15 otherwise. Okay. Going once. Right. Go ahead and  
16 muted them all. Thank you.

17 And again, when I say mute them all, that's  
18 for the integrity of the WebEx recording that is  
19 occurring right now, as well as for our court reporter.  
20 So our next topic is Energy Commission Oversight of  
21 Providers.

22 So at this time we have -- thank you, Gaylen.  
23 We have a small enough group in the room, I would invite  
24 Providers present, and I have Don, actually, Tav, if you  
25 can unmute Don on the phone and Alex and Greg Davis, as

1 representatives of USERA.

2           If I can have CHEERS, EACS and CalCERTS come  
3 to the table and any other interested participants that  
4 would like to, because I'd like to, and I might end up  
5 going and sitting down, too, because I'd really like  
6 this to be a true discussion and be round table as we go  
7 into these issues, which is -- and I think that leading  
8 into this, we already have previous direction in that we  
9 have stakeholders saying they want better clarification  
10 and direction and guidance on behalf of the Energy  
11 Commission to Providers. So stand by just a sec.

12           (Pause.)

13           MS. MacDONALD: I don't unmute everybody.  
14 Greg Davis and Alex, if you can manage to unmute  
15 yourselves at this time, could you do so? Don, are you  
16 there? Can you --

17           MR. CHARLES: Yeah, I'm here.

18           MS. MacDONALD: Okay. There's Don.

19           (Technical difficulties.)

20           MS. MacDONALD: Five Es, these are live.

21           MR. CHARLES: Everybody alive over there?

22           MS. MacDONALD: Yes.

23           MR. CHARLES: Feedback seems to be gone. Is  
24 that a phone-in person?

25           MS. MacDONALD: That's what -- well, yeah.

1 MR. CHARLES: Or a podium person?

2 MS. MacDONALD: I think so. It might be a  
3 podium. Sometimes, if you have electronics up by the  
4 mics it causes strange things.

5 MR. CHARLES: Okay.

6 MS. MacDONALD: Oh, okay. We think we might  
7 have identified it.

8 MR. CHARLES: Okay.

9 MS. MacDONALD: Okay. So going into Energy  
10 Commission Oversight of Providers, our existing Regs  
11 outline this a little bit. We do have what -- I think  
12 what's occurring is we need to, as staff, to understand  
13 what are the gaps existing and what processes we might  
14 develop going forward, and what that would look like and  
15 new regulatory language.

16 And I think I'm going to come sit down at the  
17 table with everybody, because I feel strange standing  
18 back here and then looking at you at the table. So hold  
19 on just a sec. Okay. So based on comments and staff  
20 discussion and just in general interaction with the  
21 Providers, and I haven't had a lot of interaction with  
22 you, Max.

23 MR. McKINNEY: We're new.

24 MS. MacDONALD: So I'm looking forward to  
25 that. Charlie and Mike, you've been great. CHEERS,

1 I've been getting to know and Don Charles, we've  
2 recently had quite a bit of back and forth. So in  
3 developing this relationship, not only with myself but  
4 our staff in general, something that's coming up is  
5 overall clarification and the desire for standardized  
6 processes across the board between the Energy Commission  
7 providing direction, and specific to Oversight to  
8 Providers.

9           So with that in mind, some of the things that  
10 are coming up have to do with QA quotas and comments  
11 that we received on QA quotas. I put in here, failure  
12 to provide data. When I have these statements up here I  
13 would like to sit here and clarify.

14           I'm not saying it's a failure on part of the  
15 Providers at this time. It has to do with our internal  
16 interactions and requests. I don't know that they're  
17 always consistently made, but I would like to say the  
18 statement saying "failure," I am not trying to insinuate  
19 that as it stands it's a failure of the Provider right  
20 now.

21           I'm just in the future going forward, if we  
22 develop steps and processes that we take and it's  
23 outlined and it's clear and everybody's on board with  
24 it, and then we say, hey, you're not meeting your one  
25 percent or whatever that percent might become, then what



1 happens, what are the steps taken in future  
2 interactions.

3 I would like to have this data on your current  
4 Raters failing to meet XYZ measure. Please provide me  
5 that data within the next 30 days. I don't get  
6 anything, you know; what happens next. And then other  
7 issues, like complaint logs or any other issues where  
8 there's processes that we need to interact between the  
9 Energy Commission and the Provider.

10 That's what I want to talk about. And so I  
11 think we could go there in starting to talk about  
12 quotas, specifically. If so, I'm getting a head nodding  
13 from Charlie. So let's talk about quotas and I know  
14 that will go into our QA conversation, actually.

15 But the intent of this discussion now is to  
16 really look at if these things aren't being met, then  
17 what is the process that occurs and then what are  
18 actionable steps that the Energy Commission can take.  
19 So go ahead, Charlie. You're, yeah, green light.

20 MR. CHARLIE BACHAND: Charlie Bachand. Yes,  
21 you're right on chomping at the bit to talk about QA  
22 quotas. And to be honest, I didn't notice anywhere in  
23 my review of the slide or in the Agenda any particular  
24 point where we would be discussing the QA quota in more  
25 detail. So should I postpone my detailed suggestions

1 for the afternoon?

2 MS. MacDONALD: I would, yes. Let's postpone  
3 the -- we're putting that -- I'm looking back at Tav --  
4 we're putting that to our QA Workshop. And yeah, the QA  
5 Workshop later.

6 MR. CHARLIE BACHAND: Okay. Then in that case  
7 I'll just talk about some generalities real fast. QA  
8 quotas I think still need to be part of this  
9 conversation, because there are issues with the quota  
10 and the way that it affects certain stakeholders.

11 So for example, and this is data that we  
12 routinely provide to CEC in our yearly report on QA  
13 quotas and complaints, which Title 20 asks for. But at  
14 any rate, there's a certain percentage of Raters out  
15 there that we have been unable to QA in the last year.

16 And there's a certain percentage of Raters out  
17 there that have completed less than 10 alterations in  
18 our Registry in the last year. So that in and of itself  
19 is problematic because on paper it would like we're  
20 failing to achieve our quota.

21 And yet, we can show evidence showing that in  
22 every single case we've called every single home and  
23 tried to get QAs scheduled. This is for alterations, of  
24 course, and been unable to do so. So how do we report  
25 that to the CEC?

1           How do we make it clear to you and to other  
2 stakeholders or anyone else that might look at our data,  
3 how do we make it clear that we've actually done our job  
4 to the very best of our ability, and yet we're still  
5 unable to meet that quota.

6           And previously, people who have Raters, rating  
7 firms, contractors, have complained about Providers and  
8 the CEC in general, and CalCERTS in particular, saying  
9 those guys aren't meeting their quota, and I'm going to  
10 talk to the *Sacramento Bee* about that very fact.

11           Well, they have ammunition as long as we don't  
12 clearly define what happens in those cases where people  
13 aren't QA'd or we've been unable to meet the quota of it  
14 for in my opinion legitimate reasons. So I want to talk  
15 about a clarification to the Quota Rules, talking about  
16 what might happen when QA is impossible for one reason  
17 or another.

18           MS. MacDONALD: So that would be like a  
19 proposed exception that says, with the exception of,  
20 unable to access the house. So more explicit language  
21 for exceptions.

22           MR. CHARLIE BACHAND: Yes. And I hope I'm not  
23 jumping the gun here, but I want to address that before  
24 we talk about what happens if you fail to comply with  
25 the quotas, because that part sounds like it might be

1 punitive or disciplinary, but I want to make sure that  
2 we're being disciplined for the right reasons.

3 MS. MacDONALD: That's a good point. When I  
4 take these pauses please note that I'm writing notes.  
5 I'm sitting here with a yellow pad. Dave, I can see you  
6 raising your hand. Did you want to come to the table,  
7 Dave?

8 MR. HEGARTY: Comment on Charlie's comments  
9 there, because if it's, like for instance, 10, and I  
10 clearly understand your issues and I agree with what  
11 you're saying on that matter, the -- how many that they  
12 do in the one percent or one that you have to do per  
13 year is a stringent requirement.

14 However, we are also required to do 10 percent  
15 of the offerings, right. So you would have then at  
16 least one of those to see whether they're doing it right  
17 on the Registry figures.

18 MALE SPEAKER: Or we do desktop reviews?

19 MR. HEGARTY: Yeah, desktop reviews I guess is  
20 a better term for it. And then if you cannot get a hold  
21 of homeowners or Raters, one of the rules to belong to  
22 CalCERTS, which respectfully, I am, we have to make sure  
23 the homeowner knows that CalCERTS could come behind us.

24 So if the Rater is not mentioning that, then  
25 you pull the service. If he's only doing 10 it's not

1 going to matter anyway, right, for a year. You just  
2 pull it until he agrees to get you somebody to test,  
3 right?

4 And it doesn't have to be random -- I mean, at  
5 that point you're not looking at random, but you are  
6 certainly looking to QA him. That's just a solution  
7 that might be feasible. And I agree with all this  
8 stuff.

9 We have to make this -- a healthy Providership  
10 financially is very, very, very important to us as  
11 Raters, too. I urge all Raters to stay connected today,  
12 too, for this portion of it. But I think it's very,  
13 very important to have a healthy Providership.

14 And you would talk to any of these Providers,  
15 would tell you that I don't particularly myself argue  
16 over any fees, but I do want to make sure that you have  
17 what you need to get it done. And the way the rules are  
18 written for QAs today are burdensome.

19 Then you compound this and the conflict of  
20 interest thing, what they have to investigate,  
21 complications and stuff, it does become onerous,  
22 financially onerous for that stuff. So those things are  
23 what we're here to clarify, I think.

24 MR. MIKE BACHAND: Mike Bachand. I have a  
25 comment, too. You know, we've heard from some Raters,

1 especially Bill Lilly, of California Living and Energy.  
2 I hope he's on the line. I don't know if he is or not.

3 But he was concerned about, well, you know,  
4 how's he as a rating entity and his Raters are, of  
5 course, his livelihood, so on their behalf how's he  
6 going to know after 10 ratings have been done am I going  
7 to trigger that Rater then, and then after a 12th one is  
8 done am I going to trigger him again, because I can get  
9 in, so causing a cost to the Provider and -- which has  
10 to be passed on to the rating firms.

11 So maybe in terms of making sure that  
12 Providers are doing their quotas, there should be some  
13 guidelines as to how that's characterized. For  
14 instance, we were told quite some time ago, you know,  
15 that we had the ability to show commission on a weekly  
16 basis, what the Rater quota is and who's been done and  
17 who hasn't been done.

18 Well, we don't have to do one every week, you  
19 know. So I've suggested that that's sort of an improper  
20 measuring stick or an improper protocol, because a Rater  
21 might -- we might do a Rater twice in one week, or he  
22 might do a rating and then it could be two or three  
23 months.

24 Hopefully not, and we don't go that far out,  
25 but we can't always insure that we're going to be able

1 to get into a Rater's customer's homes, and so it might  
2 be a month before, you know, he triggers -- the first  
3 one he does one every January 1st, every Rater in the  
4 whole world is, you know, needs to be done. So January  
5 2nd we're out of compliance.

6 So I mean, that's a bit extreme, but that's  
7 the point, is let's work out a protocol process that's  
8 fair to the Raters and informative to the regulators.  
9 Thanks.

10 MS. MacDONALD: Thanks, Mike. So we're going  
11 to talk a lot about QA specifically this afternoon, and  
12 then future Workshop. But in thinking about the quotas  
13 and other issues, going forward if we develop new  
14 processes and if there's determined to be a compliance  
15 issue with these new processes in place, what might  
16 occur.

17 And so based on comments that were provided,  
18 some of the things we were looking at were we might have  
19 like a Commission web page that indicated, listed our  
20 Providers and indicated that they were in compliance.  
21 You know, everybody's in 100 percent compliance.

22 As I'm saying this it's literally exploratory  
23 discussion. So if we had a web page that said  
24 everybody's in compliance. Or after certain steps are  
25 taken, for example, if we were to request data. And I

1 sent a data request for some reasons.

2           The Regs currently allow us to request data,  
3 and I said, you know, can you give me all the data you  
4 have from, you know, x time to x time, specific to a  
5 certain measure and your failure rates. And I send an  
6 email over and then I don't hear anything.

7           So then I send another email over, hey,  
8 haven't heard anything, you know, can you please --  
9 you're required by regulation to provide this data,  
10 please do so. Still don't hear anything. What steps,  
11 then, do I take, just you know, at some point it's not  
12 carrot of please, there's some stick.

13           And I know we're all sitting here and it's  
14 kind of an awkward subject, this is the discussion of  
15 what is our oversight and the steps and the remedies  
16 that we can take. Some of those remedies are, and I've  
17 discussed this internally, we can do investigations.

18           We can do injunctions. We can do like -- I  
19 don't want to say it's a shaming, but if we had an  
20 actual web page that said, I'm in compliance, I'm in  
21 compliance, or failure to comply to provide data as  
22 requested within 60 days, or you know, what does that  
23 look like? What is the significance?

24           Does a web page mean anything to anybody? I'm  
25 asking you that; that would be public. And then there's



1 decertification, and that has never been done. It's my  
2 understanding that's never been done, but what are the  
3 steps that we take to get there.

4 And here, Charlie, did you want to answer? I  
5 know George -- I'm going to flip this over to George in  
6 a minute.

7 MR. CHARLIE BACHAND: I was actually mistaken.  
8 I thought that the previous years had been decertified.  
9 But as Mike reminded me, they actually uncertified  
10 themselves, voluntarily uncertified. So my mistake on  
11 that.

12 I do have some other responses to what you  
13 said, but I don't want to dominate the conversation. So  
14 if there's other Providers that want to speak.

15 MALE SPEAKER: I can jump in or George can  
16 comment --

17 MS. MacDONALD: George.

18 MR. NESBITT: George Nesbitt. Let me jump in.  
19 So whatever disciplinary action the Commission takes  
20 against a Provider should not be punishment of the HERS  
21 Rater. So in August of 2010 CHEERS, the old CHEERS, not  
22 the Consol CHEERS, just for clarity sake, was out of  
23 compliance with their Registry.

24 The Commission convinced CHEERS to decertify  
25 itself. Well, I came to the Commission in this room. I

1    threw myself under that bus and the Commission decide  
2    not to decertify CHEERS yet.  What happened in November,  
3    I guess, was the Commission shut down the old CHEERS'  
4    Registry.

5                Of course, a lot of Raters then howled and we  
6    were given a little more time to get projects on it.  So  
7    which allowed us to complete current work.  CHEERS was  
8    never decertified.  It just, all CHEERS Raters were  
9    prevented from taking more work.

10               Now, what this caused was loss of business,  
11   loss of time, the expense, hassle of having the  
12   challenge test, yeah, it didn't cost that much, the  
13   challenge test, money-wise, but you punished every  
14   CHEERS Rater for the Provider's failure.  And none of  
15   the RF funds were given to us to maintain our  
16   certifications.

17               MS. MacDONALD:  Now.

18               MR. NESBITT:  You know, you gave money to BPI  
19   and Building Performance Contract.  But so I just want  
20   to say that I think from a Rater standpoint, we need  
21   greater flexibility to move between Providers without  
22   any barriers.

23               So if every Provider has been approved by the  
24   Commission and their training programs have been  
25   approved, and if we have passed approved tests we

1 shouldn't have to challenge anything.

2 MS. MacDONALD: George, I like what you said,  
3 because you said, whatever action is taken against a  
4 Provider it must not punish the Rater, and that's  
5 important, because we -- and that's, you know,  
6 obviously, as an agency we don't want to see anyone  
7 suffer a loss of business.

8 So what might those, short of a  
9 decertification or should decertification occur, like,  
10 let's put decertification on the back burner because we  
11 want to think about near term oversight and resolution  
12 for our communications that we have.

13 So if we're developing processes, what might  
14 that look like? I know current and specific to, you're  
15 required to provide data. You're required to have a  
16 complaint system, and Charlie, we've talked about this  
17 before and I'm just looking at your directly.

18 So and there may or may not be annual reports  
19 that are submitted or that were internally on our side  
20 of the house that we're on a regular basis pursuing and  
21 asking for. So I'm not sitting here shaking a finger,  
22 because this door swings both ways as far as  
23 accountability.

24 So if we have these processes in place or as  
25 we develop these steps, what might they look like?

1 Like, what is acceptable communication when we ask for -  
2 - if we outline and identify things that we want going  
3 forward, data, complaints, failure rates, et cetera,  
4 identify other things, that's what the "other" is for,  
5 what are the methods that between us as the Agency and  
6 you as the Provider that we communicate and say, we need  
7 this from you, or how do we interact that -- you know --  
8 are there formal requests that we put in that we file to  
9 you and say, you know, please comply, you have x amount  
10 of time to do so.

11 MR. CHARLIE BACHAND: This is Charlie from  
12 CalCERTS. Assuming that you didn't have anything --

13 MR. DAVID MEYERS: I do have something to add.

14 MR. CHARLIE BACHAND: Oh, go ahead. Please  
15 do.

16 MR. DAVID MEYERS: David Meyers, with CHEERS,  
17 again. You can put a lot of processes in place and  
18 outline, you know, the communication protocols and,  
19 sorry, how the CEC wants to communicate those requests.

20 But and that detail can get fleshed out. I  
21 don't necessarily think this is the right forum, but I  
22 think it's important that the CEC remember that  
23 CalCERTS, CHEERS, other Providers are businesses and  
24 some of the requests that you may make are not  
25 necessarily, five minutes, we'll pull the data and give

1 it to you.

2           Some of it may require coding, you know,  
3 intense coding and things like that. So you know, in  
4 this process you've got to take into account that, you  
5 know, my solution on some of the requests that we've  
6 received is, hand you a data dump and let you guys  
7 figure it out.

8           MS. MacDONALD: Um-hum.

9           MR. DAVID MEYERS: That's maybe not  
10 necessarily the best business relationship approach.  
11 But I think we need to have that dialogue where we say,  
12 okay, what's reasonable and then what should be  
13 potentially be compensated for. Nobody laugh at that.  
14 Thanks.

15           MR. CHARLIE BACHAND: This is Charlie from  
16 CalCERTS. Oh, thank you. So I think that one of the  
17 ways that we could address this problem without having  
18 to deal with very many formal requests is through the  
19 Registry programming and the outlines that were provided  
20 in Title 20 and in more recently, the Joint Appendices.

21           I think it's well within CEC's capacity to  
22 clarify what kind of access they might want to have to  
23 Registries, and to insist on that as part of their  
24 oversight. And by doing so, as long as an assuming that  
25 they've had a meaningful conversation with Providers

1 about how that might work, I think that that might  
2 eliminate a lot of the oversight problems.

3           And so for example, CalCERTS hosts a CEC  
4 search portal that your staff can use to look up an  
5 individual address in the Registry. And we also have a  
6 QA log that your staff can access it. Talks about which  
7 addresses were QA'd, by whom and what the outcome was.

8           And I think that formalizing that would be a  
9 very straightforward way for CEC to address those  
10 problems of transparency and oversight. I do want to  
11 echo something that David said earlier. Off the cuff  
12 requests can be punitive to registries. So requests  
13 that a staff member might make innocently enough about,  
14 let's say, Santa Cruz 2012, new construction, that might  
15 involve a pull from our database that we actually can't  
16 even run during business hours because it will kill the  
17 Registry.

18           That's something that we have to schedule for  
19 a weekend or down time. So if CEC is going to make off  
20 the cuff requests like that we would just ask for a  
21 fairly lengthy, like perhaps once a month, type of  
22 request or a two-week, at least, minimum to address the  
23 coding issues and also just the sheer fact that the  
24 websites can't handle your traffic on top of everyone  
25 else's traffic at the same time.

1 MS. MacDONALD: That's a good point.

2 MR. MIKE BACHAND: Hi. It's Mike at CalcERTS.  
3 I want to make a short comment about date of request and  
4 so forth. We went through a -- I'm going to  
5 characterize it as tortuous, but it was worse than that  
6 -- process a few years ago establishing that Providers  
7 and their data are private property, private entities,  
8 let me say it that way, as I recall the exact wording of  
9 the decision, which accidentally kicked off this, by the  
10 way, process that we're in.

11 And so I want to make sure that that doesn't  
12 become public property in that process. And so I would  
13 request, you know, some kind of legal review from your  
14 side and maybe from the Provider's side, too, as to how  
15 that might characterize that data.

16 Now, it's asked for in the aggregate, which is  
17 probably not a problem, really, since it doesn't really  
18 carry a lot of value other than just some generic  
19 values. Okay. End of that statement. To talk about  
20 question number, what do you do to a Provider who is not  
21 complying for whatever reason in whatever category.

22 MS. MacDONALD: Right.

23 MR. MIKE BACHAND: Data, quota, these are --  
24 all could be lumped into, we didn't give you what you  
25 want. And so you know, I'm going to go ahead and throw

1 out a suggestion. I'll protect myself from Dave Meyers  
2 on this.

3           Maybe a financial, you know, a warning and  
4 then a financial ramp up, or something that mirrors  
5 somewhat what we're going to decide about QA on Raters,  
6 the disciplinary process for Raters. It might be quite  
7 similar.

8           It could be a little different because we are  
9 different types of businesses and different types of  
10 responsibilities with respect to the last. But I would  
11 suggest financial penalties could be part, if not all,  
12 of the stuff.

13           MS. MacDONALD: Yeah. So I'm sitting here  
14 with a look on my face and that is --

15           MR. MIKE BACHAND: Sorry.

16           MS. MacDONALD: -- I like the idea of the  
17 hammer of financial, a fine if you do not comply within  
18 x time, you know, for every day thereafter results in a  
19 fine. I'm just verbalizing that. We don't have fining  
20 authority over Providers, yes.

21           So again, hence is the look on my face. Do I  
22 -- you know -- so we need to understand other measures  
23 that we can take, and we need to determine what the  
24 value proposition is for Providers. And so that was  
25 kind of where the idea of like a web page of compliance,



1 you know.

2 Do we have individuals that are, you know,  
3 they're A+ in compliance right now and we identify after  
4 so many steps that if there's a change in status, you  
5 know, that that goes up on the web page, that as of  
6 March you're out of compliance for failure to whatever,  
7 but that's a public web page.

8 Are there other means, again, if we can do  
9 investigations. We can; I understand that can lead to  
10 injunctions. We can look at decertification. Those are  
11 the tools we're dealing with. We don't have fining  
12 authority.

13 MR. DAVID MEYERS: This is David Meyers again.  
14 You know, I'm not an advocate of an adversarial  
15 relationship with the CEC. I think Charlie makes some  
16 very good points about trying to, up front, having the  
17 CEC establish the information, the data and things like  
18 that, that you need. I think that would go a long way  
19 toward, you know, help alleviating some of the one off  
20 type requests.

21 And then if we could get, you know, some  
22 guidelines on, okay, if we do give one off type  
23 requests, the ability to work with you on those. You  
24 know, what you can do on your side, what we can do on  
25 ours. You know, I've made the mention of a data dump.

1           But you know, you can manipulate data a lot of  
2 different ways. So I think just working together we can  
3 probably get there. So you got anything?

4           MR. VANTAGGIATO: Yeah. Hi. This is Alex  
5 Vantaggiato, with CHEERS. I just want to piggyback real  
6 quick off what Charlie and Dave said about registries  
7 being private entities, individual businesses and so  
8 forth.

9           So there's logistical issues with that as far  
10 as QA identifications and so forth. I just wanted to  
11 point out that I feel because we are independent  
12 businesses, and operationally we're all different,  
13 right.

14           We have our own policies and procedures and so  
15 forth. Whatever it is that's put in writing as far as  
16 what the requirements are for notifications and so  
17 forth, I feel that the CEC should focus on the what is  
18 being reported, but the how should be left on the  
19 Providers and their operations, because of the fact,  
20 again, that we are completely separate entities. That's  
21 all I got.

22           MS. MacDONALD: Okay. Dave, you were raising  
23 your hand over there. And I don't want to forget Don's  
24 on the phone, too, so.

25           MR. HEGARTY: I'm sure Don will have some good

1 comments. Dave Hegarty, Duct Testers, Ripon,  
2 California. I agree with what Mike Bachand just said  
3 about mimicking or mirroring some of the stringencies  
4 that go along with some type of failures.

5 And if we're talking one off, like Dave was  
6 talking, those are between you and the Provider, you  
7 being the CEC. I don't think Raters -- and I'm not  
8 speaking for all Raters, but as a Rater I don't think  
9 it's our jurisdiction or whatever.

10 But keep in mind this when we talk about  
11 financial penalties, fines, whatever, it filters down to  
12 the homeowner, regardless of what happens here. I don't  
13 think there's very many Raters, I hope there's not very  
14 many Raters out there that would want that big  
15 sledgehammer of a financial fine, because it's going to  
16 come down to them paying it through the Registry at some  
17 point, and it goes to the homeowner and it affects cost  
18 effectiveness of your business model.

19 MS. MacDONALD: Dave, we don't have -- we  
20 aren't -- we can't do fines.

21 MR. DAVE MEYERS: I know that.

22 MS. MacDONALD: Oh, okay.

23 MR. DAVE MEYERS: You had brought it up and  
24 I'm --

25 MS. MacDONALD: Oh, okay. That's --

1 MR. DAVE MEYERS: -- I was concurring that --

2 MS. MacDONALD: -- it's not on the table.

3 MR. DAVE MEYERS: I understand it's not on the  
4 table. I was trying to get everybody to understand that  
5 it's not going to do anybody any good for a financial --

6 MS. MacDONALD: Right. Oh, okay.

7 MR. DAVE MEYERS: I don't know of any  
8 Providers that are sitting here, and including mister  
9 USERA, Don Charles, on the line that would not respond  
10 to your comments, right?

11 MS. MacDONALD: Um-hum.

12 MR. DAVE MEYERS: In a timely manner.

13 MS. MacDONALD: Yeah.

14 MR. DAVE MEYERS: However, should that happen,  
15 there are ways to do that, like Mr. Bachand's saying,  
16 that progressively get worse and worse on them without  
17 hurting, like -- I agree with my good friend, George,  
18 says -- not to harm the Rater. You could leave an open  
19 Registry.

20 MS. MacDONALD: Right.

21 MR. DAVE MEYERS: But like Mr. Bachand I think  
22 is speaking to, a more stringent look at that Provider  
23 for other things. What we're looking at here and part  
24 of what, you say the failure to provide data as  
25 requested, as required.

1 MS. MacDONALD: Yeah, it's just an example,  
2 yeah.

3 MR. DAVE MEYERS: That information is clearly  
4 written in Title 20, what they need to provide, right?  
5 And the other stuff is between you and the Provider, CEC  
6 and the Providers. And how they get it and what they do  
7 is a timely thing and those kinds of issues.

8 We're talking about the reports that are  
9 designated -- or at least I am -- about the reports that  
10 are designated in Title 20 and that are required every  
11 year or at some key, particular targeted point that  
12 would help Raters and Providers understand the business  
13 better and bring more to the table for the homeowner.

14 This is why we're here. We've decided, the  
15 CEC has decided in its infinite wisdom, and that is not  
16 a joke, that some -- there's a large contingency of air-  
17 conditioning contractors or people who are installing  
18 energy features that are not getting done what we need  
19 to get done, and that's why we have the HERS system.

20 So having said all of that stuff, bringing it  
21 all together to benefit the homeowner is why we're here  
22 over the whole issue. Keeping that in mind, the fines  
23 and those other things are not in any way helpful at  
24 all.

25 MS. MacDONALD: So like then what would --

1 does anybody -- I mean, we're trying to identify  
2 processes that we would take so if it escalates, if  
3 there's escalation then I mean, we would -- and if we  
4 had an investigation, let's say, it's indicated that,  
5 you know, as a result of this failure and these steps  
6 taken that we're going to initiate an investigation.

7 MR. DAVE MEYERS: Clearly -- sorry.

8 MS. MacDONALD: Then the other thought would  
9 be, and that, you know, that question would -- in my  
10 mind I'm thinking about what George raised, which was,  
11 does that harm the Rater. I don't know.

12 MR. NESBITT: George Nesbitt. So the day that  
13 CHEERS was in front of the Energy Commission to  
14 decertify itself I was supposed to be sitting in a  
15 classroom that I should have paid for to have been -- to  
16 keep my certification as a HERS Rater.

17 Yet, before that training would have ended I'd  
18 have been decertified as a Rater. Nobody, not the  
19 Energy Commission, not CHEERS, anywhere in this process  
20 actually communicated anything clear as to what was  
21 going on and could happen.

22 CHEERS I think sent out some cryptic email  
23 that unless you were me and this room you wouldn't have  
24 understood what was going on.

25 MS. MacDONALD: Well, yeah, old CHEERS. Old

1 CHEERS.

2 MR. NESBITT: So -- yeah, old CHEERS. Yeah,  
3 but so in that sense, more transparency. I mean, this  
4 is something I've complained about. There's a lot of  
5 organizations, the Providers, other organizations that  
6 are involved. They don't tell us about meetings and  
7 Workshops involving programs and, you know, policy-  
8 making that's going on to allow you to get involved.

9 I think one of the problems is we have  
10 multiple Providers and yet everything is a custom job.  
11 Every Provider agreement is probably a custom agreement.  
12 And so I think, for one thing, the Commission needs to  
13 come up with a base Provider agreement that should be  
14 uniform among all the Providers, and it should be open  
15 to comment from the Providers, Raters, other interested  
16 parties.

17 Obviously, things in an application that may  
18 be business confidential, you know, aren't in that. But  
19 I think in the base agreement you're not going to  
20 necessarily have those kinds of things. And then also,  
21 you -- on the issue of data, you've got different  
22 Providers with different databases, and if you look at  
23 what happened in the CSI program, they started  
24 publishing data that they had and the industry  
25 benefitted from that data being publicly available.

1           I think you can almost even get addresses of  
2 systems and who the installing contractor is, how much  
3 the incentive was. And so you know, there's actually a  
4 need for data about the HERS industry verifications,  
5 what's going on, where, how many, and that should be  
6 public data.

7           Now, whether this means the Commission does  
8 like we're doing on the software and develops the public  
9 domain core engine that is a Registry so that it can  
10 accept all that data in one place, rather than it being  
11 in three places, and that, you know, at least a certain  
12 amount of that data is publicly available, that that  
13 would be sort of part of my vision.

14           And I believe RESNET developed a Registry for  
15 nationally. So every Provider did not have to -- now, I  
16 don't know if they build their own interfaces over it or  
17 what they do. I don't know, because I don't work  
18 outside of the borders of California.

19           MR. CHARLIE BACHAND: This is Charlie Bachand  
20 from CalCERTS. Bringing the discussion back to Energy  
21 Commission Oversight of Providers and Discipline, I do  
22 have one or two quick points to make. One of them is,  
23 the suggestion about a Provider compliance web page, I  
24 think that that's problematic for a couple of reasons.

25           Historically, previously, the CEC supported a



1 web page listing Raters that had been subjected to  
2 discipline. And I'm not sure exactly what happened at  
3 CEC, but eventually, that website stopped being updated  
4 and supported, and disciplinary actions that were taken  
5 against individual Raters were no longer centrally  
6 reported on the CEC website.

7           And I strongly suspect that that was the  
8 result of a number of different HERS Rater complaints  
9 about that very process. And I see a very similar issue  
10 coming up if we have a Provider compliance web page.  
11 The Providers will say -- us included -- well, what's it  
12 take to get on there.

13           What's it take to get us off of there? Have  
14 we had due process in getting on that web page? Will  
15 other people in the public necessarily connect to that  
16 web page or concern themselves with it? Perhaps;  
17 perhaps not.

18           Will CEC be able to consistently and uniformly  
19 keep that web page up-to-date going forward until the  
20 next revision of Title 20? That, too, may be very  
21 problematic. So with all that in mind, I suggest that a  
22 web page probably is not the best way to go.

23           Where that leaves us is to a disciplinary  
24 model that probably does have decertification at the  
25 very end of the road, but as has already been discussed

1 a little bit, it needs to be a very, very progressive  
2 process with enough lead time that not only the  
3 Providers, but also the Energy Commission can know in  
4 advance whether or not a Providership is likely to go  
5 down the tubes, so to speak, and result in a lot of  
6 Raters needing notification.

7 In other words, you wouldn't want to decertify  
8 a Registry without some month or six months' notice.

9 MS. MacDONALD: Right.

10 MR. CHARLIE BACHAND: Simply because of all  
11 the projects in there. But at the end of the line,  
12 decertification does have to be an option for CEC if  
13 Providers are bad actors. I just think that it needs to  
14 be a very -- as has already been said -- progressive  
15 process.

16 MS. MacDONALD: Clearly defined due process.

17 MR. CHARLIE BACHAND: Very well defined, yes.

18 MS. MacDONALD: With off ramps.

19 MR. HEGARTY: As with Raters.

20 MR. MIKE BACHAND: This is Mike Bachand. We  
21 were collaterally involved with the old CHEERS,  
22 decertification or dismemberment from the market or  
23 whatever that was called, withdrawal. And I'm not sure  
24 of all of the details, but I know that it was a  
25 progressive process.

1           We were brought in early to see if we could  
2 help revive the CHEERS database, and it was, as  
3 suspected at that time, dead on arrival. It was not an  
4 appropriate data structure. So that ramped up to the  
5 next operation.

6           CEC went through a -- I know that the staff,  
7 and some of them are here and some of them are not, went  
8 through a lot of different iterations of what could be  
9 done, and we worked with them. Well, what if the  
10 Provider does -- what if CHEERS does withdraw; then  
11 would we be ready to do some things and so forth.

12           So that process was, if you go back and review  
13 that and some people are here who went through that  
14 process with old CHEERS, there was an opportunity. And  
15 George said, well, they cut off the rope at one spot,  
16 and then too much complaint by Raters. We didn't have  
17 enough time.

18           So that ramped up, too. So that process  
19 happened and there may be some old records that are  
20 helpful in that, and that was in October of 2010.

21           MS. MacDONALD: 2010, yeah.

22           MR. MIKE BACHAND: 2010, October 15th of 2010,  
23 yeah. So in any case, there's -- that's the kind of a  
24 process. That might not be the details, but that's the  
25 process, but that's the process that I think would be

1 the best.

2 MS. MacDONALD: What about like a suspension  
3 or locking the Registry?

4 MR. MIKE BACHAND: That's a difficulty with  
5 Raters that we have.

6 MS. MacDONALD: Yeah. That hurts the Raters.

7 MR. MIKE BACHAND: As soon as you're  
8 suspended, you're done. So now, with more Providers in  
9 the market that's not as quite as difficult, because a  
10 Rater who was a member of a suspended Registry could go  
11 do their jobs elsewhere.

12 There'd have to be a finishing process, which  
13 was allowed during the CHEERS withdrawal time frame.  
14 Certain projects were allowed to legacy out until they  
15 were done and so forth. So that's on, for me, that's on  
16 the table, yeah.

17 MR. DAVE MEYERS: So Dave Meyers, with new  
18 CHEERS.

19 (Laughter)

20 MR. DAVE MEYERS: Boy, Charlie and I, we're  
21 agreeing a lot today. This is really cool. I think  
22 what's important for you to keep in mind is that if  
23 you're going -- any kind of process with, you know,  
24 taking action against a Provider, disciplining that  
25 Provider, you really have to be clear in the process

1 that's going to take place, the time line, the  
2 opportunity for the Provider to provide feedback and  
3 input into that process, same thing we do with Raters,  
4 right?

5           So I think that's critically important. And  
6 once you do that you just -- the whole framework is much  
7 better, right? So I would just encourage you to do  
8 that. The other piece of that is when you have your  
9 process in place and whatever you decide, you're going  
10 to have, you know, a list of 12 different things, 15  
11 different things, whatever it is, action that you can  
12 take. And at the end of that it's going to be  
13 potentially decertification as a Provider.

14           Give yourself the flexibility to not try and  
15 put in a framework that says, well, if this happens we  
16 have to pick this one, right.

17           MS. MacDONALD: Right. The ofference [sic].

18           MR. DAVE MEYERS: You have the flexibility to  
19 take one or more of those actions, based upon your  
20 discretion, but you have to go through due process to  
21 get there.

22           MS. MacDONALD: Well, let's talk about due  
23 process. And so what is, we're going to contact you.  
24 We have a question, we have a problem that needs  
25 resolving. So step one, we're going to contact you via

1 email? Via letter?

2 MR. DAVE MEYERS: Well, first and foremost in  
3 this process, you're going to document.

4 MS. MacDONALD: Um-hum.

5 MR. DAVE MEYERS: Right. Nothing's going to  
6 be verbal, because we all know where that leads. We all  
7 know where that leads. I mean, everybody has experience  
8 with that. So you know, step one is we've outlined the  
9 issue.

10 We're going to communicate it in writing and  
11 we're going to give you x amount of time to respond, and  
12 if you don't, step two is going to -- I mean, I don't  
13 want to get into the details. We have a documented  
14 process on how we deal with Raters that are failing and  
15 things like fraud.

16 And I think we can leverage a lot of that and  
17 add a lot of input. I'm sure CalCERTS and the other  
18 Providers can do the same, as well as the Raters, so.

19 MS. MacDONALD: Is that something all the  
20 Providers in the room are willing to (indiscernible)  
21 forward staffs that we can look at as we're thinking  
22 about these things, your disciplinary process for  
23 Raters?

24 MR. DAVE MEYERS: I can't speak for the other  
25 Providers, but I could tell you CHEERS has no problem

1 sitting down with other Providers, Raters and providing,  
2 you know, showing what we do and coming up with some  
3 sort of collaborative document.

4 MS. MacDONALD: Okay.

5 MR. CHARLES: This is Don from USERA. I agree  
6 with that.

7 MR. HEGARTY: I think there's some CEC concern  
8 about that, that it was collaboration that was -- I  
9 believe it had some legal issues.

10 MS. MacDONALD: You mean collaboration like us  
11 talking directly with Providers or --

12 MR. HEGARTY: Oh, no. No, the collaboration  
13 of the Providers together in instances, especially, I  
14 guess. Would be -- the more inappropriate thing would  
15 be pricing, but some kind of -- I just don't know, but  
16 maybe Rashad (phonetic) knows whether or not that was a  
17 concern in the past, where too much collaboration  
18 between the Providers. I'm not saying they shouldn't.  
19 I'm just saying, bringing that to the table.

20 MS. MacDONALD: Well, in the discussion, in  
21 the context of propriety that we are having this  
22 discussion in a public forum, we could talk about that  
23 at the next meeting maybe more. I know we're going to  
24 get a little more into disciplinary action for Raters  
25 later, but --

1 MR. HEGARTY: I would think just as long as  
2 those meetings --

3 MS. MacDONALD: Public, I understand.

4 MR. HEGARTY: -- done public, that there would  
5 be no problem.

6 MS. MacDONALD: I understand.

7 MR. HEGARTY: I'm just bringing that to the  
8 table.

9 MR. MICHAEL BACHAND: This is Mike --

10 MR. CHARLES: Yeah, this is Don, from USERA.

11 I think that we would be happy to participate in a forum  
12 with other Providers and the CEC to adopt processes and  
13 guidelines for that.

14 MS. MacDONALD: Okay.

15 MR. HEGARTY: Great.

16 MS. MacDONALD: And that could be public, yes.

17 (Feedback)

18 MR. HEGARTY: Other Raters chiming in.

19 SPEAKER: (Off mic, inaudible).

20 MR. MICHAEL BACHAND: This is Mike Bachand,  
21 while we're waiting for Eric. Wanted to say that George  
22 made a comment about agreements, three agreements.

23 (Laughter)

24 MR. MICHAEL BACHAND: You know, they're  
25 required by Title 20 (feedback) today, I'm the luckiest



1 man -- Lou Gehrig.

2 (Laughter)

3 MS. MacDONALD: I know. I know. I actually  
4 used to carry that speech around in my wallet. But  
5 anyway.

6 MR. MICHAEL BACHAND: So yeah. So the  
7 agreements don't have to be identical at the moment, and  
8 I'm not sure that they should. But the Energy  
9 Commission does require that the Energy Commission  
10 review and approve those agreements and that the  
11 Providers have them in place, a subscriber agreement of  
12 some time and a Rater agreement. Especially, the Rater  
13 agreement is the one that's looked at.

14 So those things I don't think are -- I don't  
15 think there needs to be put in place a list. You know,  
16 some of those things in those agreements are germane to  
17 regulation and making sure that Raters and Providers are  
18 doing the right things, and some of them are business  
19 issues.

20 So I don't think that that should be a uniform  
21 process, uniform agreement kind of thing. I think that  
22 can be an individual thing. And also, I'm not sure I  
23 understood all of Dave Hegarty's comment, but to the  
24 point that what we discuss be done in public, you know,  
25 that's fine.

1           But to the extent that we all are complying  
2 with regulations doesn't mean we're collaborating. It  
3 means we're complying with regulations. So I  
4 differentiate compliance from collaboration.

5           MS. MacDONALD: I think that the comment was  
6 specific to having a separate group out of the public  
7 process discussing regulatory matters or regulatory  
8 development, that we make sure that we're sensitive to  
9 the fact that anything that is discussion with any  
10 group, Rater specific, Provider specific, any segmenting  
11 of stakeholders and then attempting to discuss issues  
12 that would result in regulatory development, the concern  
13 that that be done in a public, transparent forum, yeah.

14           So something I have thought about and I'll  
15 just -- you know -- we are actually making really good  
16 time. I'm kind of excited because I thought this  
17 morning was going to run long. Something I was thinking  
18 about going forward for just general maintenance and,  
19 you know, day-to-day operations was that we have like a  
20 Provider based forum and have these discussions and  
21 brain storming opportunities, maybe a couple times a  
22 year, so that we can maintain consistency.

23           That's obviously, from the comments, from the  
24 interactions, from the past transcripts and my  
25 understanding, being new to this group, that there's a

1 general disconnect between consistency and  
2 communications and practices, not only between the  
3 Energy Commission and Providers, but Providers and  
4 Raters.

5           And so you know, I was thinking that once we  
6 get some Regs developed and we're moving forward a  
7 little bit more smooth sailing, hopefully, that we have  
8 some ongoing maintenance and communication, open  
9 communication with Providers and Raters that we can  
10 discuss these issues and resolve them before it gets to  
11 being broken.

12           MR. CHARLES: Rachel, this is Don from USERA.  
13 I would very much welcome that for a few reasons. One,  
14 I think that communication definitely needs to be  
15 improved. But I would also like to -- you know -- while  
16 some of the other Providers on the phone might be, you  
17 know, my competitors, I also feel that there's value  
18 that we bring to each other as probably representing  
19 many of the same values and positions together as  
20 Providers.

21           And I would like to be able to work in some  
22 regards more cooperatively with my fellow Providers in a  
23 constructive form to make the industry overall better.  
24 And I think that they would probably feel the same. I  
25 don't want to speak for them, but you know, I think

1 there are many things that we probably agree on and  
2 processes that we could adopt that would help us as  
3 Providers to do our job better, to make the industry  
4 more fair and to just adopt things that are overall good  
5 for the industry, and you know, where one Provider may  
6 make a decision it won't necessarily hurt them, versus  
7 the other Provider or vice versa.

8 I think it would be a very welcome thing to  
9 have us all pull together and where we have those common  
10 ground areas be able to address them as an industry and  
11 move forward.

12 MR. CHARLIE BACHAND: This is Charlie Bachand,  
13 from CalCERTS. One, yes, we agree that regular meetings  
14 with CEC and Providers, bi-annually perhaps, would be a  
15 good idea and one that we would be very interested in  
16 participating in.

17 On the topic of discipline and progressive  
18 discipline I did want to throw out one suggestion, and  
19 it may be not necessarily a very good one, but the one  
20 aspect of control that CEC seems to be very strongly  
21 able to exercise is in the approval process, in the  
22 certification process.

23 So if you were to try to achieve some sort of  
24 progressive discipline that was short of actual  
25 decertification, then it seems to me that you could have

1 sort of a compromise by asking Providers to recertify.

2           So for example, if you come to us and you ask  
3 for a bunch of data on 2014 alterations in San Francisco  
4 and we say, we either don't have that data or we don't  
5 want to give it to you, then CEC's response would be, in  
6 that case you have six months to re-prove to us that you  
7 actually have a Registry that functions for alterations,  
8 and at the end of that six month time, if you can't meet  
9 that requirement again, then we will decertify you.

10           So that gives the opportunity for you to have  
11 a review and oversight of what's going on in the  
12 Providership. It also gives the Providership a  
13 substantial amount of time to rectify any problems that  
14 they have.

15           And at the beginning of that process, if you  
16 announce it, it gives Raters ample time to jump ship if  
17 they need to, to a Provider that's not sinking.

18           MR. HEGARTY: And I know my good friend,  
19 Charles, wanted to say that Raters were included in that  
20 CEC and the Provider meetings. I know that was right on  
21 top of your list.

22           MR. CHARLIE BACHAND: Absolutely. So much so  
23 that it was left unspoken.

24           (Laughter)

25           MR. HEGARTY: But I wanted to bring that point

1 to the table again, too, because in the past we've seen  
2 the Raters are not included, and we want to include  
3 them, whether it's an advisory group, which we've  
4 suggested many, many times, in dealing with these  
5 positions.

6 Just think about the communication that could  
7 have happened, that we're talking about here today, that  
8 could have avoided this conflict of interest issue if  
9 they, three out of four of the Raters says, we're not  
10 going to do it, you know, that kind of thing.

11 It may have held sway against something else,  
12 right? So putting that all together, including Raters  
13 is a real key issue and I'm sure the three Raters that  
14 are sitting at this table would agree, and the many  
15 Raters that are out there. We need a Raters Advisory  
16 Board, not only to the Commission, but to the Providers.

17 MR. NESBITT: George Nesbitt. And in order to  
18 be able to jump ship, there has to be a ship. So if the  
19 Commission wanted to decertify CalCERTS right now,  
20 there's no ship to jump to. The new CHEERS is not  
21 certified under 2013 at all yet.

22 Yeah, and USERA only has a slice of the  
23 market, a small -- I mean, you know, a slice of the  
24 market. So you can only do change outs and, you know.  
25 So there's no ship to jump to. Luckily, when you were

1 going to decertify the old CHEERS, at the same time you  
2 were certifying CalCERTS under everything.

3 So we only have one Provider who can provide  
4 essentially everything under Title 20. So there's now -  
5 - you know -- some people have called it a monopoly.  
6 It's not a monopoly. They don't have a hold on the  
7 market, but they are the only one fully approved.

8 MS. MacDONALD: We have EACS a Provider, too.

9 MR. McKINNEY: Yes, one more.

10 MS. MacDONALD: One more.

11 MR. NESBITT: When did that happen?

12 MR. CHARLES: This is Don from USERA. I would  
13 just like to say that, I mean, I don't necessarily think  
14 that this is a huge issue. I don't think anybody at  
15 this point is questioning whether or not there are  
16 substantial (indiscernible) or anything going on amongst  
17 Providers.

18 So again, I understand the need to maybe bring  
19 some clarity to this, but I'm not necessarily seeing  
20 huge red flags right now that would make this a huge  
21 matter. Not saying that we shouldn't address it, but  
22 again, I don't think there's a pool of evidence to  
23 suggest that we've got a major issue amongst Providers  
24 with violations, and we really need to address this.

25 So I guess I'm not quite sure, except for just

1 wanting to add clarity before maybe there is such an  
2 issue, which is not a bad idea, but I don't think that  
3 there's pending issues right now that would speak to any  
4 Providers at the moment, that I'm aware of, with huge  
5 violations that are current, so.

6 MS. MacDONALD: Yeah. No, I agree. The  
7 subject has come up because in the previous scoping  
8 efforts of the OII we identified specifically Rater  
9 discipline, and so one of the questions that was brought  
10 up specific to the refreshing of this effort was what  
11 about Providers.

12 And upon me trying to look at this and  
13 identify, you know, what's going on, I didn't see it  
14 really being covered. And this goes to -- I'm not  
15 saying that there's a burning issue right now or a need,  
16 but it's something that's been kind of off the table,  
17 and we want to have all of our bases covered for not  
18 only Rater disciplinary action, but Providers, as well.

19 And this really I think on a broader, above  
20 disciplinary, as that words goes, is that this is really  
21 about Energy Commission oversight and general fairness  
22 and communication, and now the word is slipping my  
23 brain.

24 But the fact that we -- consistency -- that we  
25 are overall consistent in what we say and what we do and



1 how we act and interact between the Providers, and that  
2 it's transparent. If we say, you know, one thing to, you  
3 know, USERA, then we're saying it across the board.

4 I don't know that we are always doing that,  
5 you know. And I want to try to develop better  
6 practices, and that's also part of education and  
7 outreach, as well. But just --

8 MR. CHARLES: Well, one thing I'd want to  
9 speak to is just as an example of what you just said, I  
10 think it's a good example, not to get back into the  
11 conflict of interest thing, but recently, where the  
12 communication came down from the legal department to a  
13 Rater directly that they could participate in the  
14 permitting, and that the CEC was okay with that, yet no  
15 -- no, this wasn't one of our Raters, but I think it  
16 might have been a CalCERTS Rater, but I'm not even sure  
17 of that.

18 It really doesn't matter who it was. And I  
19 only say that to say this. I think it's unfair to  
20 whoever that Provider was that one of their Raters was  
21 given permission by the CEC directly to do something  
22 that the Provider may have been training and trying to  
23 enforce against.

24 So I think that the communication when a  
25 policy change like that comes down to that, needs to go

1 directly to the Provider and not to the Rater. And if  
2 it is given, you know, there needs to be some sort of  
3 direction and the rest of the Providers in the industry  
4 should have been given that heads up, as well.

5           So you know, again, I don't know which  
6 Provider that was, but I think ultimately that when a  
7 communication goes down on an important critical policy  
8 issue like that, I think the Providers ought to be  
9 informed first who are supposed to be the enforcement,  
10 you know, agencies in place to deal with these types of  
11 things and that communication shouldn't be given  
12 directly to individual Raters, making a pretty big  
13 policy sweep and change without the Providers even being  
14 informed of it.

15           MR. TAYLOR: Rachel, this is Eric, from the  
16 Third Party Quality Control Program. Can you hear me?

17           MS. MacDONALD: Yes.

18           MR. TAYLOR: I'd like to just add to the  
19 discussion, if it's okay. On oversight I just have some  
20 ideas, because we have extremely strict oversight when  
21 it comes to our Third Party Quality Control Program,  
22 because we collect a lot of data, as you know, because  
23 we collect it through wireless technologies when the  
24 contractor's out there sealing ducts and doing charge  
25 airflow and we're able to see deficiencies.

1           And I think that the Commission's basis of  
2 disciplinary is wrong, in my opinion. And it's based,  
3 at least from an audit or a quality assurance standpoint  
4 from the Provider's standpoint, I think it's unfair to  
5 them to basically have an audit system that is six  
6 months after the fact that a HERS Rater has gone into a  
7 home and they're up against a lot of barriers to that  
8 idea or strategy to that concept, because after a  
9 homeowner or a business owner has had work done in their  
10 home or business, they don't want to have anybody else  
11 come into their home and business. I mean, what do they  
12 care.

13           And so to audit, what we have done in the  
14 Third Party Quality Control Program is we do real time  
15 audits. Because it is the responsibility of the Third  
16 Party Quality Control Program to properly train the  
17 contractors on code and standards, I think there should  
18 be a certain percentage of audits on the Raters in real  
19 time.

20           In other words, there's drive along, kind of  
21 like, you know, DMV or having your pilot's license, if  
22 you break the rules you're not punished through his  
23 nebulous, well, you did the job wrong on this home that  
24 could or could have not passed the test when you were  
25 there, but on your ability of what you're doing.

1           And because the Raters -- I mean -- the  
2 Providers have a responsibility to the Raters to train  
3 them properly, there could be triggers and a certain  
4 percentage that you do ride alongs randomly through your  
5 Rater base, to basically show up at the job in real  
6 time.

7           MS. MacDONALD: Yeah. The --

8           MR. TAYLOR: (indiscernible) scheduled, then  
9 the Rater can go -- I mean -- the Provider can do a ride  
10 along to make sure that they're following the proper  
11 procedures and --

12          MS. MacDONALD: So Eric, we're actually keying  
13 up this topic later today. Did you have --

14          MR. TAYLOR: Oh, all right.

15          MS. MacDONALD: -- specific to this, though?

16          MR. TAYLOR: After five minutes of  
17 conversation.

18          MS. MacDONALD: No. It's okay. Specific to  
19 your thoughts on Commission oversight and interaction  
20 with Providers and any disciplinary process, did you  
21 have any comments on that?

22          MR. TAYLOR: Well, from the disciplinary  
23 standpoint, I think it's just unfair that you would  
24 impose kind of a dysfunctional system on the Providers.

25          MS. MacDONALD: Well, it's -- yeah.

1           MR. TAYLOR: They got to do one kind of  
2 wanting 500 or a certain percentage, and then they have  
3 to go out and do that, and then you discipline them on  
4 what, that the tests passed or failed? It doesn't seem  
5 fair to me.

6           MS. MacDONALD: Well, yeah, we're kind of  
7 bleeding into QA right now.

8           MR. TAYLOR: Okay.

9           MS. MacDONALD: But I do -- Max.

10          MR. McKINNEY: Yeah, Max McKinney, Energy  
11 Analysis Comfort Solutions. One of the issues that we  
12 saw through our review process is a lack of real  
13 direction, a defined process, step by step. You know,  
14 you've got to do this, you've got to do this, you've got  
15 to do this, and feedback coming back to us as a  
16 Provider.

17                 But the same thing, issue goes the other way  
18 looking at, you know, how are you going to oversee the  
19 Providers. We need a clear definition of what are your  
20 expectations. And then we, all the Providers can get  
21 together and say okay, we can meet this, but we need  
22 clarity.

23                 We need a really defined, absolutely black and  
24 white, no gray, what do we need to do to meet these.  
25 And then once we have all the infractions lined out,

1 then we can talk about, you know, well, what's the  
2 process for getting it put back together.

3           What does a Rater or Provider have to do to  
4 get back in the good graces of the Energy Commission.  
5 So again, I know our industry is still in an infancy as  
6 far as from the Raters, from the Providers and even from  
7 CEC.

8           We're all still moving and trying to get more  
9 energy efficient. But as we do this, you know, all the  
10 Providers, and I think we're all in agreement, you know,  
11 we can get together and talk about what are the problems  
12 that we face out there and what are the issues that we  
13 face with the CEC.

14           And then that communication will help give us  
15 a clear definition of where to go in this process.

16           MS. MacDONALD: And hearing you say that, it's  
17 reminding me of what Charlie said about, we have this  
18 general reg language that says we can ask for data. But  
19 then we contact you and we say, hey, give us everything  
20 you have on change outs for Santa Cruz.

21           So do you think we should develop specific  
22 language that says, you know, data requests, with the  
23 exception of special requests, or you know, something  
24 that is specific to, like, a special request that's not  
25 the norm?

1           MR. CHARLIE BACHAND: Yes. This is Charlie.  
2 Yes. My opinion is you should develop that. You will  
3 be able to, in advance, think of some of the reports  
4 that you will want for people based on a complaint  
5 investigation or a QA investigation or investigating a  
6 jurisdiction for compliance, all of which are very  
7 important.

8           And I suspect that CalCERTS and the other  
9 Providers can even tell you, this is what you should be  
10 looking for if you're looking for a jurisdiction that's  
11 not in compliance or something to that effect. But all  
12 the same, at the end you will find yourself having  
13 special requests for us that weren't accounted for in  
14 language.

15           So if you don't have language to account for  
16 the special requests, then we're right back where we  
17 started.

18           MR. MIKE BACHAND: This is Mike, also of  
19 CalCERTS. Under other issues, we haven't talked  
20 anything about the investigations that Providers are  
21 required to do, and I always emphasize the fact that QA  
22 processing sounds like investigation, because you're  
23 going to go out and see, well, did the Rater do the  
24 right thing because he's being complained about.

25           No. Investigations are huge. They're way

1 different. They have different parameters. They have  
2 different reasons for existing. They have different  
3 implications in the industry. They have lawyers,  
4 representatives of the State Assembly have contacted us  
5 about complaints from their constituents.

6           It's a whole, huge, different category of  
7 thing that should be also considered as to what  
8 oversight the Commission wants to have on Providers  
9 regarding investigations, not just QA. QA is pretty  
10 much a mechanical process, essentially.

11           MS. MacDONALD: But a Provider-Rater oversight  
12 investigation, correct?

13           MR. MIKE BACHAND: Yes. We're required to do  
14 investigations and answer, I guess, within 10 days. I  
15 can't remember exactly what the Regs say. But if the  
16 Commission is going to have full oversight then they  
17 need to consider what's the good process for how is a  
18 Provider handling his or her investigations. So I just  
19 want to throw that into the due process category of  
20 things that need to be looked at.

21           MS. MacDONALD: Would this include, like,  
22 people behaving unethically, or what if you have -- and  
23 this is -- I don't know of this instance. But let's say  
24 you have a Rater who's an existing Rater and then it  
25 comes to light that they get a felony for some type of



1 something bad.

2 MR. MIKE BACHAND: Right. To speak  
3 specifically --

4 MS. MacDONALD: And then, you know, like  
5 what's a process or an investigation that would occur.

6 MR. MIKE BACHAND: Right. To speak  
7 specifically about felony, that's not something that we  
8 have discussions about. We don't have a policy about  
9 that. So I don't speak to that. But I understand you  
10 used that as an example.

11 A very common example is one Rater is losing  
12 business to a different Rater. So that Rater must be  
13 cheating, and that's pretty much the extent of things.  
14 Well, so I'm not saying, well, what should our  
15 investigation policy be.

16 What I'm saying is, are we investigating  
17 correctly. That's what Commission wants to know about  
18 Providers. There is an investigation process that  
19 Providers have to comply with. Are we meeting that  
20 process? Did we answer that person? Did we get enough  
21 information? Did we give him due process or whatever?

22 That's the things I think came out of our  
23 original complaint back in 2012, and that's way  
24 different thing than just, are you meeting your QA  
25 quota. So it's a whole area that Commission should be

1 looking at in proving the Providers are doing the right  
2 thing.

3 MS. MacDONALD: Um-hum.

4 MR. MIKE BACHAND: Did you get a complaint?  
5 Yes. Did you handle it correctly? If not, then you're  
6 a Provider who's not handling investigations or  
7 complaints correctly. Is that semi-clear?

8 MS. MacDONALD: Yes. You want -- I'm sorry.  
9 Go ahead, Dave.

10 MR. HEGARTY: And I agree with what Mike is  
11 saying, but also, that it has to be open to the Raters  
12 to be able to see, you can't have -- just like  
13 government. If government is closed to the people it's  
14 governing you don't have buy-in.

15 So this, as well. And not that CalcERTS or  
16 anybody's not doing it now. I just want to make it more  
17 apparent. After the 2012 what do you want to --  
18 hearings, I think all the Providers became more  
19 cognizant of talking to Raters and being less -- more  
20 communicative and more teaching.

21 So to that degree, thank you. But keeping in  
22 mind, I keep saying this and sliding this in wherever I  
23 can, Raters, Raters, Raters, okay.

24 MS. MacDONALD: So Dave, so the Regs,  
25 specific, let's go there with complaints, then. So

1 specific to complaints the Regs do indicate that, you  
2 know, you are to have a complaint system. And then  
3 Charlie, you indicated you provide a report.

4 And my questions is -- and I don't know if we  
5 make those reports public. Should those reports be  
6 public? Is that something we should -- no?

7 MR. HEGARTY: I believe do.

8 MR. CHARLIE BACHAND: I disagree,  
9 unfortunately.

10 MR. HEGARTY: Oh, gosh.

11 MR. CHARLIE BACHAND: But the details of  
12 complaints, there are good reasons to keep those details  
13 confidential. If you're complainer about a contractor -  
14 -

15 MS. MacDONALD: The aggregated or?

16 MR. CHARLIE BACHAND: -- or a jurisdiction, an  
17 aggregate.

18 MS. MacDONALD: Scrubbed?

19 MR. CHARLIE BACHAND: An aggregate scrubbed  
20 report available to the public of CalCERTS addressed 100  
21 percent of its complaints this year. If there was a  
22 complaint process that was more completely outlined in  
23 Title 20, that should certainly be made clear to Raters,  
24 as well.

25 MS. MacDONALD: Yes.

1           MR. CHARLIE BACHAND: But I don't think that  
2 even naming the parties involved in the complaints is  
3 appropriate information for the public. Simply  
4 reporting -- right (indiscernible) has followed the  
5 rules.

6           MS. MacDONALD: Yeah.

7           MR. CHARLIE BACHAND: CalCERTS has submitted  
8 to the CEC. CEC is fully aware. And this is the  
9 language that we use with our own complainants. A  
10 homeowner or whomever registers a complaint with us. We  
11 investigate it and at the end we say, we've come to the  
12 results that we've come to.

13           We may not necessarily tell the homeowner if  
14 the Rater is being certified -- decertified, excuse me,  
15 or otherwise. But we always say, we are reporting this  
16 to the CEC. They have complete oversight of this  
17 process.

18           You should contact them if you have any  
19 further questions. So that's the level of information  
20 that I think is appropriate, because otherwise, some of  
21 the more vindictive complaints that Raters --

22           MS. MacDONALD: Right.

23           MR. CHARLIE BACHAND: -- level against each  
24 other could be used as ammunition later on.

25           MS. MacDONALD: Yes.

1           MR. HEGARTY: But those could be mitigated by  
2 a Rater Advisory Board, which could be completely  
3 subject to being able to see that, but not subject to  
4 telling anybody that's an easy process in an existing  
5 government.

6           MS. MacDONALD: Do you mean a Rater Advisory  
7 Board is like a panel, if it was to escalate, if there  
8 was wrongdoing?

9           MR. HEGARTY: Well, not only that. I mean,  
10 I'm not sure where you're going with that, but I'm  
11 talking about a complaint.

12          MS. MacDONALD: Uh-huh.

13          MR. HEGARTY: And a review of those complaint  
14 should include a Rater Advisory Board, maybe that swears  
15 that they can't say anything outside of that, but that  
16 we can see what's going on, not just for Providers, but  
17 we see what CEC's doing, too, right?

18          MS. MacDONALD: Right.

19          MR. HEGARTY: That's the -- and how we handle  
20 these complaints. Many complaints go in that are  
21 legitimate complaints and we don't see the end result  
22 and we don't get to know what it is, and that's not  
23 right, either. So we don't even know whether it's being  
24 handled or it's been investigated.

25          MALE SPEAKER: We should always have that

1 information.

2 MR. MIKE BACHAND: I might have kicked a ball  
3 down the hill, and it's snowballing.

4 MS. MacDONALD: That's what this is for.  
5 We're here to -- it's for information gathering, so.

6 MR. MIKE BACHAND: My comment was that you  
7 should have oversight about the complaint process, as  
8 well as the quota process that is the Provider adhering.  
9 Not what is a complaint, not what is a QA. We're  
10 talking today about other issues that Providers should  
11 be oversighted [sic] on -- if that's a verb -- then  
12 that's it. Did we follow our own complaint process?

13 MS. MacDONALD: Right.

14 MR. MIKE BACHAND: That's all. It's not the  
15 question is, what did we do on each complaint. It's did  
16 we do what we're supposed to do with the complaint. So  
17 that was the intent of my followup.

18 MR. HEGARTY: And I think that's what we're  
19 answering -- what's your name again?

20 MR. MIKE BACHAND: Mike.

21 (Laughter.)

22 MS. MacDONALD: Okay. So --

23 MR. HEGARTY: I think that's what we're  
24 saying, Mike.

25 MR. MIKE BACHAND: Thanks, Bill.

1 MR. HEGARTY: May I?

2 MS. MacDONALD: No. Go ahead.

3 MR. HEGARTY: That's what we're saying here is  
4 that you have to have larger oversight to those  
5 complaint problems with a Rater panel, as well, because  
6 it affects all Raters. Given the things that have  
7 happened in the past, I think a Rater panel would have  
8 been able to give more insight into what's going on so  
9 that we can go down the wrong path, right?

10 You know, it's just a comment, again,  
11 including Raters. I find myself continually supporting,  
12 we need a Rater Advisory. Again, we keep missing that  
13 point. So I mean, at least as I see it.

14 MS. MacDONALD: Okay. Now, I've got more  
15 questions in my brain. But we're making really good  
16 time. I want to ask at this time to have -- is there  
17 any questions on the phone line? Do you want to open  
18 the phone lines real quick and I'll see if there's any  
19 questions, or unmute?

20 We'll see what happens. Cover your ears.  
21 That's weird. I don't know what that is. Okay. So  
22 we're going to go into QA next, and at this time if  
23 there's not anymore comments I would just move that we  
24 take lunch now and reconvene. Let's plan on this.  
25 Let's plan on being back at 12:50 because it's 10 till,

1 12:50.

2           So we'll be back here at 12:50 and I've got a  
3 look on my face because I've still -- you know -- it'll  
4 probably go a couple minutes over that before we're  
5 actually sitting down and digging in. But we'll queue  
6 up QA after lunch and that'll be a lengthy conversation.  
7 Thank you.

8           (Recess at 11:50 p.m, until 1:01 p.m.)

9           MS. MacDONALD: I don't have the little bell  
10 to walk around and ding like in between shows for Music  
11 Circus. Anyway, we're going to go ahead and reconvene.  
12 If everybody could be seated. If anybody -- okay. My  
13 name is Rachel MacDonald. I'm, again, with the  
14 California Energy Commission, the Standards  
15 Implementation Office.

16           And this afternoon we're going to discuss  
17 Provider Quality Assurance, QA, and leading that  
18 discussion will be my co-worker, Tav Commins, and I will  
19 pass it over to you, Tav.

20           MR. COMMINS: So just as a reminder, we are  
21 recording this. So just wanted to let everybody know  
22 that is occurring. So as Rachel had mentioned this  
23 morning, most of the comments that we have received has  
24 been in the area of QA.

25           And QA in general bleeds into a lot of



1 different, you know, areas. You've got QA over the  
2 Rater, and the QA by the Provider and QA over, you know,  
3 should there be any different for QA for the rating  
4 firms.

5           And we've just got a lot of requests from  
6 organizations and individuals, Raters, to clarify the QA  
7 process. I wanted to mention that, so as we're going  
8 through, as I'm going through the presentation, these  
9 are just ideas that people have commented to us that  
10 they would like to see, changes made, ideas that, you  
11 know, being in HERS for I think it's since 2008 was when  
12 the first Duct Testing HERS came out, you know, that I  
13 thought about all the different possibilities of  
14 updating QA.

15           And so we are going to be having a second  
16 Workshop and that's going to be in June or July. We've  
17 put these topics here to discuss this afternoon because  
18 we thought that these were topics that didn't need a lot  
19 of discussion, possibly, that we could get some  
20 information from and that we wouldn't have to really dig  
21 down deep into a lot of different requirements or  
22 language.

23           And so that's kind of how we decided to go  
24 break up all of the many different QA topics. So we  
25 will be coming up with an Agenda for the next Workshop.

1 We hope to put that out soon so that you can see kind of  
2 the other topics that we're thinking about.

3           Some -- but I just wanted to mention some of  
4 those topics are -- probably one of the biggest one is  
5 how can -- we understand that QA is very costly for the  
6 Providers, but also it's very important that QA be  
7 completed on Raters so that we know how well Raters are  
8 doing out in the field.

9           So we're going to try to come up with a lot of  
10 new innovative procedures. Possibly, one of the things  
11 that I've been throwing around, and again, we'll be  
12 talking about this a little bit more, you know, at the  
13 next Workshop, but just to let you know, for the CRE  
14 (phonetic) verification.

15           What we only had -- what if they uploaded  
16 pictures on every job or the HERS Rater uploaded  
17 pictures that were GPS encoded, and so you only have  
18 form of use. One of the other big changes is going to  
19 be, we're going to have to put together -- and pretty  
20 much every person that commented, there needed to be  
21 standardization on the QA process.

22           So what is a failure and then we're coming up  
23 with a different word for, so when you go out and you do  
24 a QA there's going to be failure and discrepancies. So  
25 a failure is, you know, that they weren't allowed to

1 leak more than 150 CFM and they're leading 200 CFM.

2           That's a failure, well, unless someone got in  
3 their -- you know -- depending on your investigation.  
4 But you know, that's going to be a failure. You know,  
5 so let's say they're -- or what if they leaked the 150  
6 CFM and but they didn't tape all the registers, the  
7 boots, all the way? Is that a failure? No, that's not  
8 a failure.

9           That's something that going forward that the  
10 QA people are going to start looking for. So we need to  
11 come up with some -- so we want to include some specific  
12 requirements on checklists for when they go out into the  
13 job site, QA person, that they have a checklist on  
14 exactly what they look for, for each measure.

15           But we also want to do the same thing. We  
16 want to include form of use for every type of measure.  
17 So you know, we're going to be reducing QA in general,  
18 but we're going to be requiring -- the thoughts now are  
19 to be requiring a form review.

20           But these are just things that I wanted to  
21 throw out there because they do kind of tie into some of  
22 the things that we're going to be discussing today, and  
23 I will be talking about those a little bit. So I hope  
24 that I'm not too confusing when I talk about the  
25 different things that are going to be going on.

1           So why don't we get going and talk about QA  
2 time frame. So there was a lot of discussion about when  
3 a Provider does a QA, should there be a specific time  
4 frame, that when a Commission can go out. Should they  
5 be able to go out, you know, up to a year?

6           And it's fallen on both sides. And so we just  
7 wanted to get feedback from the group, I think really  
8 specific examples, if possible, on why QA only going out  
9 not past 60 days would be a good thing or it would be a  
10 bad thing.

11           So you know, so that was my first question and  
12 I would like the audience to give me your recommendation  
13 on the amount of time that you think that a QA should be  
14 occurring or should not be occurring past, or if there  
15 should not be any time whatsoever.

16           MR. CHARLIE BACHAND: This is Charlie Bachand  
17 from CalCERTS. I'll speak first, I suppose. Sixty days  
18 does sound like a reasonable number on the face of it,  
19 but I do want to talk about the difference between, say,  
20 QA and investigations.

21           Or if you're doing QA on a Rater with fairly  
22 low volume, let's say a Rater that only does one or two  
23 a month, it's very possible that even two months after  
24 the fact we're faced with the challenge of trying to  
25 figure out what exactly happened in that home.

1           Of course, we need to do a QA review to  
2 actually see what's physically in that home. The flip  
3 side of that argument, of course, is if we find that the  
4 ducts leak, even let's say the target was 15 percent and  
5 now they leak 50 percent and there's a duct that's been  
6 disconnected in the attic, it's been two months.

7           And who knows how many different people have  
8 been up in that attic and have kicked or sat or  
9 otherwise destroyed that duct? In other words, after --  
10 60 days is just a number, but after a certain period of  
11 time you get to the point where your QA results are very  
12 easily disputed by Raters who certainly have -- it's  
13 reasonable for them to say, it wasn't like that when I  
14 was there and I don't know what happened since, but I  
15 don't want to be punished for it.

16           So in that sense I think that if there are  
17 careful definitions of the exceptions that need to take  
18 place, I think that 60 days would be not unreasonable.  
19 But I would still urge you to at least consider not  
20 putting that limit there at all, or otherwise, having  
21 the exceptions very, very broadly delineated.

22           I don't think any of the Provider are  
23 interested in disciplining their Raters on a QA failure  
24 that's more than two or three months old because of that  
25 time lapse, because they may have already learned of

1 their mistake through other QA.

2           So they may have already corrected it going  
3 forward and it's not fair to hold them accountable for  
4 something that they did in the past before they were  
5 properly educated. So those are all valid concerns. So  
6 I've landed somewhere in the middle.

7           But I think 60 days would be a minimum, if you  
8 were to set that time frame; no less than 60 days should  
9 be allowed, and I guess I've said the rest of it.  
10 Here's Mike.

11           MR. MIKE BACHAND: Yeah. One thing about your  
12 slide up there, it says, "Within blank days or the  
13 project is exempt from QA," that does -- no one of us  
14 Provider who are completely, highly ethical, integrity  
15 people would do this, but somebody could game that  
16 system.

17           So just because you can't get it in within the  
18 time frame shouldn't exempt the project, but it needs to  
19 be counted and accounted for. So an exception to that  
20 rule, I don't know that there are exceptions, but one of  
21 the things that affects the time frame that you can get  
22 in is to how many you have to do and the bandwidth of QA  
23 Raters that you have.

24           Right now, QA Raters are, I believe by  
25 expression in language from the Commission, intended to

1 be very -- you know -- higher knowledgeable than a  
2 normal Rater. It makes sense even if language doesn't  
3 say that, but I think there is some small language in  
4 the Regs that talks about that.

5 MR. COMMINS: Yeah, there is.

6 MR. MIKE BACHAND: Yeah. So that's another.  
7 You know, that bandwidth, it's difficult. You'd think  
8 it would be easy. There's 30 million people in  
9 California. Some of them must be qualified, and they  
10 are, but it's just not that easy to find one that's in  
11 the area and that wants to do what you want them to do.

12 So you know, it's a difficult process to some  
13 degree to get quality QA, quality, Quality Assurance  
14 people. So I would strike "exempt" if that's suggested  
15 language. I agree on the days. It's not -- you know --  
16 there's some time frame that it doesn't make sense at  
17 all and there's some time frame that is -- you know --  
18 you can't -- if it's always within 30 days, that's not  
19 always possible either, but something that's reasonable.

20 MR. CHARLIE BACHAND: I have one followup  
21 point to make. Not all Rater firms do this, but I  
22 believe that some of them do. They will sit on their  
23 test results for their 3Rs until they've finished every  
24 single test in the Registry and want to wrap up the  
25 project all at once.

1           Because of this and new construction there  
2 might already be a two-week -- excuse me -- a two-month  
3 time window in between when they've done one of their  
4 tests and when they've done another one of their tests.

5           So because Raters sit on their 3Rs for so  
6 long, making the time frame any shorter than 60 days is  
7 problematic for that reason, as well.

8           MS. MacDONALD: That's consistent with the  
9 question on the phone about the benefit to  
10 differentiating between new construction and res  
11 alterations for that time line.

12          MR. COMMINS: Dave.

13          MR. HEGARTY: And the fact that you have a  
14 sampling in there. If you have an open group for six  
15 months you're eliminating all five up until the last  
16 CF3R, and so you're not really getting any true  
17 examination of what's going on there.

18          So you have to think about that, the six  
19 months, plus the 60 days, what is it, you know? I mean,  
20 there's some complication there. I agree with Mike on  
21 the exempt, the exempting a project from any QA is wrong  
22 in my mind.

23          MR. COMMINS: Okay.

24          MR. HEGARTY: If a Rater is in -- if they find  
25 that there's more need for investigation or something



1 like that, all his work is open to criticism, right? I  
2 mean, it's what have you done in the past.

3 MR. COMMINS: So again, this is -- you know --  
4 we just put this up there to get discussions. So we  
5 appreciate that. Alex.

6 MR. VANTAGGIATO: Yeah. This is Alex from  
7 CHEERS. One thing that I wanted to point out was also  
8 the fact, even a Provider that has the best intention  
9 and is doing everything they're supposed to do, there  
10 were still logistics completely outside of their  
11 control, such as unresponsive homeowners, unresponsive  
12 superintendents, people not wanting them on their job  
13 site. And creating a short time line would just make an  
14 additional hurdle for Provider to go over.

15 I think that naturally all Provider try to do  
16 QA as fast as possible, because the reality is the fact  
17 that homes are not sitting on the market for months on  
18 end for somebody to go in. So homes are being sold,  
19 built and turned over sometimes within days, if not the  
20 same day, that the final inspection had been completed.

21 And because of that a short QA time frame  
22 would create I think more problems than it would solve.

23 MR. CHARLES: This is Don from USERA. I agree  
24 with what most everybody's saying. I think the only  
25 caveat I would add to that is just because it may be

1 longer, I think a shorter time frame is good. I think  
2 that's definitely something we should consider.

3           However, if a QA is done past 60 days and it  
4 passes, it's not a problem. It only becomes really an  
5 issue if there's a failure, and therefore, it may  
6 require QA to be continued on that Rater on jobs that  
7 didn't go to that time frame to see if there really is a  
8 problem or if it may have been some other, you know,  
9 mitigating circumstance that created the failure. But  
10 if it passes, it's not an issue.

11           MR. COMMINS: Anymore comments?

12           MR. VANTAGGIATO: Yeah. This is Alex from  
13 CHEERS again. One idea or one thought is maybe create  
14 definitions of time frames for different type. So  
15 there's certain tests like blower or duct blast, we can  
16 replicate the test.

17           Doesn't mean we're going to replicate the  
18 result. But there are certain tests that are going to  
19 be the same all the way around. EER, that's not going  
20 to change six months down the line, right. It is what  
21 it is.

22           MR. COMMINS: Right.

23           MR. VANTAGGIATO: Any kind of water heating  
24 type test. So data that is empirical in nature and it  
25 is the way it's going to stay, that maybe those could be

1 handled a different way, QII maybe. It's either pass or  
2 it fails, right.

3           You're not going to -- I mean, certain things  
4 might change. Maybe that's something to look at.  
5 That's all I'm saying.

6           MR. COMMINS: Okay. Anybody else? Do we have  
7 anybody on the phones that would like to comment? Okay.  
8 So why don't we move onto the next item. So one area  
9 that we also received a lot of comments on was Education  
10 and Training of Raters.

11           And so one of the areas that we started  
12 talking about and that was brought up is the possibility  
13 of doing kind of -- so for new Raters who, because  
14 there's so much to learn in the HERS Regs, there's so  
15 many specific things that need to be done, it's just a  
16 lot to learn by a new Rater, you know, to go to one week  
17 of training.

18           And so one thing that we wanted to throw out  
19 there and get comments from the group is to do Rater  
20 ride alongs, you know, or apprenticeship type programs  
21 where after they've gone through new Rater training,  
22 they would be required to go along with some Raters, or  
23 a Rater or multiple Raters and just spend some time with  
24 them, Raters that have, you know, passed the QA process  
25 and who have been doing this for a long time and who are

1 known to do a good job.

2           And so we just wanted to get the group's  
3 thoughts on having some type of a Rater ride along. And  
4 then, you know, for new Raters where that didn't occur,  
5 possibly require additional QA for the first, you know,  
6 100 percent QA maybe for the first five jobs or  
7 something. But you know, that's just an example.

8           So if I could get -- I think Alex wanted to  
9 comment on that.

10           MR. VANTAGGIATO: Yeah, I'll just go first.  
11 Alex, from CHEERS. As the short answer, CHEERS supports  
12 the Rater ride along as part of the training, in  
13 addition to everything else that's already required.

14           I don't think they should have the option to  
15 turn it down. As a matter of fact, I think that it  
16 should be required before taking the actual field and  
17 written test. And I think it would do nothing but  
18 improve the quality of the HERS Raters that are coming  
19 out of the Training Program.

20           Now, with that said, there's going to --  
21 obviously, there has to be a different approach between  
22 somebody who's hired by a HERS rating company ahead of  
23 time and they're put onto the training by them, versus  
24 somebody who's independent and wanted to become a HERS  
25 Rater on their own.

1           So basically, they're not actually hired by  
2 anybody, so how are they going to ride along with  
3 somebody. We have discussed internally ways to handle  
4 that and we think there is a way, but long story short,  
5 we, CHEERS, supports this idea.

6           MR. CHARLIE BACHAND: This is Charlie --

7           MR. CHARLES: This is Don with USERA. I'd  
8 like to see the ride along process actually be merged  
9 with QA. I'd like to see us -- I mean, you know, you  
10 get a tax audit, you get any other type of business  
11 audit and that's usually done where an auditor shows up  
12 at your place of business and goes over your stuff.

13           I think it would be outstanding and it would  
14 also be a huge time factor and savings where if we could  
15 schedule our auditors to go on ride alongs for purpose  
16 of QA when they're doing an active job, and maybe that  
17 wouldn't negate the need for doing other QA where they  
18 don't necessarily know, but maybe it could limit that  
19 from the one percent requirement now to maybe one in  
20 every 200 jobs gets a, you know, behind the scenes QA.

21           But as just a regular course of practice I  
22 think it would be a lot easier to find compliance, find  
23 issues and training, get the QA done because the Raters  
24 are already scheduling those appointments. It would  
25 eliminate a lot of factors for us having to go out and

1 perform QA and get customer opt-in to allow us to come  
2 back in the home. Now a third person coming back.

3 I think it would really speed up the process  
4 and would also serve as a great training tool and help  
5 identify issues right away on what Raters are doing  
6 procedurally, and again, just to make the current QA  
7 requirements a little bit more spread out so we could  
8 merge that with ride along and doing a behind the scenes  
9 QA, or they don't know about, but I think it would help  
10 facilitate the QA and the training simultaneously.

11 MR. COMMINS: So actually, our next slide is  
12 specifically on having Raters attend QA. So I just  
13 wanted to throw that out there. So right now, it's  
14 really --

15 MR. CHARLES: Sorry to get ahead of you.

16 MR. COMMINS: Okay.

17 MR. CHARLIE BACHAND: This is Charlie Bachand  
18 from CalCERTS. I think that with that distinction made  
19 that this is not talking about a QA ride along. This is  
20 a separate ride along. I would argue against this step  
21 for a number of reasons.

22 I'm not sure exactly how the Providers would  
23 or should be held responsible for a new Rater getting  
24 trained by some other Rater. Providers don't hire  
25 Raters. Rating firms hire Raters. Contractors hire

1 Raters.

2           How would we be involved in that process? How  
3 would we select the Rater to go along with? Would that  
4 be detrimental to one firm? We have Duct Testers and  
5 Energuy represented here. So I'll choose them.

6           If we select a Duct Testers Rater to be the  
7 person that everyone rides along with, does Energuy feel  
8 that they're being slighted or in some way that their  
9 new people are being manipulated to prefer Duct Testers?  
10 Or completely vice versa, of course.

11           I'm not pointing any fingers at anyone, but I  
12 don't see how that would work in practice. I don't see  
13 how CalCERTS could oversee that process. I don't see  
14 how we could identify the Raters for that process.

15           I don't see how the notification -- would we  
16 just take a written letter from Energuy saying, well, we  
17 trained this guy this week and it was great.

18           MR. COMMINS: I'll sign --

19           (Laughter.)

20           MR. CHARLIE BACHAND: Creating all of that  
21 process is a tremendous hurdle, I think, and I think  
22 that we have much better ways of attacking the education  
23 problem with the field houses that are already required,  
24 and we're going to have a lengthy conversation I'm sure  
25 about QA being used as an educational tool.

1           So with all those things in mind, CalCERTS  
2 does not think that this is the most practical way to  
3 achieve better Rater education.

4           MR. HEGARTY: I think they all ought to go  
5 with George.

6           MR. COMMINS: Oh, go do ride alongs with  
7 George.

8           MR. DAVE MEYERS: Yeah. Everybody should ride  
9 along with George.

10          MR. COMMINS: So my thoughts were that it  
11 would be Raters or rating firms that would voluntarily  
12 say, I'm willing to have this guy come along with me,  
13 and whether he is part of my -- and actually, kind of  
14 that's where I wanted to get outside input from, is  
15 specifically Raters and rating firms, is do you think  
16 these organizations would be interested in having Raters  
17 ride along with them and see what's going on out there?

18          MR. HEGARTY: I hear what you're saying,  
19 Charles, and I know that that's very important stuff.  
20 This is Dave Hegarty with Duct Testers. We do it now.  
21 We actually make them go out. We hire them as  
22 assistants and they go out for a month before we even  
23 send them to your class, or whichever -- two weeks or  
24 depends on when your classes are.

25          I think you guys already know that. But if



1 it's in a Rater community or organization, agency that  
2 has riderships, there's much more accountability that  
3 way, of course. But I don't think, you know, you sign a  
4 piece of paper that says you did do that, and the guy  
5 who you went out with signed a piece of paper.

6           It's documentation. I don't think it's a hard  
7 thing to overcome, but I do hear what you're saying.  
8 And would you be responsible to do that or does that go  
9 to, in the record, that all you have to do is keep as a  
10 record? I'm really interested in making sure you guys  
11 don't have a lot of paperwork either, right?

12           So that's -- and we'll get to that part when  
13 we talk about that. But I think we do it now, most of  
14 it, and I think Energuy does it a little bit, too, if  
15 not all more than I do. But most of the -- I know John  
16 Flores' guys do it. I know that some of the others who  
17 we work with have a ridership situation before they even  
18 go to the classes.

19           MR. COMMINS: So what about Raters that are  
20 just individual Raters that want to do ride alongs?  
21 Would you open --

22           MR. HEGARTY: Well, again, that's just --  
23 yeah. We have no problem with that. We're getting free  
24 labor, right? I mean, in the sense --

25           MR. COMMINS: Exactly.

1           MR. HEGARTY: In a sense, you have to employ  
2 them to get out there, right? So when they come you  
3 have to pay them so they're covered under your -- that's  
4 was a smart remark that I didn't need to do. But the --

5           (Laughter.)

6           MR. HEGARTY: Thank you. The essence there is  
7 that we get voluntarism, like you're saying, to get  
8 that.

9           MR. COMMINS: Right.

10          MR. HEGARTY: Because they don't know if  
11 they're going to like it. You know, we spend five,  
12 \$6,000 just to train them complete, something like that,  
13 not including wages and transportation and staying at  
14 the beautiful hotel in downtown Folsom. So that's a lot  
15 of money.

16                 We want to know a guy is capable and knows  
17 that he likes this before he does it, and we do that,  
18 and I'm sure most of the big Raters do.

19          MR. MIKE BACHAND: This is Mike at CalCERTS.  
20 I tried that process several years ago. Max might  
21 remember this. We had talks about it and could people  
22 go along. You know, there's a lot of issues with that,  
23 philosophical.

24                 One guy's exposing his business and his  
25 customers to another person who, by definition, is not

1 going to be one that he hires because that would, you  
2 know, conflict the process. So that's one of them.  
3 Tracking that, all the logistics that Charlie mentioned,  
4 are another whole set of problems that goes along with  
5 this.

6           It didn't get good reception in the  
7 marketplace when I -- and I didn't have the wherewithal  
8 to address the whole marketplace in those days, but it  
9 was not well received. I think there are better methods  
10 out there to do this kind of extra hands on stuff, but  
11 there's more.

12           There are a lot of people that are coming out  
13 of college, community college programs and other  
14 training programs that training students. And then they  
15 want to take training house and get certified, but they  
16 may not be going to work.

17           They may still be in community college and  
18 this is just one of the things they're doing. So  
19 they're not even actually entering the marketplace,  
20 necessarily. That's not the majority of trainings out  
21 there, but there's a substantial amount of that going  
22 on.

23           And so this thing is not applicable to the  
24 entire process. It could be maybe part of a thing, like  
25 the guys that do with Dave and Energuy and others. Bill

1 Lilly does this, too. Most of the major firms run  
2 people through their organization first before they  
3 spend the money on training. It's an economic issue to  
4 them.

5 Plus, they want to see if the person is  
6 applicable. Are you a knob tweaker or do you get it,  
7 you know, or do you show up to work on time? All those  
8 things are other things that are being vetted before  
9 they even come through training, which is expensive.

10 Ride along days, you know, somebody's got to  
11 pay somebody for something somewhere along the line.  
12 It's not free to do that. So those are some of the  
13 difficulties, and that it's a great idea with probably  
14 very difficult implementation.

15 MR. CHARLES: This is Don from USERA. I agree  
16 with what my associates are saying, and again, I'll just  
17 default to the next slide. I think there's an  
18 opportunity for such a thing in the next slide topic, to  
19 combine the processes.

20 MS. MacDONALD: So this is -- am I on? Ah,  
21 yeah. Okay. This is Rachel MacDonald, and Tav, I'm not  
22 trying to bogart your discussion.

23 MR. COMMINS: Right.

24 MS. MacDONALD: But listening to all of the  
25 comments then makes me think new things. So if we have

1 a class or this group of individuals coming through the  
2 community college, you know, they're getting the  
3 training. They haven't pre been out in the field  
4 exposed, because I recall that from training.

5 I remember that was a couple guys there that  
6 were already familiar with the equipment because they  
7 were already working on it with -- under the wing of  
8 another guy, and then now they were getting certified.

9 So if we have this group of individuals that  
10 are not going to apply their training right away, then  
11 might we subject -- not subject them -- but might they  
12 be subject to maybe x amount of hours of working with a  
13 qualified rater when they're ready to go in the field  
14 and start being hands on as part of their certification,  
15 or they're subject to more QA?

16 MR. MIKE BACHAND: No, that's a good question.  
17 And we find that the farther it is from your training to  
18 your first QA, probably the greater the deficiencies  
19 are. Or more likely, we get a phone call from you  
20 saying, geez, red hose, green hose, I forgot, you know.

21 And so we do a lot of field support on that  
22 and I know the other guys do, too. So that's something  
23 that's possible. Again, it's an additional cost to the  
24 Provider and to the trainee or to the initial  
25 certificate person.

1           Finding that and tracking that is really  
2 probably the biggest issue. You know, we could have our  
3 Registry flag us, hey, this guy was trained six months  
4 ago and we've never heard from him again. Well, maybe  
5 he's done 300 over at CHEERS.

6           I don't know. So that's -- I don't want to be  
7 the guy who said this, but that still is my same  
8 thought. It's a great idea that's going to be very  
9 difficult to really do.

10           MS. MacDONALD: Because we're really looking  
11 at it as this, like an apprenticeship program, like that  
12 these individuals are out there getting hours, x amount  
13 of hours hands on in the field, and then whether they  
14 continue to work for a rating firm or they are  
15 independent, that they have this hands on time that  
16 would hopefully result in more consistent QA.

17           MR. MIKE BACHAND: That might work for the  
18 larger firms especially well, because they're the ones  
19 that have the ability to do that. And so it might  
20 affect their QA quota or the Rater's QA quota, which is  
21 next slide and so forth.

22           Or we haven't really talked about quotas yet.  
23 We got a lot of talking to do about that. So maybe for  
24 larger firm maybe there's some delineation. But you  
25 know, what's a larger firm? Is it three Raters? Is it

1 12 Raters?

2 MS. MacDONALD: Or a Rater in good standing,  
3 so.

4 MR. MIKE BACHAND: Yeah. How about --

5 MR. CHARLES: This is Don from USERA. I just  
6 had a question. Again, I like to get really practical  
7 on some of this stuff and just say, is there a business  
8 reason or what's ultimately driving this particular  
9 topic?

10 Usually, when you're trying to fix something  
11 you're implying that it might be broken. Is there an  
12 issue out there that it's viewed right now that  
13 something is broken?

14 MR. COMMINS: So I think from what I've been  
15 hearing is that often when a QA is done, especially on  
16 new Raters, that because there was just so much to learn  
17 in the classroom that there are things that they missed.

18 And so that's why, yeah, we thought that if  
19 they were better prepared, would have a lot better --  
20 some background or more experience with doing the tests  
21 that, again, from talking to the Providers the problem  
22 is often that they feel when they go out there, when  
23 they found problems it wasn't because they did it on  
24 purpose, it was because they just didn't understand or  
25 didn't know what was required. That's what I'm hearing

1 from the Providers.

2 MR. CHARLES: Perhaps maybe there's an  
3 opportunity to just have a heightened QA requirement for  
4 a new Rater.

5 MR. COMMINS: Right. And --

6 MR. CHARLES: You know. Go ahead.

7 MR. HEGARTY: Don, stop.

8 (Laughter)

9 MR. HEGARTY: Don, don't go there.

10 MR. CHARLES: Sorry.

11 MR. HEGARTY: No. No. No. I'm just kidding  
12 you, trying to keep it light. The thing I'd like to  
13 focus on is that I think to have the same voluntary, and  
14 I don't know that that's possible, to put voluntary  
15 stuff in some subject or something like prescriptive and  
16 performance stuff.

17 But the Providers who choose to, could have a  
18 pathway to if you do that you get some extra that-a-boys  
19 on the back, and you know, we have this ability to  
20 challenge test. And if we produce that kind of  
21 background where we have x number of tests that we've  
22 gone with another Rater or something like that, maybe  
23 that allows you to take a challenge test or something.

24 And we do that all the time with -- and  
25 Charlie knows this -- when we have a Rater that doesn't



1 pass a test we send him out again and again and again  
2 with somebody until he can understand what he's doing  
3 and then, you know, keep that experience going so when  
4 he rolls into the test he understands what he's taking.

5 I don't know if that makes sense, but given  
6 that we have the ability to take a challenge test I  
7 think there's ways to put that together with voluntary  
8 association with a good Rater that you can do. You can  
9 have -- I think doesn't it have those kinds of things?  
10 I thought there is some mentoring in.

11 MR. BADEN: Yes. We actually have a tablet-  
12 based intern program that not only follows the Rater,  
13 but you can actually talk to him (inaudible) test.

14 MR. HEGARTY: That was the esteemed Steve  
15 Baden from RESNET.

16 MR. COMMINS: And actually, so the people  
17 online couldn't hear what he said. So you want to  
18 repeat that?

19 MR. HEGARTY: They have a tablet-based -- what  
20 do you want to call it -- training system where you can  
21 --

22 MR. BADEN: Mentoring.

23 MR. HEGARTY: Mentoring, and they can QA from  
24 there.

25 MR. MIKE BACHAND: Sorry, Tav. This is Mike

1 at CalCERTS. There's another issue with ride alongs and  
2 things. So we have, because of the cost of training,  
3 even though -- even with online and other, you know,  
4 technological enhancements, training's not cheap and  
5 it's time consuming.

6           So one of the problems is that in order to  
7 maximize the training and minimize the cost to each  
8 student we try to do it in volume. So we take, you  
9 know, 10 to 20 people in a classroom at a time. There's  
10 variations.

11           There's all kinds of different logistics that  
12 different Providers have, how they do it. But the  
13 bottom line is, you know, 10 or more people may come out  
14 of training on Thursday the 20th of May and want to do  
15 their first rating on Friday the 21st of May, and  
16 there's not enough people from the Provider to go out  
17 and be right on each guy as a first time QA or the first  
18 house that you do.

19           That's a logistical nightmare because the  
20 first house you do might be in Eureka and the training,  
21 you know, we're in Folsom and they're even farther  
22 south. And it -- Max is in Orangevale. So that can be  
23 a real issue for a statewide process where you try to  
24 get to the first house that a guy does or a girl or  
25 woman does. That's --

1           MR. HEGARTY: Aren't we talking about a ride  
2 along that happens before you get certified or?

3           MR. MIKE BACHAND: No. There was a suggestion  
4 that maybe we QA the first house or be along with the  
5 Rater on the first house.

6           MR. COMMINS: Right.

7           MR. MIKE BACHAND: The training facility. So  
8 it's --

9           MR. HEGARTY: Still have to review that  
10 anyway, right, the first ones?

11          MR. MIKE BACHAND: Yes.

12          MR. HEGARTY: Sorry.

13          MR. CHARLIE BACHAND: Speaking of Eureka, just  
14 as a good example, let's imagine that any small city  
15 where we don't have enough Rater penetration right now  
16 and we would very much like it if the jurisdictions were  
17 enforcing and there was a Rater there to help them  
18 enforce, Eureka, Humboldt, Weed, a number of cities  
19 right along the border of California, I think that  
20 making a mandatory ride along requirement for Raters in  
21 that area is going to introduce yet another hurdle for  
22 them, because they may not have any other riders --  
23 Raters, excuse me, in their community except for their  
24 competition.

25                 So I think that because there are mandatory

1 CEC overseeing ways of doing this education, I think  
2 that this is best left to the marketplace to decide.  
3 Larger rating firms are already doing this. Smaller  
4 rating firms perhaps can't afford it and can't afford  
5 the time, and furthermore, may not want to wait an extra  
6 week, as Mike was saying, to get their ride along  
7 scheduled, to have it actually happen, to get the other  
8 guy to send in his paperwork saying that, yes, this ride  
9 along happened, and then they have to wait for the  
10 Provider to put the final stamp of approval on their  
11 rating certificate.

12 That's more hurdles and more time for them.  
13 So I see it as, like he's been saying, a good idea but  
14 problematic in the execution.

15 MR. COMMINS: Okay. Yes.

16 MR. EDGAR: Bruce Edgar from the EnergyGuy. I  
17 hear what you're saying, but unfortunately, there's an  
18 abyss between a new Rater who just finishes his field  
19 house test and going into his first house and trying to  
20 figure out what he has to do.

21 And I was a Rater for six years before I came  
22 to California. My first Title 24 job here, even in a  
23 larger company where I had training, was a disaster, all  
24 right, because I did not understand fully what was going  
25 on.

1 (Laughter.)

2 MR. EDGAR: Somebody had to come in and do it.  
3 I couldn't finish it. That was the first one. But even  
4 with all my experience and even coming out of a company  
5 that has a team of Raters that do help out, I can't  
6 imagine a Rater that's working alone that hasn't had the  
7 experience that I've had that comes out of a field house  
8 test and trying to do his first house.

9 I just can't imagine him even doing it at all.  
10 So regardless of the expense, I can't see that an  
11 individual Rater would even be able to get started with  
12 the CalCERTS training as it sits right now. It's not  
13 enough, because as much assets that you have in the  
14 training, the difference in the field are vast.

15 Every house is completely unique and there's  
16 no way that a new Rater has all the tools to confront  
17 that to begin with.

18 MR. COMMINS: Okay. Do we have any comments  
19 online?

20 MS. MacDONALD: I do, Kevin Walters.

21 MR. COMMINS: Okay.

22 MR. WALTERS: Yes, I would like to make a  
23 comment. Can you --

24 MR. COMMINS: Okay. Go ahead.

25 MR. WALTERS: Okay. I'm a Rater. Kevin

1 Walters. I'm a Rater here in the San Francisco Bay area  
2 with a small company. I did learn from my uncle-in-law  
3 who is a Rater and I work for him. Yes, you're right.

4           The initial learning curve is very high and it  
5 is slightly terrifying going into a house. But I see  
6 the flip side of this and having some sort of  
7 apprenticeship program it sounds great on paper, but  
8 there's so much of a liability you're assuming that this  
9 Rater is not looking at it going, hey, he's my  
10 competition, I'm going to train him how to do this  
11 incorrectly.

12           You know, there's just so much liability in  
13 that. But then, the other thing is, yes, it is cost  
14 prohibitive for somebody like me to take on somebody to  
15 train them, but if it was to the marketplace like you  
16 said, or like somebody said, then we could maybe let,  
17 let's say, CalCERTS know that, oh, me, Kevin Walters, I  
18 will take on a trainer -- or I will be a trainer, jump  
19 through whatever hoops that means, and then you know, if  
20 somebody wants to ride along with me for a week it's 500  
21 bucks, or, you know, something along those lines where  
22 it's not going to be necessarily -- I don't know.

23           I mean, it's a lot of liability for you guys  
24 to be able to enforce that, you know, that we're telling  
25 our training the right things and whatnot.

1           MR. COMMINS: Yeah, that's true, that you  
2 know, we can't be there and make sure, and just because  
3 a Rater's been out there doing this forever, you know,  
4 for 10 years doesn't mean that he knows 100 percent  
5 everything that needs to be done, but like you mention,  
6 there's a big learning curve that, you know, the first  
7 houses that you go out to and just being able to have  
8 gone with a Rater, even if you only get 75 percent of  
9 what's actually required, it's a lot better than  
10 probably, you know, what you would have come out anyway.

11           But so you know, we've had the Providers on  
12 both sides, I think, that's explained that there's good  
13 and bad. And so I think we're just going to have to sit  
14 down and have some more discussions with staff and reach  
15 out a little bit more. I don't know. We'll see.  
16 David's got another comment.

17           MR. HEGARTY: I think you have to remember  
18 that it also helps the Rater who's training, too.

19           MR. COMMINS: Well, yeah.

20           MR. HEGARTY: Just like teaching Sunday  
21 School. You learn more by teaching the children than  
22 you actually teach them, right? I know, it's hard to  
23 believe.

24           MR. COMMINS: But you --

25           MR. MIKE BACHAND: Mike; I just have a short

1 comment. I'm not opposed to an apprenticeship program.  
2 I think that would be great. But I think it should be -  
3 - I mean, it could be voluntary, number one, but number  
4 two, it could elevate Raters to a better status. I  
5 agree to that.

6 The training could be better. It could be  
7 organized. The apprenticeship programs as they are  
8 traditionally done are organized. They have a process  
9 you go through. You do this. You do this. You do  
10 this. You're out. You're a journeyman, et cetera.

11 So you know, I think that could be developed  
12 separately and have different impacts on the Provider's  
13 relationship with an apprenticed Rater versus a non-  
14 apprenticed one. And so maybe if you're -- you know --  
15 you may not be able to design all of that now in this  
16 rule-making, but maybe you could leave the rule-making  
17 in such a way that an apprenticeship could be developed  
18 with due process.

19 And then so it wouldn't rule it in and it  
20 wouldn't rule it out. It would rule it possible in the  
21 Regs.

22 MR. COMMINS: So we've had some discussions  
23 about -- so if we put everything in the Regulations, if  
24 we need to make any minor change, if we want to add  
25 different things, you know, it's basically impossible.



1           So there are some discussions about maybe  
2 coming up with some type of something similar to the  
3 residential manual, a manual that, you know, would have,  
4 like different forms, the checklist to be used by the  
5 Provider when it goes out into a QA, and different  
6 things in that manual that we could make changes to. So  
7 that's another something that we've been throwing around  
8 that --

9           MR. HEGARTY: Guidelines.

10          MR. COMMINS: Guidelines.

11          MR. HEGARTY: More like guidelines.

12          MS. MacDONALD: Yeah.

13          MR. COMMINS: So that, you know, maybe the  
14 code, the Regulations would speak to it, would be pretty  
15 broad. Then in the manual would be -- well, the  
16 guidelines. So just to throw that out there. And so  
17 you know, it's possible just in this example is a  
18 perfect example of where, you know, in the Regs we can  
19 put in there some language along that line, make it  
20 possible to happen, and then in the manual, that we  
21 develop that further, so.

22          MR. NESBITT: This is George Nesbitt. There  
23 are some professions in California, like probably being  
24 a hairdresser, that probably require you to have several  
25 thousand hours of experience before you can, you know,

1 get your certification.

2           And I can imagine that many of them are far  
3 less complicated than what we do. You know, different -  
4 - depending on people's backgrounds, their skills, how  
5 fast they learn, you know, some people need more help  
6 than others.

7           I mean, some people, five-day class is not  
8 enough. Even myself, I'm sure there are things I'm not  
9 doing. There's just too many weeds. So and the  
10 difficulty is -- yeah, you want addresses, Dave? I work  
11 for Dave. No.

12           The thing is, because there has been a general  
13 lack of QA there's a lot of time that can go by and jobs  
14 that can be done and you're not doing things right. And  
15 then there's no feedback. There's no feedback beyond  
16 the individual.

17           And the question is even, does the individual  
18 get adequate feedback. So you know, if you're finding  
19 things with QAs that people are doing right and if  
20 you're sort of not telling all the Raters that these are  
21 the kinds of things we're finding, you know, sometimes  
22 we have these aha moments like, oh, really, I'm supposed  
23 to be doing that, right?

24           Oh, you mean, you're supposed to put all your  
25 failures in the Registry, as opposed to just, you know,

1 saying that it passed in the end even though you  
2 retested it? You know, I mean, there's a lot of things  
3 like that, that mistakes we're making just because it is  
4 so vast, it is complicated.

5           There are things that are up to  
6 interpretation. Some of the interpretations that are  
7 out there we don't think are right. You know, so what  
8 we ultimately want is we want a HERS -- and there's a  
9 lot of people that look down on us as HERS Raters.

10           The "building performance contractors" think  
11 we're all a joke. Some of us are far better qualified  
12 than they are, yet, the end -- you know -- HERS Raters  
13 are not viewed as being intelligent or professional or  
14 you know, having skill.

15           And so I think we do want -- you know -- we're  
16 not helping ourselves, putting people out to work that  
17 aren't qualified. Whether we put in standards that  
18 would be best if people have to either prove experience  
19 or skill, or some people would have to work with someone  
20 for a while before they could get certified.

21           How we put it in the rules, I don't know. And  
22 it varies individual to individual.

23           MR. COMMINS: Okay. Don Charles.

24           MR. CHARLES: Yeah. I was just going to  
25 suggest, you know, maybe -- you know -- a ride along

1 process may be, as many have suggested, logistically  
2 very complicated. But I think if somebody knows their  
3 job, you know, performing it, technically or  
4 mechanically in actuality may be one thing, but I think  
5 you have to first have the knowledge base to even do it.

6           What about such a thing as accomplishing  
7 something very similar, but doing a phone-in process  
8 where, basically, a Provider trainer grills, you know, a  
9 Rater over the phone and walks them through several  
10 different procedures to find where there may be holes in  
11 their understanding of how they perform their job?

12           That might be an added certification where  
13 instead of a ride along it's a call-in training process  
14 where they have to answer certain questions about and  
15 beyond their testing, almost as if they're performing  
16 the job in the field and they walk through that process,  
17 and a qualified trainer would be able to spot potential  
18 issues pretty quickly, I would think, if the questions  
19 were asked correctly.

20           MR. COMMINS: Good comment. So I actually had  
21 another question. So under the Acceptance Test  
22 Technician Certification Provider Program the electrical  
23 group, what they've done is they've required anybody  
24 before they become certified to do the tests for  
25 electrical is that they have to go to a online training.

1           So I'm wondering if it'd be possible and  
2 beneficial that, for example, that we require that a new  
3 Rater before they become -- can attend training that  
4 they watch videos on every single measure that they're  
5 going to be certified to.

6           And I just wanted to get the group's comments  
7 on, you know, putting that into the regulations that,  
8 you know, Provider needed to have training material  
9 available online and that that be required before they  
10 went to the in-house training.

11           MR. HEGARTY: I'll make a comment on that.

12           MR. MCKINNEY: Max McKinney, Energy Analysis  
13 Comfort Solutions, too close. Main issue with that  
14 would be -- and we've -- a couple of other people have  
15 mentioned this already is the diversity of the  
16 situations that we actually test out there.

17           As you were mentioning that I'm thinking,  
18 okay, we'd need a program for or a video on this facet,  
19 this facet, this facet, and all of a sudden, I'm already  
20 over 100 in just a couple split seconds.

21           MR. COMMINS: All right. Right.

22           MR. MCKINNEY: So there's a limitation on  
23 that. Also, just seeing it on a TV screen or computer -  
24 -

25           MR. COMMINS: Right.

1 MR. McKINNEY: -- there's a whole lot  
2 difference than being in the real world, under pressure.

3 MR. COMMINS: I agree.

4 MR. McKINNEY: Being observed by a contractor  
5 or homeowner. You've got time constraints. You've got  
6 all kinds of furniture and other issues to contend with.  
7 A video's great. It's better than a written procedure,  
8 but it still will never take the place of real world  
9 experience.

10 MR. VANTAGGIATO: This is Alex with CHEERS.  
11 We fully support online training as an addition to hands  
12 on life training. We think that theory can easily be  
13 explained through a PowerPoint or a video, but  
14 nonetheless, at the end of the day you're still going to  
15 need to have that hands on training with equipment and  
16 an actual house and so forth.

17 So I think a hybrid of the two would be a good  
18 thing. And I think the online portion is good because  
19 it gives people the ability to review the material over  
20 and over, rather than sitting in a classroom where once  
21 the speaker is done with that session they're going to  
22 have to move on. They can only spend so much time on a  
23 particular subject.

24 So as Max was saying, I don't think that  
25 videos and online should be the only training, but I

1 think it would be a good addition to actually hands on  
2 training, as well. So supplemental, I guess you could  
3 say. So I think a hybrid solution would be ideal, in my  
4 opinion.

5 MR. CHARLIE BACHAND: And this is Charlie --

6 MR. CHARLES: This is Don Charles. My only  
7 suggestion on that would be I think the industry should  
8 look at creating that versus individual Providers. I  
9 think that would be burdensome to add that.

10 It's not cheap to do video production and  
11 quality productions. I think that if something like  
12 that were going to occur I think it should be done where  
13 the industry at large could benefit from it, and have it  
14 streamlined to where one guy's video on a process is not  
15 so, you know, maybe greatly different than somebody  
16 else's video.

17 I think this is one of those areas where there  
18 could be an agreement in how a procedure is done and  
19 what it looks like and how to make that come to pass,  
20 versus having each Provider, you know, put out four  
21 different videos on the same process.

22 MR. COMMINS: Right.

23 MR. HEGARTY: Dave Hegarty, Tav.

24 MR. COMMINS: Go ahead, Dave.

25 MR. HEGARTY: RESNET has that in place now

1 with CAS testing and some other issues and they sponsor  
2 the videos. So I think it's -- and it's an Internet  
3 active video. So it's something that we could talk to  
4 RESNET about and get that stuff down.

5 We spent, CEC spent thousands or hundreds of  
6 thousands of dollars on videos, and they can do an  
7 interactive thing very inexpensively these days. And I  
8 think -- I've been through that training and it's very,  
9 very comparable.

10 Or I shouldn't say comparable. It's very  
11 good, good training. So having been through that stuff  
12 and through online training, I think it saves us from  
13 having to -- more greenhouses gases, more expense, all  
14 these things that would go to actual, physical training  
15 as much, but -- and you need that physical training, as  
16 well, but these things are mitigating those things that  
17 we're trying to overcome anyway, right?

18 MR. CHARLIE BACHAND: This is Charlie Bachand,  
19 from CalCERTS. I think it's not difficult and it's not  
20 even a very great step from what we have now in Title  
21 20, for CEC to specify that every measure should be  
22 covered in the educational material. I think that would  
23 be perfectly appropriate.

24 I think that it would be inappropriate for the  
25 CEC to specify which materials should be covered online



1 or not; I think that leaving it as an option for the  
2 Providers to select among some of the things that you've  
3 said.

4           So you might have five measures that you think  
5 must only be taught in a hands on situation, like the  
6 hands on training requirement that already exists for  
7 all Providers. You might think that others lend  
8 themselves to videos. So you might make that an  
9 optional choice.

10           This education may be offered either online or  
11 not. I certainly wouldn't expect to see the CEC specify  
12 that and I think that that would be problematic. But  
13 allowing it would be a very useful thing, clarifying to  
14 all Raters out there that online education is an option  
15 to them.

16           And slightly tightening up the rules in Title  
17 20, outlining what exactly Providers need to educate  
18 about, that would be welcome.

19           MR. COMMINS: Okay. So why don't we go onto  
20 the next slide. So as I'd mentioned, a lot of Providers  
21 and Raters have commented that they would, especially  
22 Raters, that they would like to start attending QAs,  
23 that they should be made aware of when a QA is going to  
24 be occurring and have the ability, or if they would like  
25 to attend they should be able to attend those QAs, and

1 that there's a lot of information that can be gained by  
2 attending the QAs.

3 I think staff totally agree with that, but we  
4 wanted to get the Providers reason, pros and cons of why  
5 this would be good or bad, and then maybe from the  
6 Raters, as well. Just wanted to get your explanation of  
7 whether, you know, Raters should be allowed to come  
8 along on ratings at QAs.

9 MR. CHARLIE BACHAND: I have a quick question,  
10 Tav. This is Charlie again. Is Energy Commission in  
11 any way considering making QA no longer random? In  
12 other words, letting the Rater know before the fact  
13 which address they will be QA'd on, because right now,  
14 in 2005 standards that was allowed.

15 In 2008 and 2013 it's not allowed. Are you  
16 entertaining the notion of going back to that?

17 MR. COMMINS: So I think in order for the  
18 Rater to be able to come along they would need to know  
19 at least a couple of days in advance that a QA was going  
20 to be occurring and that -- and maybe the city that it  
21 was going to be located in.

22 You know, maybe not specifics of where it was  
23 going to be occurring, and you know, maybe not till the  
24 day of, you know. Sacramento -- sometime next week or  
25 Thursday next week in Sacramento you're going to have to

1 QA at 11:00 o'clock. We'll let you know, you know, in  
2 the morning exactly when that's going to be occurring.

3 But you know, that's -- so right. So if they  
4 would be coming along on a QA they would need to have  
5 some information about when that would be occurring,  
6 yes.

7 MR. CHARLIE BACHAND: Where.

8 MR. COMMINS: And where. Alex.

9 MR. VANTAGGIATO: Alex from CHEERS. To answer  
10 your question, we -- well, at CHEERS we allow Raters to  
11 come and attend the QA upon request. But we only call  
12 them and inform them once our QA Raters are actually on  
13 site.

14 So they don't know ahead of time. So the  
15 whole problem with contacting them ahead of time, I'm  
16 sure everybody agrees, is because we don't want them to  
17 show up ahead of time and fix whatever it is that they  
18 should have fixed to begin with, right?

19 So our Raters call in once they're on site,  
20 this is the HERS Rater requested to begin with, and say,  
21 hey, we're here right now. If you want to show up,  
22 great; if not, don't worry about it. We're going to do  
23 QA.

24 And to this day, nobody has taken up to the  
25 offer. So nobody has shown up yet. That's fine. But

1 if they were, I want to make sure that, you know, we  
2 make it clear that regardless of whether they're there  
3 or not, a QA is a QA.

4 And if we were to find something wrong,  
5 obviously, we would show him and say, hey, look, this is  
6 what you did wrong and that would be a "training  
7 opportunity." A QA failure is still a QA failure, and  
8 that's the overall, arching important thing, right?

9 We could use QA as a training mechanism and I  
10 think that's important, but a QA failure still remains a  
11 QA failure, whether the HERS Rater was there or not. I  
12 think what's important, like I said, is the fact that we  
13 don't give them the opportunity to go back and fix  
14 anything that was broken to begin with, before we got a  
15 chance to be there first. That's all I got.

16 MR. COMMINS: Well, I guess one of my concerns  
17 is, you know, you're out there and you've got a Rater  
18 that's being difficult and they can make the QA person's  
19 life difficult, as well. So I guess if we decided to go  
20 forward it probably would be -- I don't think we would  
21 require it. We would allow it. Charlie.

22 MR. CHARLIE BACHAND: This is Charlie Bachand  
23 from CalCERTS. I think that's a great way of looking at  
24 it. Just to point out two more issues with making this  
25 mandatory. One of them is the logistical burden.

1           We already have, as you guys know, a  
2 significant portion of our staff dedicated to scheduling  
3 and performing the QA. If in addition to that we have  
4 to stay in contact with all of our Raters and start  
5 trying to notify them all, well, in one week we will be  
6 in Sacramento, but we can't tell you what ZIP Code until  
7 Thursday.

8           MR. COMMINS: Right.

9           MR. CHARLIE BACHAND: That to me represents a  
10 huge logistic ordeal that would be very difficult to  
11 overcome. The other thing I'd like to discuss about  
12 this issue and it's one that I bear in mind because it  
13 has happened to us in the past, I have had Raters come  
14 to me, telling me that they are being threatened with  
15 fist fights from contractors or other Raters when it  
16 comes to QA, saying, my work passed and if you disagree  
17 we can go in the parking lot to discuss it.

18           That's a legitimate complaint that's been  
19 passed on to me. The other complaint concern that I  
20 have is I would say somewhere between 10 to 20 percent  
21 of the complaints we field every year are from  
22 homeowners who are in the midst of a lawsuit against  
23 their contractor because they're not happy with the  
24 results that they got.

25           I can only imagine the additional joy of

1 subpoenas and fighting courtroom battles and everything  
2 else, if in addition to that mess we throw in the Rater  
3 and the QA Rater at the same place, in front of the  
4 homeowner, all three of them arguing about whether or  
5 not a particular HVAC system meets Title 24 or not,  
6 because that's easily \$10,000 riding on the line.

7           So I would be very concerned about making that  
8 a mandatory requirement because unless there was some  
9 sort of protection involved our QA Raters would be very  
10 vulnerable and our own Raters would be very vulnerable  
11 to attacks from the contractor.

12           MR. COMMINS: So again, I think if we decide  
13 to go that way it would only be allowed. I think -- and  
14 like, it can be a good training opportunity as long as  
15 everything is in place, everybody's receptive to what's  
16 going on, and you know, the procedures are followed to  
17 make sure that failures are failures and they are  
18 entered. So I guess that's the one thing.

19           MR. MIKE BACHAND: This is Mike at CalCERTS.  
20 There's something else you could do on this. You can  
21 parse anywhere along the line of all of the things that  
22 we're talking about. You can parse between new  
23 construction and existing buildings.

24           So on existing buildings it's a parking lot  
25 discussion, and new construction, it's not the same type

1 of situation. The contractor's probably not there. The  
2 homeowner's definitely not there, because well, the  
3 builder is the homeowner at that point.

4 So you know, some of these things that we're  
5 talking about, we could do different things in different  
6 situations.

7 MR. COMMINS: Right. And then --

8 MR. EDGAR: Bruce Edgar from the Energyguy. It  
9 also makes a difference whether you're dealing with a  
10 new Rater or an experienced Rater. So the new Rater's  
11 going to want --

12 MR. COMMINS: Right.

13 MR. EDGAR: -- to want to be there to learn.  
14 The experienced Rater's going to want to be there to  
15 defend himself.

16 MR. COMMINS: Exactly. Exactly.

17 MR. CHARLIE BACHAND: This is Charlie Bachand  
18 from CalCERTS. I did have one other thing to mention.  
19 I think that CalCERTS is not alone amongst the Providers  
20 now in trying very hard to get information to Raters  
21 when they fail.

22 So in particular, I believe that CHEERS also  
23 is sending out fairly lengthy notices to Raters when  
24 they fail QA, and we do that, as well. I think that  
25 that needs to be something that all Providers do, is be

1 very informative to Raters when they have failed or when  
2 they have a discrepancy, why and what could be done to  
3 address that.

4           And I could even see the benefit in the future  
5 of sharing videos of QA with the actual Raters who had  
6 been QA'd. So I think sharing that information is  
7 important and also feasible for the Providers, but just  
8 not necessarily in this format.

9           If they volunteer for it or if they're very  
10 interested in it, that's one thing. You've already said  
11 that it wouldn't necessarily be mandatory.

12           MR. COMMINS: Right.

13           MR. CHARLIE BACHAND: So that's fine. But I  
14 do think the email technique is the best way of getting  
15 them that information.

16           MR. COMMINS: Okay. Don Charles, actually,  
17 before we go to Don Charles I just wanted to mention, I  
18 actually have an attachment where one of the things I  
19 plan on doing is putting specific requirements in place,  
20 putting, as I mentioned, making kind of forms and  
21 checklists.

22           In one of the checklists, one of the forms  
23 would be a description of what a Rater QA needs to  
24 include, and so I will show that. I've got the link I  
25 think on the next slide. And so Don Charles, if you



1 want to go ahead.

2 MR. CHARLES: Yeah. I was just going to say  
3 that, you know, I can definitely see what some of the  
4 other Providers are thinking as far as possible  
5 confrontations in the field doing live QA. But I think  
6 the way that most audits are done is that the auditor  
7 really doesn't comment.

8 He's just there to observe and follow  
9 procedures and mark down whether or not those procedures  
10 are being done accurately and appropriately or not, and  
11 then submit their findings. So I don't think it's  
12 something that's a discussion point in the field when  
13 you're under audit.

14 You go out in the field with the Rater. You  
15 observe them practicing those procedures and you're  
16 taking your comments and notes, though, and the Rater  
17 would receive a report later on whether or not they  
18 passed that QA and whether or not they did their job  
19 appropriately or not.

20 MR. COMMINS: So the discussions or the  
21 letters that we have received, comments that we have  
22 received, for the most part have been that they would be  
23 kind of discussing, and as they're going along they'd be  
24 talking about, this is what they're looking for.

25 This is what they're finding. This is the

1 problems that we're finding. This is how you could do  
2 it better. This is the right way to do it. So I think  
3 that that's the way that most comments have been, that  
4 they would like to see the -- to go forward, actually.  
5 Charlie has a comment and then we'll go to Dave.

6 MR. CHARLIE BACHAND: I'll be very brief.  
7 Don, I'm not sure what your QA Raters say to homeowners  
8 that expressly and directly ask them, did my own pass,  
9 can I see the results, can I look over your shoulder and  
10 read the manometer (phonetic).

11 At CalcERTS we have found that to be very  
12 difficult, to tell the homeowners in their own home that  
13 they're not privy to that information.

14 MR. COMMINS: I think you --

15 MR. CHARLES: Yeah, I totally understand what  
16 you're saying. What I'm mainly doing right now is  
17 brainstorming and trying to think of -- you know -- I  
18 know, as I'm sure you guys do, there's a lot of  
19 logistical issues with getting with the homeowner and  
20 trying to make these things happen.

21 And you know, I could very well be wrong on  
22 this. It's just for brainstorming purposes only, but I  
23 think that there may be some logistical benefits to  
24 going to that house to do the audit at the time that the  
25 Rater is going there for the schedule they've set up.

1           So but I'm not saying I'm right on that, just  
2 brainstorming and trying to improve the process, how it  
3 might be more efficient and how QA might be able to be  
4 accomplished at a higher and more efficient level.

5           But again, not -- this is just brainstorming  
6 from my -- I'm shooting from the hip right now, not  
7 saying that this is the best way to go, just throwing  
8 everything out on the table.

9           MR. HEGARTY: Put your gun away, Charles.  
10 This is Dave Hegarty. I'd like to comment just to say  
11 that in fact, if we're talking about what's on the slide  
12 today there is no -- you've heard consults, CHEERS say  
13 that not many Raters ever attend, if any.

14           And if you put in a system where the first QA  
15 brings a problem and then they can attend the next one  
16 if they choose, I just want to comment on the Providers  
17 so far, QA post-2012. Having said that, a lot of  
18 education has gone on between the Providers and the  
19 Raters and those things that happen prior to that, like  
20 an old friend of mind from RESNET told me that the past  
21 is the past, and we worry more about the future.

22           But the fact of the matter is that the QA's  
23 gotten a lot better. They're more educational, and I  
24 wouldn't say softer but more explanatory. And so I  
25 think that the option to go out there should -- it

1 should be an option and when it was offered prior to  
2 2012 it was because there was such a hard stance that  
3 Raters didn't always believe that Providers provided the  
4 correct QA or correct situations.

5 I think that we've gotten away from that, if I  
6 might -- at least from our standpoint. But all the  
7 Providers that we've worked with so far have been really  
8 good about making sure we understand where the mistakes  
9 are and that how we can do it and how we work with the  
10 contractor to go back and correct that, if in fact it's  
11 correctable and those kinds of things.

12 That's one thing that I worry about as a  
13 Provider. As a third party energy inspector I want to  
14 be able to correct that problem if the Rater didn't  
15 catch it or if it's a mistake or if he didn't do it, you  
16 know.

17 Whatever the case may be, as an agency -- and  
18 I know that Eric feels the same way for Energuy -- you  
19 have to make sure that the homeowner gets protected in  
20 the end. Let's call the contractor. Let's go out and  
21 get that fixed, right, and that's happening now. We're  
22 really respectful of the Providers for that.

23 MR. COMMINS: Thank you.

24 MR. HEGARTY: But it's the system of ladder  
25 system is what the point was to all this. Go out to the

1 first QA. If you sense a problem you've got to go back  
2 and do a more stringent QA anyway. So then offer to let  
3 them come with you, you know, if they want.

4 You can see that Alex said nobody ever comes  
5 anyway, but the point is, at least it's an option.

6 MR. NESBITT: George Nesbitt. There's a  
7 difference between QC and QA, Quality Control versus  
8 Quality Assurance. Quality Control is where we -- you  
9 know -- you randomly pick parts, you test them and you  
10 throw out the bad ones.

11 Whereas, QA is about identifying process and  
12 problems and hopefully eliminating bad parts from being  
13 created. So having, you know, some ability and the  
14 option to do QA with the Rater, use it as training would  
15 be part of a QA process.

16 MR. COMMINS: Thank you. Anymore comments?

17 MR. WALTERS: I have some stuff I'd like to  
18 add.

19 MR. COMMINS: Okay.

20 MR. WALTERS: Yes, please. Okay.

21 MR. COMMINS: And who's this? Kevin Walters?  
22 Okay. Go ahead, Kevin.

23 MR. WALTERS: Yeah, Kevin Walters  
24 Refrigerator. Sorry. Okay. So a lot of stuff was said  
25 and that whole question of what is QA. You know, it's

1 about what the Rater does. And we were talking in a  
2 previous slide about this new Rater's apprenticeship and  
3 there should be a natural marriage right here in this  
4 slide between these new Raters learning and this QA  
5 process.

6 I mean, I don't think anybody would object to  
7 me saying that hands on learning is by far the best way  
8 to learn, and who better to do it than these QA people  
9 that are supposedly trained to a higher standard than  
10 the actual Raters.

11 I mean, I hear that going back to jobs that  
12 are complete you get notes from the homeowners. You  
13 have excuses by the HERS Raters, those more experienced  
14 HERS Raters. You have, you know, hostility and fist  
15 fights and then this potential for lawsuits.

16 And then on the other side of things, you  
17 know, as Dave said from CalcERTS, it's a logistical  
18 nightmare to schedule, you know, these QA things. And  
19 so why not make it so that -- put it on the HERS Rater  
20 to make it part of the QA process, to call in and  
21 schedule, hey, CalcERTS, I'm going to be -- you know --  
22 when's the next time you're going to be down.

23 Okay. You're going to be over in my neck of  
24 the woods next month. Okay. I'd like to schedule an on  
25 site QA for a job that I'm going to be doing that day.

**CALIFORNIA REPORTING, LLC**

52 Longwood Drive, San Rafael, California 94901 (415) 457-4417

1 And instead of it being a QA as a past tense thing where  
2 we're going in after the job's complete, why doesn't the  
3 QA personnel go in while the Rater's doing the job?

4 They're going to be able to see the process  
5 that the Rater actually does. They're going to be able  
6 to make it way more of an educational situation. It's  
7 going to be transparent to the homeowner in almost every  
8 case, transparent to the contractor and it's going to  
9 provide these new Raters with a huge amount of proper  
10 instruction and almost no liability.

11 So I mean, I don't know if that's going to be  
12 possible or not, but that's the main benefit that I see  
13 in kind of marrying those two.

14 MR. CHARLES: That's kind of what I was trying  
15 to suggest, but again, I'm not saying it's the best  
16 idea, but I think there's some merit there somewhere,  
17 not quite sure where to fully flesh it out yet, but I  
18 think there's definitely some opportunity in there  
19 somewhere.

20 MR. COMMINS: Okay. Anymore questions? Okay.  
21 Let's go onto the next area. So at this time whenever a  
22 Provider finds failures there's often questions of, you  
23 know, who should I be letting know that this house is  
24 not meeting the requirements.

25 So we've got a list of five different

1 organizations there or possibilities. I just wanted to  
2 get the group's comments on, of course, the Rater, that  
3 always occurs. But what about the rating company or a  
4 contractor or CSLB or the Energy Commission?

5 Just wanted to get your comments and feedback  
6 on -- no, homeowner's not there. So that needs to be  
7 added, as well. So I just wanted to get your comments  
8 and feedback on, you know, these -- who should the  
9 Provider be letting know that there was in fact a  
10 failure after all the investigation's been completed.

11 MR. HEGARTY: This is a stocky wicket because  
12 of the fact that we don't know how long the time frame  
13 has been and who's been in there. You start blaming a  
14 Rater or you start blaming a contractor or, you know, a  
15 number of things.

16 If you've experienced, and I'm sure my other  
17 Rater friends here can tell you, when you throw a  
18 contractor under the bus with a homeowner you're in some  
19 real trouble there.

20 MR. COMMINS: Right. Right.

21 MR. HEGARTY: There's some issues with this,  
22 you know. So staying within, you know, unless there's  
23 some big or a lot of failures, the -- you know --  
24 keeping it within the Provider and the contractor and  
25 the Rater for now, and maybe the CSLB and the



1 Commission, but the homeowner has to be really vetted  
2 before we can talk about those things and who's really  
3 at fault here.

4 MR. NESBITT: George Nesbitt. That was Dave  
5 from Duct Testers that just spoke. Read the sign, Dave.  
6 So I believe in the Residential Appendices it says when  
7 a HERS Rater tests and there's a failure, they're  
8 supposed to tell the homeowner, right.

9 So if there's a QA failure wouldn't the  
10 homeowner also have to be told, because it's a failure?  
11 Although this brings up another point I keep bringing  
12 up, the handwritten or the sample CF3Rs that the Energy  
13 Commission publishes say for each section, is this a  
14 pass or a fail or is it not applicable.

15 Yet, in the Registry I cannot issue a 3R or a  
16 6R or a 4R in the past that actually says "fail," and  
17 issue it to a Building Department. So you know, I mean,  
18 you know, so if there's a failure we should document it.

19 It should go to Building Department. It  
20 should go to the contractor. It goes to the homeowner,  
21 and then if it's fixed and if it's tested and pass, you  
22 issue another document that says "pass."

23 MR. MIKE BACHAND: This is Mike at CalCERTS.  
24 This is a huge pit with alligators at the bottom of it.  
25 When the Provider QA identifies a failure, who must be

1 notified? Okay. So first of all, we don't know what a  
2 failure is, but we're going to talk about that some  
3 other day.

4 But let's presume that we got there three days  
5 later. Everything fine in terms of logistics. It's a  
6 legitimate QA. We are QAing the Rater, not the system.  
7 And so that's what our responsibility is. Now, in the  
8 cases where the system's bad, I'll talk about that in a  
9 moment.

10 So a QA Rater goes in. He measures 118 CFM on  
11 a big old system. Sorry. The Raters goes in, measures  
12 118, records it. We come out two days later and we read  
13 58. Well, he read his meter 60 CFM wrong, but the  
14 system's okay. It's way better.

15 So we need to talk about, okay, who are we  
16 notifying about what kind of failure. And yes, most of  
17 the time it's going to be a system failure that the  
18 Rater, for whatever reason, passed. He's got his own  
19 issues. The system has its own issues.

20 And so when you've identified both tracks, who  
21 do we talk about what items to. So the Rater and the  
22 Rater company. The Rater is certified by himself on his  
23 own, by us or by Max or by whoever, and his boss isn't.

24 And so we've for years protected that  
25 information to the Rater. We got our ears peeled back.

1 Everybody hated that. Where's my Raters, this and that.  
2 So I got to know what's going on. Okay. I'm fine with  
3 that.

4 But we need language to help us with that,  
5 okay, which goes to defining an entity. And we're not  
6 licensing people. We're certifying them. That's a huge  
7 -- that's a big difference in the law, as we all know.

8 Okay. And then the contractor, we don't have  
9 a relationship with him or her. CSLB, okay. We can do  
10 some stuff with them. Might be nice if we had a little  
11 bit of encouragement from -- a little language  
12 protecting us from getting our brains sued out for that.

13 And then the Energy Commission, we know you  
14 want to know everything. That's all good and well. And  
15 so I just think we need to think about what all of this  
16 actually means, that it's not just -- the word "QA  
17 failure" doesn't specifically identify what we're  
18 talking about. So that's my comment on that.

19 MR. CHARLIE BACHAND: This is Charlie from  
20 CalCERTS. I'll add a few more things real quick. The  
21 first thing I'll add is I think that the Building  
22 Department should at least be on the list for  
23 consideration, as well as the homeowner.

24 The second thing I'll add is, as Mike and as  
25 Dave indicated, it would be extremely difficult in my

1 opinion for the Providers to take the risk of notifying  
2 the homeowners or the contractors or other people with a  
3 QA failure without some sort of legal protection.

4 Thirdly, I'd like to say, there are a few QA  
5 issues that actually do relate to health and safety,  
6 particularly with obsessive duct leakage where the  
7 platform is somewhat unhealthy, or a blower door test  
8 that shows that the house is too tight.

9 So I think that should be considered by you  
10 guys, as well. To add a further wrinkle to the  
11 conversation, let's not talk about the one percent per  
12 measure QA. Let's talk about the one percent of  
13 associated homes QA.

14 MR. COMMINS: We're doing away with that.

15 MR. CHARLIE BACHAND: Oh.

16 MR. COMMINS: Wait. No, wait. The one  
17 percent of the overall associated we're doing away with.

18 MR. CHARLIE BACHAND: Oh. So but you still  
19 are doing one percent QA on sampled addresses that  
20 weren't tested?

21 MR. COMMINS: Well, it's --

22 MR. CHARLIE BACHAND: It's up in the air?

23 MR. COMMINS: -- there's discussions. There  
24 will be next Workshop.

25 MR. HEGARTY: So should we read that, Charles?

1 Charles?

2 MR. CHARLIE BACHAND: So I need to add  
3 something to that discussion. One of the things I'd  
4 like to add to that discussion is if it remains, once we  
5 QA that address who on earth would we notify? The  
6 Rater's not necessarily even interested in knowing and  
7 the contractor probably won't bother to read our email  
8 when we send it to him.

9 So that needs to be addressed, as well. And I  
10 wish I had more suggestions, rather than problems to  
11 offer.

12 MR. HEGARTY: So I want to tag along with  
13 Charlie on that, because 1673(i)(4)(B), capital B, says,  
14 "Additional Quality Assurance for unrated or untested  
15 buildings or installations. For houses or installations  
16 passed as part of the sample group but not specifically  
17 field verified or Rater tested, the greater of one house  
18 or installation of one percent of all unrated and  
19 untested buildings or installations in a group sampled  
20 by the Rater must be independently rated or field  
21 verified by the Provider or they," in this say, "they  
22 can't contact anybody."

23 They can't contact the builder. They can't  
24 contact the homeowner. How are they going to do that?  
25 How are -- you know -- this doesn't make any sense. And

1 so the Provider are all going to be a failure because  
2 they didn't do it, right, and you can't do it. You have  
3 to notify the homeowner if you're testing unrated stuff.  
4 I wanted to add that.

5 MR. COMMINS: Okay. Mike. Did you have a  
6 comment, Mike?

7 MR. MIKE BACHAND: No. I was talking to  
8 Charlie.

9 MR. COMMINS: Okay. Okay.

10 MR. MIKE BACHAND: Off the microphone.

11 MR. COMMINS: Don Charles, did you have a  
12 comment?

13 MR. CHARLES: No, I'm good.

14 MR. COMMINS: Let's see.

15 MR. MIKE BACHAND: Tav, before you move on, I  
16 might -- could you go back to that last slide? We  
17 didn't talk about the last bullet point, did we?

18 MR. COMMINS: Oh, okay. Oh. This is supposed  
19 to be -- wait a minute. Okay. So one of the things  
20 that we're talking about is, so there's failures that  
21 are occurring out there. Right now, I don't think that  
22 the Provider, and definitely the Energy Commission, we  
23 don't have any clue about in what areas these things are  
24 occurring more often.

25 So one of the comments that came in was,

1 should there be -- should the Provider track where these  
2 failures -- you know -- whether it's in -- we haven't  
3 talked about, you know, how deep to get in. But you  
4 know, when you're doing a QA on duct testing, you know,  
5 25 percent of the times you find a QA failure.

6 Or when you do, for QII, when you -- you know  
7 -- that's a 50 percent failure rate. Or you know, so I  
8 just wanted to get the group's input on whether it would  
9 be beneficial, because this could help us understand  
10 where the problems are that Raters are having and  
11 contractors are having problems, is if we start tracking  
12 where all of these failures are occurring, we could see  
13 problem areas. So I just wanted to get the group's  
14 input on that.

15 MR. CHARLIE BACHAND: This is Charlie Bachand  
16 from CalCERTS, and I'm sorry, Tav, but I have to take  
17 strong exception to what you just said. We have been  
18 tracking failure rates and reporting them to the CEC  
19 since at least 2012 for every measure.

20 If you look in Section 1670 -- sorry, guys --  
21 Section 1673(i)(5), the last paragraph, "Each Provider  
22 will retain records of all complaints received and a  
23 response to complaints for five years after the date,  
24 and annually report a summary of all complaints and  
25 action taken to the Executive Director."

1 Well, since at least 2012 we've submitted that  
2 report, and included in it we've also broken down our QA  
3 per measure, what our requirements were, what we've  
4 done, how many of them have passed and how many of them  
5 have failed.

6 So we are reporting that and I think it's very  
7 useful information to have. I would encourage CEC to  
8 write that kind of transparency into the Regulations so  
9 that you have access to that data. And I just want to  
10 clarify, that reporting's been available to staff for  
11 some time.

12 MR. COMMINS: Yeah, and I apologize. I  
13 remember seeing that.

14 MR. CHARLIE BACHAND: Apology accepted.

15 MR. COMMINS: But that was a general comment,  
16 you know. Maybe other Providers aren't.

17 MR. CHARLIE BACHAND: Fair enough. I'll take  
18 a deep breath.

19 (Laughter.)

20 MR. MIKE BACHAND: Okay. Thank you. While  
21 Charlie's breathing a make a slightly different comment.  
22 Again, I know that you were making a general comment and  
23 you said, maybe where the failures are occurring, what  
24 ZIP Code and stuff, remember, QA is on the person.

25 MR. COMMINS: Right.



1           MR. MIKE BACHAND: Not on the geography or on  
2 the firm. So it's really more what measures is he  
3 having difficulty would be more meaningful than whether  
4 he had a bad duct test in Elk Grove or a bad duct test  
5 in --

6           MR. COMMINS: Actually, that's what I mean.

7           MR. MIKE BACHAND: Yeah.

8           MR. COMMINS: What measures not in location.

9           MR. MIKE BACHAND: Okay.

10          MR. COMMINS: But what measures were having  
11 difficulty.

12          MR. MIKE BACHAND: Good enough. Done.

13          MR. COMMINS: Alex.

14          MR. VANTAGGIATO: Yeah. This is Alex from  
15 CHEERS. I just want to second everything that Charlie  
16 said; very true. And then on top of that, and I think  
17 you mentioned earlier, both new CHEERS, I don't know if  
18 CalCERTS does, as well, that information is accessible  
19 on an ongoing basis to anybody that will get access to  
20 that stuff, right.

21                 As far as the second comment that I see out  
22 there, the Energy Commission developing a standardized  
23 reporting form, one thing that I wanted to point out is  
24 because of the fact that all our Registries are separate  
25 and different and coded in different ways, I think it's

1 good that the CEC standardizes what is being reported.

2 But as far as what the report visually looks  
3 like, I think that should really remain with the actual  
4 Registry, because they're going to look different  
5 because they're different software platforms and so  
6 forth.

7 I think as long as the information you guys  
8 are asking for is there, what the actual report looks  
9 like is irrelevant, and the standardization of that, I  
10 don't think it really applies to the intent that you're  
11 trying to meet.

12 MR. COMMINS: Right.

13 MR. NESBITT: George Nesbitt. Yeah, knowing  
14 what's failing and why is important. I think it would  
15 inform, you know, other problems in training. What  
16 aren't people understanding, whatnot. But also, for the  
17 Commission and the industry in general to know what's  
18 working, what's not, but actually on the reporting you  
19 have multiple Providers.

20 They have different databases. If they're  
21 reporting this information to the Commission in  
22 different ways, how are you going to aggregate it and  
23 actually understand it in total?

24 So there may be, you know, there's some need I  
25 think for standardization, because ultimately, you want

1 to know the industry in total and not just this Provider  
2 versus that Provider. You need to know that, too, but  
3 you want to know the industry as a total.

4 MR. COMMINS: Okay. So why --

5 MR. CHARLES: This is Don from USERA. I agree  
6 with Alex and is it George? I think that Alex is  
7 correct in that, yeah, we're all using different  
8 programming methodologies and things like that. I also  
9 agree with Mr. Nesbitt that there needs to be some sort  
10 of a standardized data.

11 But I think what Alex is saying is the  
12 delivery of that data maybe look different, but it needs  
13 to be standardized in what numbers or what information  
14 we're providing. So I think standardizing what the  
15 information is, is one thing.

16 Standardizing the delivery of it is another  
17 thing. So I agree with both comments, but I tend to  
18 lean a little bit more toward Alex only because I know  
19 from an IT perspective how difficult these things and  
20 we're all using methodologies. So but I think the data  
21 request should be standardized, but not necessarily the  
22 delivery component.

23 MR. COMMINS: Okay. And that actually feeds  
24 right into QA tracking. So it can be difficult for  
25 staff to understand where the different numbers are

1 coming from, and also, Raters have sent us requests that  
2 they would like to be able to see their own QA tracking  
3 so that they can see where they are in the process and  
4 kind of overall, how they're doing.

5           So we have developed some templates. So as  
6 discussed, we need to have some additional discussions,  
7 or we just -- these are examples. So myself, Suzie  
8 Chan, Jim Holland and Todd Ferris worked on these quite  
9 a bit.

10           We sat down and the Commissioner asked us to  
11 take a close look at QA in general. And so the four of  
12 us got together to figure out, you know, in order for us  
13 to determine whether QA is required or not, how can we  
14 do that.

15           And so we came up with three different kind of  
16 lists or templates. So the first one is just figuring  
17 out the work that a Rater has done, and it's broken down  
18 by, you know, envelope, each of the HERS measures. And  
19 then it just goes, okay, what's the actual number that  
20 they've -- HERS test they've done.

21           Okay. Then what's the required HERS test.  
22 What's the associated HERS test and then what's the  
23 required associate HERS QAs. So what this does is it's  
24 easy for us to, as long as the data is auto populated,  
25 it's easy for the Energy Commission to see what's

1 required, how many they've done and what's required.

2           The next template that we've put together,  
3 what it does is it tracks all the QAs. So the first one  
4 is, this is the work that they've done, this is the  
5 required QAs and this is how many QAs have been done.

6           This document tracks the QA process itself and  
7 when a QA was done, and what the outcome eventually was,  
8 and whether, you know, it was a failure or not. And  
9 then for anything that's a failure we go on in order to  
10 track failures and make sure that the additional testing  
11 is being done that's required, you know, that's required  
12 whenever a failure is found, and then making sure that  
13 that tracking goes on and that they're bumped to the  
14 additional two percent QA.

15           That's what this document does, is it tracks  
16 all of the failures and helps us track whether the QA is  
17 being done on failures. You know, so this is just an  
18 example. We would want to work with all the Providers  
19 and get their input on the process of making the process  
20 of QA transparent so that it's easy to understand what  
21 has occurred, what is occurring and, you know, where  
22 they're going with the failures.

23           And so you know, this is just an example of  
24 what we would probably be putting in the manual so that,  
25 you know, in the Regs we would put some generalities or

1 a little bit more specifics than what's in there right  
2 now, and then in the manual we would, you know, put the  
3 things that we would like to see.

4 Or you know, we might just be, depending on  
5 where we end up, we might just be including, you know,  
6 even more specifics in the Regs. so I just wanted to  
7 get the group's -- so the first question I wanted to ask  
8 the group was, should a Rater have -- you know -- what's  
9 the pros and cons of a Rater having access to his own  
10 personal QA process so he can see, you know, where he is  
11 in the QA and how much QA has been done and where, and  
12 where the failures have been occurring and, you know,  
13 where he's having problems. So I just wanted to -- and  
14 Mike's got his hand up. So we'll --

15 MR. MIKE BACHAND: Not really. It flies up  
16 automatically. It's Mike at CalCERTS, yeah. In the  
17 past, and we don't want to talk about that very long, so  
18 I won't, you know, sampling and randomness was the crux  
19 of the matter for Rater QAs.

20 MR. COMMINS: Right.

21 MR. MIKE BACHAND: And for integrity of the  
22 process, which they went -- over the years staff has  
23 changed, by the way. So generically, whoever was up  
24 there at the time, you know, they allowed mentoring of  
25 the Rater during a QA process. QA was mentoring.

1           Then it kind of morphed into, it was more  
2 disciplinary. And so randomness became important.  
3 George Nesbitt correctly defined the difference between  
4 QA and QC and the kingpin that -- George finally said  
5 something good --

6           (Laughter.)

7           MR. MIKE BACHAND: The thing about QA is it  
8 hinges on randomness. That's why QA works, because it's  
9 defined what you have to do, and now it randomly finds  
10 out if it's doing it. There's been since 2012 a big  
11 industry first and probably Commission second movement  
12 away from the randomness process.

13           The things that we've been asked to do have  
14 specifically pretty much decreased the randomness. This  
15 would do that, too. I'm not saying that's a bad thing,  
16 but there's two things we can track with a Rater.

17           We could track, you know, if he can view how  
18 many he's done, then he pretty much knows where he is in  
19 the process, okay. But the other thing is, if we could  
20 dissociate somehow, you've been doing really good on  
21 duct test, but not on QII, but not necessarily tell him  
22 how, you know.

23           I don't think that's the best thing. I think  
24 giving up randomness is probably the best thing. It  
25 simplifies the heck out of a lot of stuff. So you might

1 think that it lowers the integrity of the process, but I  
2 really don't think it will.

3 MR. COMMINS: So when we talk about QA, I  
4 mean, we're really going to get into all of the  
5 specifics and randomness and so it's a discussion that  
6 we need to have about, you know, at the next Workshop  
7 about randomness.

8 My thoughts are, so I think I've talked about  
9 how when they go out and do a QA there's going to be a  
10 list of what's a failure for each measure and a list of  
11 what's a discrepancy. So my thoughts are, you know, if  
12 it's a failure and it's found to definitely be a  
13 failure, you know, they said that they installed this  
14 coil and they didn't, it's a failure.

15 We need to go back and we need to find out if  
16 it's problematic and if it is, there needs to be major  
17 consequences. But if it's a discrepancy, you know, to  
18 me these are minor things that, okay, you know, they  
19 passed the test, but well, let's go forward.

20 So my thoughts are, you know, we're going to  
21 go into this more at the Workshop, but for failures it's  
22 -- my thoughts are it needs to be random because we're  
23 trying to find people who are trying to beat the system  
24 and not do what they're supposed to be doing.

25 For discrepancies, you know, these are the



1 overall system passed. Let's go forward and look at  
2 what they're doing and help them out and make sure that  
3 the Raters -- excuse me -- the Providers' list of  
4 measures are -- his QA Report that he sends to the  
5 Rater, it lists what the problem was and what he needs  
6 to do to fix it in the future. So that was my comment.  
7 Charlie.

8 MR. CHARLIE BACHAND: This is Charlie from  
9 CalcERTS.

10 MR. COMMINS: And then Dave.

11 MR. CHARLIE BACHAND: Sorry, Dave.

12 MR. HEGARTY: That's all right.

13 MR. CHARLIE BACHAND: I have a few things.  
14 One, very much in favor of this kind of transparency,  
15 but if you were to say, well, Charlie, CalcERTS has been  
16 doing QA for many years now and it hasn't always been as  
17 transparent, why is that.

18 The answer is, because for many years the QA  
19 quota was unachievable and it was not necessarily a  
20 great idea to share that information with everyone,  
21 unfortunately. And now that we're actually getting to  
22 the point where we have a QA quota that is reachable and  
23 the ongoing conversation with staff, I think that kind  
24 of transparency is not only great, but it should be  
25 mandatory.

1           And I think that the templates that you guys  
2 have suggested look very workable and very much like  
3 something that you should have at your disposal and that  
4 individual Raters and rating companies should have at  
5 their disposal.

6           Not only will the Raters want to know what  
7 their QA progress is, but the owners of the rating firms  
8 will want to know for each of their Raters what their QA  
9 status is, one, and two, why exactly they're being QA'd.

10           Have they completed 150 duct leakage measures  
11 or 250 versus 100 RCA measures, et cetera. So all of  
12 that I do think needs to be available to Raters and  
13 rating owners.

14           MR. COMMINS: Okay. Thank you. And Dave?

15           MR. HEGARTY: Pass.

16           MALE SPEAKER: He'd rather play games on his  
17 phone.

18           MR. COMMINS: No. He's answering emails.  
19 He's wearing his business. He's been here too long.

20           MR. HEGARTY: That's right.

21           MR. COMMINS: Okay. Do we have anybody online  
22 that would like to comment? We're looking -- we're  
23 unmuting.

24           (Loud feedback.)

25           MR. COMMINS: The problem is that we've got

1 two callers that there's something wrong with their  
2 phone. So Rachel has to unmute it all and then she has  
3 to go back and mute those two callers that are having  
4 phone difficulties. So everybody is, for the most part  
5 unmuted.

6 MS. MacDONALD: Yes.

7 MR. COMMINS: So if anybody online, would you  
8 like to comment? Alex.

9 MR. VANTAGGIATO: Alex from CHEERS. I had a  
10 quick comment about the templates that you just showed.  
11 And I've seen those before. You have sent those before  
12 and we reviewed them. And seeing that template, again,  
13 I want to stress that it gives me the idea that you guys  
14 are going to deal with these reports, are going to look  
15 like.

16 And I just want to stress the importance that  
17 I feel in those reports being standardized by content  
18 and not by look.

19 MR. COMMINS: Right. Right.

20 MR. VANTAGGIATO: Simply from a cost  
21 efficiency standpoint, you know, it's not as simple as  
22 creating a spreadsheet in a computer. You know what I  
23 mean?

24 MR. COMMINS: Right.

25 MR. VANTAGGIATO: So I'm just bringing it out

1 there again, because it's important, I think to all of  
2 us.

3 MR. COMMINS: Okay. So we'll definitely get  
4 together and talk about, or again, so --

5 MR. VANTAGGIATO: We could call a meeting on  
6 its own just on templates.

7 MR. COMMINS: Right. It is. And so what I  
8 was -- so there's going to be some areas that -- so what  
9 I expect to do is open it up to everybody, but have some  
10 offline meetings.

11 MR. HEGARTY: Thank you.

12 MR. COMMINS: You know, put it out there  
13 saying, hey, we're going to be talking about QA  
14 tracking, who wants to be involved, we're going to have  
15 a phone call and you know, let's talk about -- let's get  
16 into the nitty gritty on these.

17 And that's going to be happening in a lot of  
18 different areas, that I think a lot of these, we just  
19 can't solve everything, the specifics, right here. We  
20 need to have offline meetings with people who are very -  
21 - understand exactly what's going on and, you know, have  
22 specific comments and want to get involved in that.

23 MR. HEGARTY: Thank you for including Raters.

24 MR. COMMINS: Okay. So we can have offline  
25 meetings.

1 MS. MacDONALD: In the spirit of transparency,  
2 I just want to clarify that we -- hold on just a sec.

3 MR. COMMINS: We're muting everybody.

4 MS. MacDONALD: Sorry. We can call directly  
5 stakeholders and providers and we can have conversations  
6 one on one. To hold a quorum and a discussion, we will  
7 do that, especially in relation to OII information or  
8 Regulation type thoughts or processes. You know, that  
9 would be in the public forum.

10 But in the context of, like, talking to CHEERS  
11 about one on one with your development of a specific  
12 form in your system, we can do that.

13 MR. VANTAGGIATO: Yeah. I wasn't talking  
14 about necessarily just one on one. I was talking about  
15 a group of industry experts coming together as a group.

16 MS. MacDONALD: Publicly.

17 MR. VANTAGGIATO: Sure.

18 MS. MacDONALD: Yeah, we'll do that publicly.

19 MR. COMMINS: Thank you. Any other comments?  
20 Okay. So again, we've received a lot of comments from  
21 especially Raters, I think, no, and Providers, that the  
22 whole overall process of QA, like the steps that need to  
23 be taken needs to be standardized, needs to be written  
24 down so that everybody is on the same playing field as  
25 they're going through and doing QAs.

1           In this example here, this is where, just an  
2 example, of if a Rater was going to be notified. You  
3 know, if we decide to go forward that a Rater was going  
4 to be notified. This is just an example of, you know,  
5 of the process that a Provider would be required to go  
6 through to -- so that everybody is doing everything the  
7 same way.

8           Down here at the bottom was when I was talking  
9 about the QA Report. So again, QA Report, I think all  
10 of us should -- those who want to get together need to  
11 get together and talk about, you know, right at the top  
12 it needs to say whether it passes or fails.

13           You know, what's the measure, very clearly say  
14 what the measure is, and go through exactly what should  
15 be on that report so that it's very standardized so that  
16 we make sure that all of the information that is needed  
17 by the Rater is there.

18           And so again, so it's a standardized process,  
19 and I would expect what I plan to do is get -- you know  
20 -- put an announcement out there, who wants to work on  
21 this, who wants to comment on this and then get those  
22 people involved and get together and have a short  
23 meeting or a long meeting. Dave.

24           MR. HEGARTY: Max and I will do it. We'll  
25 work with you on it.

1 MR. COMMINS: Okay.

2 MR. COMMINS: So as I've made reference a  
3 couple times, so the first form was kind of overall  
4 process, or the first document that I showed you, just  
5 showed you, but I've gone through and I've put together,  
6 when a Provider goes out there, what I've been told over  
7 and over and over again is that we need to know exactly  
8 what we should be looking at.

9 And within that, it needs to say, you know,  
10 what is a failure and what is a discrepancy. And so  
11 I've put together an example. So this is one that I put  
12 together on duct leakage and so, you know, so everything  
13 here, for example, would be a failure.

14 So first of all, they look at, well, how did  
15 they figure out the allowed leakage. And for example,  
16 if they said that they installed a four-ton and that's  
17 what they did, they allowed leakage on, and you go  
18 outside and it was actually a three-ton, I'm sorry,  
19 that's a failure.

20 You know, there's no ifs, ands, buts about it.  
21 That's a failure. You know, but there's just other  
22 examples that I put in here about what would be  
23 considered a failure. And then, you know, the things on  
24 Section C, which is, you know, your visual things.

25 So let's say that they passed the duct -- they

1 met the six percent leakage or an example was given  
2 earlier that, you know, maybe they're allowed to leak  
3 150 CFM, but they actually put down -- and they put down  
4 that it leaked 100 CFM, but it actually only leaked 50  
5 CFM, is that a failure?

6 No, that's not a failure. That's a  
7 discrepancy, you know. Hey, letting you know, make sure  
8 you put down the -- you passed your test, you passed  
9 your QA, but these are the discrepancies that I found.  
10 So a lot of the things that would be part of discrepancy  
11 would probably be, you know, the visual verifications.

12 So those are the kind of things that I was  
13 thinking about as what would be in a form. And so I  
14 can't do all this by myself, and so I am going to be  
15 sending out a request to Provider and maybe even Raters  
16 to, you know, put together, to work on a form that we  
17 would make that open for everybody to take a look at  
18 before we approved it.

19 But you know, I just wanted to get some  
20 examples together. And then here's -- so I talked about  
21 doing a field review. So that would be the field  
22 review. And then the form review would be, so the  
23 Provider, who's not going out to the field, he's opening  
24 up, going to his database and looking on there, you  
25 know, verifying that, is the correct enforcement agency



1 listed.

2 Permit number might be difficult or impossible  
3 to figure out, but again, that's things that we need to  
4 work on. You know, is the address, ZIP Code, is all  
5 that information correct. And so, you know, different  
6 forms, reviews.

7 There's going to be different -- you know --  
8 maybe all these things are discrepancies, but some of  
9 these things might be failures. So it's just going to  
10 be, as a group we need to get together and discuss, you  
11 know, what's really important, what's not so important.  
12 So what should be a failure and what should be a  
13 discrepancy.

14 Any questions, comments? Charlie?

15 MR. CHARLIE BACHAND: I think all of that  
16 looks great, and speaking for CalCERTS, we'd be happy to  
17 work with you on some of those protocols. In fact, we  
18 probably have some data that you would want to review in  
19 terms of how often does somebody go outside of plus or  
20 minus five percent on the duct leakage test, et cetera.

21 MR. COMMINS: Dave.

22 MR. HEGARTY: Dave Hegarty. Speaking of the  
23 five percent, what about those where we're two, and one  
24 and a half tons, five percent is very minimal. It's not  
25 even a couple of CFM. That's -- we're getting pretty

1 tight on that.

2 MR. COMMINS: Right. So yeah. I mean,  
3 actually, that's a perfect example of what kind of  
4 guidance needs to be in there. Right. If they can only  
5 -- you know -- 25 CFM, well, what's a ton and a half,  
6 what's the allowed leakage for a ton and a half?

7 MR. MIKE BACHAND: I don't know. It's in the  
8 Regs somewhere. Look it up.

9 (Laughter.)

10 MR. COMMINS: Thank you very much, Mike. So  
11 it's very little. So --

12 MR. HEGARTY: Very little.

13 MR. MIKE BACHAND: Thirty-six, yeah.

14 MR. COMMINS: So you know, that's the kind of  
15 stuff that we'll put in there, the guidance, so that  
16 when a Provider goes out there, they're all looking and  
17 using the same guidance and making decisions the same  
18 way.

19 So that's really what this process is about.  
20 When they're doing contractor everybody does it the same  
21 way and that we've come together as a collaboration and  
22 come to an agreement on -- most of us come to an  
23 agreement on, this is what should and should not be  
24 done.

25 MR. MIKE BACHAND: Yeah. It's Mike, and this

1 is not a barb at you. This is a real comment.

2 (Laughter.)

3 MR. MIKE BACHAND: These guys go across  
4 Providers. So one Rater has three Providers or more,  
5 God forbid, that they're dealing with and they're being  
6 QA'd by. And right now, Regs say every Provider does  
7 full QA, and so this is an opportunity to maybe combine  
8 that somehow.

9 I don't know. I don't want to look into their  
10 database and I'm sure they don't want to look into my  
11 database.

12 MR. COMMINS: Oh, interesting.

13 MR. MIKE BACHAND: But there's a gathering  
14 point somewhere that could be had, maybe, that we might  
15 think about. So okay. A Rater gets QA'd, but good God,  
16 three times on the same thing?

17 MR. COMMINS: Right.

18 MR. MIKE BACHAND: You know, that can take him  
19 up to three percent on him, but he's competing against a  
20 Rater who's only got one Provider.

21 MR. COMMINS: Right.

22 MR. MIKE BACHAND: And so it could be an  
23 issue.

24 MR. COMMINS: So we will talk about that quite  
25 a bit at the next Workshop.

1 MR. MIKE BACHAND: Thank you.

2 MR. COMMINS: But yeah, it's --

3 MS. MacDONALD: It's per measure, right?

4 MR. COMMINS: Yeah.

5 MS. MacDONALD: Yeah.

6 MR. HEGARTY: Dave Hegarty, comment on that.

7 That's the Provider -- or that's the Rater's problem for  
8 going to so many Providers. If he pays you to QA,  
9 right, I mean, that's -- wouldn't that be the thing?

10 I mean, if you're getting paid for QA, your  
11 Rater's paying for his own QA, he goes to two different  
12 Providers and he gets four tests on 100 systems, it's  
13 his problem, right?

14 MR. MIKE BACHAND: Yeah.

15 MR. COMMINS: It was a discussion we'll have  
16 in the --

17 MR. MIKE BACHAND: It's a cost issue. So  
18 yeah.

19 MR. COMMINS: Well, it'll be a discussion.

20 MR. VANTAGGIATO: This is Alex from CHEERS.  
21 Just wanted to clarify what Mike said. So the  
22 regulation already requires that if I move somebody two  
23 percent, I have to notify you and vice versa and stuff,  
24 right?

25 But you're talking, in particular, if

1 basically your results and mine aggregate together would  
2 come up to two percent, but we don't know each other  
3 because we don't deal with -- is that what you're  
4 talking about? I just wanted to clarify. That's all.  
5 Okay. Thanks.

6 MR. COMMINS: We you saying even one percent?

7 MALE SPEAKER: Yeah, I was saying --

8 MR. COMMINS: I think he was saying one  
9 percent. So I mean, it's something to talk about, get  
10 people's input. Let's see.

11 MR. WALTERS: Kevin Walters. Quick question  
12 here about this slide. Is there any discussion about  
13 the transparency of the QA Rater in terms of tracking  
14 their stats, as well, in trying to identify QA Raters  
15 who maybe have gone sideways or aren't doing the most  
16 honest work?

17 MR. HEGARTY: No comment.

18 MR. CHARLES: So we got a Darth Vader Rater  
19 out there?

20 (Laughter.)

21 MR. COMMINS: We have --

22 MR. WALTERS: This way, you know, they're --  
23 in speaking of a personal situation where there was a QA  
24 Rater that went back over another Rater's work and found  
25 it to have failed, and they contacted -- or the

1 homeowner then flipped out, contacted the contractor,  
2 contacted this rating company and it all went -- you  
3 know -- it ended up being okay in this situation, but  
4 you know, I mean, we got to look at it fairly on both  
5 sides.

6           If a QA Rater's supposed to be, you know, able  
7 to make these calls in terms of making these, whatever  
8 it be, a discrepancy or a failure, then they should  
9 obviously detract themselves. So I'm hoping with the  
10 new -- so if we come up with these checklists that are  
11 going to be very specific, then that should be occurring  
12 a lot less, because there's going to be a lot less up to  
13 the QA person, what is a pass or what is a failure,  
14 because we're going to have in the Regs or in this  
15 manual, you know, a checklist that's going to explain  
16 exactly, you know, what's a failure or what is a  
17 discrepancy.

18           So I'm expecting that, I'm hoping that  
19 wouldn't be a problem in the future, and I guess I can  
20 open it up to the group. I know, actually, Mike was --  
21 okay -- Alex has a question or a comment.

22           MR. VANTAGGIATO: Yeah. This is Alex from  
23 CHEERS. I think, and correct me if I'm wrong, you know,  
24 one of the comments that he made kind of had to do, to  
25 me, also with QA Rater qualifications, right? So

1 basically, who's actually conducting the QA.

2 I think there has to be a difference between  
3 somebody who's a Rater and a QA Rater, because in my  
4 eyes the QA Rater should be the -- I'm sorry. Is there  
5 something?

6 MR. COMMINS: So the regulations do -- I can't  
7 remember exactly what the --

8 MR. VANTAGGIATO: It gives some minor --

9 MR. COMMINS: So you're saying we should have  
10 some more requirements in there?

11 MR. VANTAGGIATO: Well, I think the QA Rater  
12 should be -- couldn't just be somebody that has done  
13 ratings for -- like, there has to be more clear, defined  
14 standards of who a QA Rater should be. I guess that's  
15 what I'm saying.

16 MR. COMMINS: Okay. That's a good --

17 MR. VANTAGGIATO: Because a QA Rater should be  
18 at a higher level than a regular Rater, right? I can  
19 tell you that in CHEERS' case all our Raters are  
20 directly employed by CHEERS. They don't conduct ratings  
21 for anybody else. So the buck stops here.

22 So if somebody has a problem with what they're  
23 doing they call us and we tell them, that's the way it  
24 is. Like, there is no recourse to them. There's no way  
25 to basically punish them in any way whatsoever.

1           And then on top of that they have to have a  
2 minimum amount of years as a HERS Rater before they can  
3 be a QA Rater. So something along those lines.

4           MR. COMMINS: Right. And actually, that's not  
5 one thing that we were looking at. So thank you.

6           MR. VANTAGGIATO: I just think that's  
7 something that might be worth thinking about.

8           MR. COMMINS: I agree.

9           MR. HEGARTY: Not yet compliant.

10          MR. COMMINS: Any other questions, comments?

11          MR. CHARLES: This is Don Charles from USERA.

12 I mean, I understand what Alex from CHEERS is  
13 suggesting. I guess as a businessperson here, too, and  
14 you know, we are all too familiar with agencies that  
15 over-regulate and become inefficient and impractical.

16           And so I just want to make sure that we are  
17 thinking about good policies that can be practically  
18 carried out that make sense, that we're not creating  
19 regulations upon regulations just to have more  
20 regulations, and that we are actually doing something  
21 that is serving the industry, is expedient that makes  
22 sense, and we're just not creating policies just because  
23 we want to sound good and we're covering every base.

24           I think we just need to be very careful not to  
25 create issues where there may not be one. I think



1 clarification is good, but I think we can -- we have to  
2 be concerned not only about what these policies do, but  
3 their ultimate impact on all the participants.

4           And I think kind of the standard should be is,  
5 you know, how broken is this and do we really, really  
6 need to add regulation upon regulation to fix it. So I  
7 guess it's just a caution from my perspective just to  
8 say, you know, hey, let's really think this through, and  
9 maybe if it isn't really, truly broken, let's be careful  
10 not to over-regulate it and now make it an even more  
11 burdensome process.

12           I think the providers are qualified to choose  
13 who their QA people are, as an example.

14           MR. COMMINS: Okay. Anymore comments? So  
15 another area of concern is, you know, the regulations  
16 are very lacking in the disciplinary process for when  
17 there's problems with Raters, when there's failures of  
18 Raters. And so in order to standardize the process  
19 we've received multiple requests that we be more  
20 specific on exactly what needs to be completed when --  
21 for the different types of failures or discrepancies.

22           So one of the things that was brought up by  
23 several individuals was that for any time we have a  
24 decertification that we actually have like a panel made  
25 up of Providers, Raters and Energy Commission staff.

1           And I just wanted to kind of open that up to  
2 the group and get your -- what you thought of that as a  
3 -- you know -- would this be too burdensome, you know.  
4 Would this be too much work? Would we have people  
5 volunteering? So I just wanted to open it up to the  
6 group and get your comments on a decertification panel.  
7 Dave.

8           MR. CHARLES: This is Don from USERA. If I  
9 could --

10          MR. COMMINS: Go ahead.

11          MR. CHARLES: -- I wouldn't mind starting on  
12 this one.

13          MR. COMMINS: Okay.

14          MR. CHARLES: Because you know, I'm probably  
15 fairly newer to the process than some of the other  
16 providers. But I see this as a problem for all  
17 providers because in many cases, you know, we might be  
18 getting asked to stick our neck out to enforce  
19 something, only to know that the backing really isn't  
20 there.

21                 I mean, we could use the whole conflict of  
22 interest argument that occurred earlier as case in  
23 point. You know, here, we're out there trying to  
24 enforce code. Here, we're trying to go with what our  
25 training materials say.

1           We're trying to do certain things only to have  
2 the writer of the code not even support what the code  
3 says. So I think I would like to see a process where  
4 maybe a decertification process is outlined, but I think  
5 the ultimate puller of the plug, so to speak, on  
6 determining decertification needs to be the CEC.

7           And my thought would be that the process would  
8 be outlined. The Provider would provide their  
9 documentation of the event that they believe might rise  
10 to the level of decertification, and then the CEC would  
11 explore that documentation, investigate on their own on  
12 those processes, and then they would ultimately  
13 determine whether or not that warranted or rose to the  
14 level of a decertification.

15           I think, you know, there's too much out there  
16 right now with a decertification possibly taking place,  
17 and then what good does it do a Provider to decertify  
18 someone, only to have that Rater go across the street  
19 and resume work.

20           And I'm not saying that we haven't taken  
21 advantage of that, but again, I don't think it's  
22 necessarily a good practice. And not to mention the  
23 potential lawsuits that could arise from that practice  
24 alone.

25           So I kind of liken it to, you know, a police

1 officer arrests somebody in a crime. They're not the  
2 one who then prosecutes them. They simply file their  
3 report. Then that goes to a court and the court decides  
4 whether or not, through a due process, whether or not  
5 that person's guilty of that crime or not, not the  
6 police officer.

7 I see the Providers in this role as more the  
8 police officers, you know, the governing body. We're  
9 the ones out on the street making sure that certain  
10 things are occurring, but when we file our report, you  
11 know, we need to be backed up and the laws that have  
12 been written for the state need to then take precedence,  
13 and the -- you know -- the attorneys and the judges, so  
14 to speak, in a court system would then need to identify  
15 whether or not that warrants a decertification, you  
16 know, comparing it to another type of a law process.

17 So hopefully, that made sense. I didn't  
18 articulate that point too well at the end, but I'm  
19 simply saying that I think the CEC needs to have the  
20 final say-so on decertification and not necessarily a  
21 situation where the Provider sticks their neck out only  
22 to have their head cut off.

23 MR. COMMINS: Okay. I think Dave had a  
24 comment.

25 MR. HEGARTY: Well, I liked it right up until

1 you said that last part, there, Don. This is Dave  
2 Hegarty, Duct Testers. First and foremost, right in the  
3 middle you said "due process." So and I think we're  
4 getting closer and closer to a better due process with  
5 the actions of what the Providers have done in the  
6 recent years.

7 But there was a time when we didn't have due  
8 process. So as long as there is a due process for  
9 Raters I think you're in good hands when you say, then,  
10 you can decertify. I do not agree that the CEC should  
11 have the final say-so over decertification, because the  
12 actions of the Provider are at risk there and not the  
13 CEC.

14 They didn't have a hand in that or shouldn't  
15 have had a hand in that, because clearly, Providers as  
16 we know are -- I mean -- CEC is not supposed to have  
17 hands on Raters at all. So I would disagree with that  
18 part.

19 And I did take very well the comment that he  
20 made about having the conflict of interest there. Thank  
21 you, Don. That was a very good point. Looking forward  
22 to when they can rescind their interpretation.

23 MR. CHARLES: Well, I think what I am simply  
24 saying on that, Dave, I understand your comments on what  
25 you're saying on that. I think the Providers are

1 responsible and I think by submitting their  
2 documentation for what they feel rises to the level of a  
3 decertification then needs to be vetted by the ultimate  
4 governing authority who wrote the code to begin with.

5           So in essence, the Provider is decertifying,  
6 but I think the reason why I'm suggesting that a higher  
7 authority even than the Provider make that final  
8 determination is so that that decertification is final  
9 and that it goes across all Providerships.

10           That's my thought on that. It may not need to  
11 happen that way, but that's just the way that I think it  
12 gives the Providership a little bit of protection, in  
13 that the rules of industry were violated, the ultimate  
14 writer or author of the code agrees with the  
15 documentation of the Provider and then they are pulling  
16 that plug, not only on that Rater's certification for  
17 that Provider, but across the industry.

18           That Rater is then decertified, period, based  
19 on the investigation, and/or they come back to the  
20 Provider and say, you know what, we feel that your  
21 documentation lacks information and doesn't rise to the  
22 level of decertification.

23           So we're going to recommend against that.  
24 That's my thinking there, but again, I appreciate your  
25 comments.

1           MR. HEGARTY: Was that before or after the  
2 investigation? That's what I'm saying. If you're  
3 saying that criteria for decertification would be  
4 outlined by CEC, that might be a point, but a Rater  
5 being decertified is on the Provider and should be,  
6 because that should be a cautionary position.

7           MR. CHARLES: I'm not necessarily disagreeing  
8 with you as long as when that decertification occurs  
9 that it is industry wide. Again, I don't think it makes  
10 sense to decertify somebody, because if we're saying  
11 that somebody's violating the standards of the industry,  
12 we're not saying that they're violating the standards of  
13 the provider. We're saying they're violating the  
14 industry.

15           And therefore, if that's vetted out and  
16 confirmed, I think that might rise to the level of  
17 removing them from the industry. And so I think that  
18 the reason why I think the CEC should have a higher  
19 degree of involvement there is because they're the  
20 author of the code. It's their law.

21           MR. HEGARTY: It's our law.

22           MR. COMMINS: So as Don mentioned, so he's  
23 kind of gone onto the second question or comment. So  
24 Alex mentioned earlier that anytime a Rater is moved to  
25 two percent the code requires all Providers to be

1 notified and to move that Rater to two percent, as well.

2           And then so the question is, if a Rater is  
3 decertified, and Don mentioned that, yes, if a Rater is  
4 decertified then all Providers should then follow  
5 through with that decertification. And I just wanted to  
6 get the group's thoughts on that, because you know,  
7 especially as we're going forward we're going to have a  
8 lot more hopefully standardized process on what is  
9 considered a failure, what is considered, you know, a  
10 discrepancy, and then the process that needs to be  
11 follow [sic] to go to decertification.

12           And so I wanted, again, get the group's input  
13 on if one organization, on Provider decertifies, should  
14 all Providers decertify.

15           MR. CHARLIE BACHAND: This is Charlie Bachand  
16 from CalCERTS. I'm real sorry, Tav, but I'm going to  
17 touch back on the first bullet point first.

18           MR. COMMINS: Okay.

19           MR. CHARLIE BACHAND: Energy Commission has  
20 already acted as a Board of Appeal for Raters who have  
21 been decertified or facing decertification, and that  
22 appeals process in one case was a 1230 complaint.

23           I don't know if it's beneficial or not for  
24 Energy Commission to say, prior to a 1230 complaint an  
25 appeal panel exists with CEC staff on board. But if you



1 do or if you don't you might end up in the same place of  
2 trying to decide whether or not a decertification holds,  
3 because after all, you've already been put in that place  
4 at least once already during the initial 2012 OII.

5           So I think that that's worthy of  
6 consideration. Staff is involved, whether they want to  
7 be or not, in decertification processes until those  
8 rules are clarified. With that in mind, if a Provider  
9 decertifies or moves a Rater onto two percent and all  
10 Providers do the same, I think regardless of what the  
11 answer to that question is, I, as CalCERTS, would feel  
12 much more comfortable knowing that Energy Commission was  
13 fully aware of and either supported or did not support  
14 the decertification process that had already taken  
15 place.

16           Given that involvement, I can see much more  
17 reason for agreeing with point two, that all Providers  
18 must adhere to decertification. If Energy Commission is  
19 not involved in those choices then I think that there's  
20 enough room for discrepancy or there could be enough  
21 room for discrepancy between Providers, and judgment  
22 calls on what or doesn't happen, that maybe it should  
23 not be required.

24           MR. HEGARTY: May I comment on that, Tav?

25           MR. COMMINS: One moment. Let me try to get

1 my notes. Okay. Go ahead.

2 MR. HEGARTY: It's Dave Hegarty. Charles, I  
3 don't remember the CEC making a ruling on that, just  
4 have not -- I don't think the CEC and the 1230  
5 decertified those two young gentlemen. It was my  
6 understanding that they allowed --

7 MR. CHARLIE BACHAND: They stated the  
8 decertification stood by implication, meaning that they  
9 had the ability to say that the decertification did not  
10 stand, but they chose not to exercise that. At least,  
11 that was my reading of the OII.

12 MR. HEGARTY: Okay. Of the 1030 -- 1230?

13 MR. CHARLIE BACHAND: Yes.

14 MR. HEGARTY: 1230. Okay. Well, I understand  
15 that. I thought they avoided that by saying they  
16 weren't going to stand into that, that they weren't part  
17 of that, that they weren't going to make any ruling at  
18 all.

19 So the fact -- so we just have a little  
20 disagreement on what they are doing, or what the result  
21 of that was. But being able to say that the CEC's been  
22 put in that place already, I would agree with that. I  
23 don't think they chose to be in the middle of it,  
24 though.

25 MR. NESBITT: George Nesbitt. I mean, I

1 think that we have clear QA and disciplinary.  
2 Hopefully, it's less of a problem. Well, part of it, I  
3 think my understanding was the Commission basically --  
4 the way it is, the Commission certifies Providers.

5 Providers certify Raters. The Commission has  
6 no authority to decertify a Rater. I mean, and  
7 basically, what they were saying is that, you know, it's  
8 not their jurisdiction, and I don't think it is. The  
9 question, I guess, would be even if you have clear  
10 things written out, we're all humans, right?

11 The question would be, if we get to the point  
12 where there is serious disciplinary, and especially  
13 decertification, should there be a process that brings  
14 in people outside of just the provider, to look at it,  
15 to review it, to make sure that we're actually on the  
16 right track, because I think the problem is, really, the  
17 only process is for someone to file the 1230 or whatever  
18 complaint, bring it before the full Energy Commission,  
19 lawyers, process, expense, and that's -- you know -- I  
20 mean, that hurt everyone.

21 I mean, it costs everyone. That's not a very  
22 good process. so I guess the question is, should there  
23 be a process that looks at discipline, and ideally, it  
24 happens before it's handed down, because what do we see  
25 with police officers, cities, fire, police officers,

1 goes to arbitration. Seventy-five percent of the time  
2 they're reinstated.

3           So you know, do we want to make an action and  
4 then have it go to appeal, and then does that have the  
5 appeal right -- you know -- has the right to override  
6 it? I think we'd rather not override it. We'd like to  
7 look at it, is this fair, is this the right action under  
8 the circumstances, and then it holds.

9           And then there is no appeal. I mean,  
10 essentially, it would -- you know -- there would be no  
11 appeal after that.

12           MR. MIKE BACHAND: This is Mike at CalcERTS.  
13 I have an odd kind of question for hashmark number 2  
14 there. What does it mean to be a Rater who's  
15 decertified in one Registry but not in the other? What  
16 does the consumer think of that?

17           What does the contractor think of that? Okay.  
18 You robbed a bank in Mississippi, but you're in  
19 California now. So you're not a bank robber, right?  
20 That's a problem for me.

21           MR. VANTAGGIATO: This is Alex from CHEERS.  
22 Following up on what Mike said, I totally agree with  
23 what you're saying. I can tell you the biggest hurdle  
24 to that is the fact that individually as providers we  
25 all have different processes, right?

1           I mean, we have the same regulations, but as  
2 far as how we do thing, as far as due process, we have  
3 our own ways of doing things, right? And I think that  
4 was one of the reasons that we actually -- there was a  
5 decertified Rater that came to -- well, actually, in the  
6 history of CHEERS there's been two decertified Raters  
7 that came to us and appealed the decertification they  
8 had.

9           And we looked at them on a case by case basis.  
10 We approved the recertification of one, but we did not  
11 approve the other because we felt that it was fair and  
12 he was standing for the reasons that happened.

13           I think it would -- and I mean, I'm just  
14 braining storming here. I think a decertification  
15 through all Providers would be good if at  
16 decertification time, once the decision has been made by  
17 the Provider that, hey, this person is actually -- needs  
18 to be decertified based on what we found, I don't think  
19 it would be unreasonable to think that a panel of a  
20 representative of each of the Provider come together and  
21 say, do we all agree that this person needs to be  
22 decertified based on the information.

23           And if we'll agree on it, based on the same  
24 process that we all use, then we can clearly say, this  
25 person is not going to be certified by any of us, moving

1 forward. And I think that's the kind of collaboration  
2 that we need and that can be done.

3 I mean, the CEC passes down basic regulations,  
4 right, that we have to follow. I get it. But as far as  
5 procedural issues like that, I think that can be handled  
6 in house by us. We are the Providers. We handle  
7 decertifications just like Mr. Nesbitt said.

8 MR. COMMINS: So a formal process of review.

9 MR. HEGARTY: Dave Hegarty.

10 MR. VANTAGGIATO: And Dave Hegarty. Yeah.

11 MR. HEGARTY: Let me just comment on that real  
12 quick here.

13 MR. VANTAGGIATO: Let's say that CalcERTS  
14 recommends, hey, so and so messed up and this is why.  
15 Then we all come together and you just present to us,  
16 you know, we make sure that we have all followed the  
17 same process.

18 And it can be in a formal meeting where we  
19 say, we're recommending this person for decertification;  
20 do you agree with it.

21 MR. HEGARTY: Collusion.

22 (Laughter.)

23 MR. VANTAGGIATO: Can't win, can I, Dave.

24 MR. HEGARTY: Dave Hegarty. Let me comment on  
25 that.

1 MR. VANTAGGIATO: Great. Go ahead.

2 MR. HEGARTY: Out of all due respect to all  
3 the Providers here and to Con Charles on the line, you  
4 guys have all done that. Why are we talking about that  
5 with you? Every one of you has certified somebody when  
6 somebody else has decertified them. So let's -- oh, my  
7 -- I bet Max -- hey, I'm sorry, Max. Please forgive me,  
8 Max. That's not true.

9 MR. MCKINNEY: It's okay.

10 MR. HEGARTY: Okay. So let's get on board  
11 with one thing and be done with it, but you know, we've  
12 all -- not "we," but you have all done that, with all  
13 due respect and all for good reasons, I'm sure, we've  
14 all taken on Raters who have been decertified, one  
15 direction or another.

16 So I don't know why we're having this  
17 conversation. That's something that maybe Raters and  
18 the CEC should have, right? Just checking.

19 MR. COMMINS: Well, we're just trying to  
20 standardize the process and trying to get everybody on  
21 the same page.

22 MR. HEGARTY: Again, they've all done it.

23 MR. VANTAGGIATO: Well, yeah, but the reason  
24 we've done it --

25 MR. COMMINS: But that's because the

1 Regulations weren't clear what was required or what  
2 wasn't required. So if we --

3 MR. VANTAGGIATO: Well, I think it was  
4 required, the end point is -- was requirement that was  
5 correct, but all the steps to that point were not  
6 necessarily clearly defined. And yeah --

7 MR. HEGARTY: Any one of them could have said  
8 no. No, this is the right thing to do; you decertified  
9 him; I'm going to decertify; I'm not going to recertify  
10 him, right. No offense intended, because I love you  
11 all, right?

12 But I think it started outside -- I don't  
13 think -- you know -- I don't think it started with you,  
14 by the way, Mr. CalcERTS. But I think it started with  
15 others and when it happened, and then it snowballed.  
16 Well, you did it to me, so I'm going to do it to you,  
17 kind of thing, right?

18 So we're all culpable here. Let's straighten  
19 this out and move forward. If that's the right thing to  
20 do, then let's do it that way, but let's not sit here  
21 and agree and then do something different.

22 MR. MIKE BACHAND: Mike at CalcERTS. With all  
23 due respect, I believe you've mischaracterized us.  
24 We've never certified someone who has been prior  
25 decertified. We have a question now on our application



1 that says, have you ever been with another Registry or  
2 Provider; have you ever been decertified. And that's a  
3 death question at CalcERTS.

4 MR. HEGARTY: So Mike, I'm sorry, but you have  
5 and he was from Visalia. I don't know. Not you, I  
6 think.

7 MR. MIKE BACHAND: Well, we can talk offline  
8 about that. I don't know what you're talking about.

9 MR. COMMINS: Okay. I think we're going to  
10 move on.

11 MR. WALTERS: I got one quick thing, if you  
12 don't mind.

13 MR. COMMINS: Okay.

14 MR. WALTERS: Going back to that slide -- this  
15 is Kevin Walters, HERS Rater. Speaking as a HERS Rater,  
16 and hopefully for all of the other HERS Raters, you  
17 know, if there's gross negligence by a HERS Rater I'm  
18 all for decertification across the different Providers.  
19 That's fine. Let's get the bad guys out.

20 But you know, if we're talking about a panel  
21 needed of all the Providers in order to do this bad  
22 word, this decertification, then I also think that the  
23 opposite must be true. If there's some sort of an  
24 appeal process for HERS Raters in the QA world, then  
25 also, this QA process should go through this same kind

1 of panel of all Providers, and that's all I got on that.

2 MR. COMMINS: Okay. Thank you. So I think  
3 Rachel is going to take over now.

4 MS. MacDONALD: Okay. Thank you, Tav. So  
5 based on discussion we have, it's clear we need to go  
6 much further into QA, and I'm looking at Tav right now,  
7 and I think we're going to go ahead and start developing  
8 Agenda for this Workshop.

9 I will ask if you would email me your  
10 preference for a Webinar, or if you want to come in  
11 person again, I would like to have a kind of a similar  
12 roundtable type environment and have a little bit more  
13 developed language and specifics to really get into, we  
14 are planning on going there with the two percent, the  
15 one percent and/or what we kind of were touching on.

16 And I felt like a lot of the discussion was  
17 going in the direction of between discrepancies and  
18 failures, and that really lends itself to the thinking  
19 of a new thought process or a valuing of each measure,  
20 you know.

21 Is a visual tag being there as important as,  
22 you know, failed duct leakage CFMs. So we'll get more  
23 really specific on that Workshop. As for today, next  
24 steps include having a 30-day comment period. Of  
25 course, the docket is open regardless, but it would be

1 really helpful to staff if we could have comments filed  
2 within 30 days.

3           So that would be, if you could please get them  
4 to us by June 12th and contact me if you have any  
5 questions. And in those comments, because we'll be  
6 right around this time, if we're looking at having a  
7 late June, early July Workshop we'll be right in the  
8 throes of kind of finalizing our Agenda.

9           So in your written comments if you can write  
10 suggestions as far as QA specifics, that would be  
11 helpful. I will look at getting an actual date posted  
12 for a public notice to go out for that Workshop date.

13           The other thing I'm going to ask individual on  
14 the phone and those of you present, if you know of any  
15 industry happenings in June, July that would conflict  
16 with having a meeting, let me know so I don't schedule  
17 that date only to find out, no, that's the worst date on  
18 earth because I'm going to be at the XYZ industry  
19 seminar. So let me know.

20           Or Providers, you know, if someone's out on  
21 vacation, coordinate with me and let me know, we have  
22 dates that just don't work. You really help me out by  
23 letting me know, versus me scheduling and then  
24 rescheduling.

25           So going forward, all future activities,

1 including this Workshop, Webinars, we notice them  
2 through the Building Standards List-Serve. So make sure  
3 you are on the Building Standards List-Serve. Of  
4 course, you can email us and we can forward you links,  
5 too, but it's just helpful to be on the Building  
6 Standards List-Serve, and a few slides actually have  
7 those links listed.

8 I will have this actual, these slides posted  
9 and I'll have them sent out to the Building Standards  
10 List-Serve, actually. I'll have them posted today or  
11 tomorrow. So comments, if you can keep your comments  
12 specific to the scope of the Field Verification and  
13 Diagnostic Testing.

14 Include the docket number, or the proceeding  
15 number, which is 12 HERS 1-1 and email them directly to  
16 [Docket@Energy.ca.gov](mailto:Docket@Energy.ca.gov). You can also send a hard copy.  
17 And just some helpful hints about filing comments, just  
18 thinking about -- and that's what was really helpful  
19 when we read the comments that we have to date, was that  
20 they were very succinct and specific, with who this was  
21 impacting, what you wanted to see happen, when.

22 You know, obviously, a lot of things, people  
23 want things right now. The where, if anything is  
24 applicable in regards to specific tests and climate  
25 zones, for example. Why we should be changing

1 Regulations and the reasoning.

2 I also appreciate the comments made about  
3 over-regulating and I'm sensitive to that. So I think  
4 if we start getting maybe a little too specific in  
5 discussion, I think in all fairness it's reasonable for  
6 someone to say, hey, you know, you asked for some  
7 reasoning and I think you're going a little too far. I  
8 appreciate that.

9 And then the how. How do we implement these  
10 changes? I liked the reference when we were talking  
11 about the apprentice programs and there was -- I think  
12 it might have been you, Mike, you commented, or someone  
13 commented about, you know, the like similar  
14 construction, going to journey level so many hours.

15 So if you provide examples to other programs  
16 that are in place, that's really helpful, too, because  
17 we as staff can look at those and see other successful  
18 programs that are working as examples. So contact  
19 information. You can call us. You can email us.

20 Courtney Ward was in here earlier. She is  
21 working really specifically on developing HERS whole  
22 house issues. That will be coming later this summer.  
23 We're actually going to have a public notice out shortly  
24 about some of the HERS, too, subject matters. That's a  
25 separate document, but that'll be coming out.

1           So for those of you interested in whole house,  
2 stay tuned. And then these are the links I spoke about.  
3 So I do have links in here to the Regs, the notices, the  
4 proceeding and then how to subscribe to the List-Serve.

5           And just note, if you haven't subscribed to  
6 List-Serve yet and you do go to subscribe, you have to  
7 actually confirm, do like a reply back thing that it  
8 asks you to do, because otherwise, you won't be  
9 subscribed.

10           So that's it and we're early, and if there's  
11 anymore comments I would -- can you open the phone lines  
12 and mute caller 10 and caller 12, and I can ask if  
13 there's any comments on the phone, please. Perfect.  
14 Okay.

15           On the phone, we're getting ready to close.  
16 Did you have any questions or comments you'd like to  
17 make.

18           MR. CHARLES: I'm good.

19           MS. MacDONALD: All right. Thank you. Well,  
20 I'd like to -- you can mute it, then. Thank you, Tav.  
21 And saying that, I'd like to thank you for listening all  
22 day remotely. And I have George at the podium.

23           MR. NESBITT: George Nesbitt. Just one thing.  
24 The -- I have to go back through the Title 20 word for  
25 word, but I suspect there's very little we need to

1 change there. And I think Tav mentioned earlier, the  
2 thing is in Title 20, changing things is a lot harder.

3 And if the intent is fairly clear but there's  
4 not an overly precise level of detail and then we  
5 create, essentially, like the Residential Manual, we  
6 create a manual for the HERS System that can change and  
7 has the details and explains, you know, more details,  
8 what is or isn't a conflict of interest, whatever needs  
9 to be, and those are things that's published, it's  
10 consistent.

11 It's open to everyone. People can comment on  
12 it and it can change, if needed.

13 MS. MacDONALD: Yeah. We have to be -- sorry  
14 to interrupt.

15 MR. NESBITT: So.

16 MS. MacDONALD: So on the discussion of some  
17 type of Guidance Manual, I think everybody would like or  
18 is kind of open to that, because it could be a living  
19 document. And when we referenced that I referenced  
20 specifically the actual, similar to how our Building  
21 Standards has their Compliance Manuals, that was the  
22 whole thought.

23 Now, we have to be careful on our end because  
24 we're separate than the Building Standards. We're under  
25 Title 20. And so we have to be really careful and do --

1 what we put out there as guidance; that is, we all agree  
2 this is a good idea.

3 We all agree that we're going to follow these  
4 processes and/or possibly change them, but we also have  
5 to acknowledge that these are not adopted Regulations.

6 MR. NESBITT: Right.

7 MS. MacDONALD: So they're like best  
8 practices. So does -- you know -- those are the things  
9 we have to think about. We also have to be careful in  
10 making such a document, and I'm speaking as an Agency  
11 saying this, just publicly as to how we explore and  
12 think about these processes.

13 I personally like the idea because it can  
14 change. It's living and breathing. As the industry  
15 changes we can make these changes without having to go  
16 through a full, you know, rule-making. But we do, we  
17 have to be careful and tread carefully going down this  
18 road of having such a manual or guidelines or frequently  
19 asked questions, but having them really available. We  
20 have to be careful that we don't make underground  
21 regulations.

22 MR. NESBITT: Well, yeah, and not contradict  
23 what --

24 MS. MacDONALD: Yes.

25 MR. NESBITT: -- the code actually says.



1 MS. MacDONALD: Yes.

2 MR. NESBITT: And then change it somewhere  
3 else. But I think even the Residential and the Nonres  
4 Manuals, they're approved by the Commission, but staff  
5 has a lot more authority and it's easier to go and to  
6 change something and to approve it, as opposed to a  
7 fully regulatory process.

8 MS. MacDONALD: Right. Right.

9 MR. NESBITT: And I think that's the different  
10 [sic]. I mean, it just, the more it's out there, it's  
11 clear, it's consistent and it's available so that, you  
12 know, it's not a different rule for this Provider and  
13 that Provider, or this Rater or that, and that way, if  
14 people have a question they can go to it, or that they  
15 don't get a different answer every time.

16 MS. MacDONALD: Right.

17 MR. NESBITT: So I mean, it needs to exist in  
18 some form of document.

19 MS. MacDONALD: Be updated with erratas, yeah.  
20 I agree. So thank you for everyone coming. I  
21 appreciate your attendance all day and look forward to  
22 future discussions specific to QA. And any other topics  
23 that we missed or didn't touch base on, please feel free  
24 to re-up them again in the comments.

25 I think I felt pretty good about what we

1 covered and the discussion that we had, based on the  
2 comments received. And I do believe that a full day  
3 dedicated to QA is really needed. And then you know, we  
4 might have another day after that to build on other  
5 issues that may be identified.

6 But we'll decide that going forward and keep  
7 moving forward, and I appreciate you being here because  
8 that just keeps us moving in the right direction, your  
9 involvement. So thank you.

10 (Whereupon at 3:37 p.m., the Workshop was  
11 adjourned.)

12

13

14

15

16

17

18

19

20

21

22

23

24

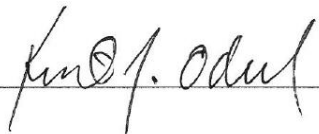
25

**REPORTER'S CERTIFICATE**

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of June, 2015.



---

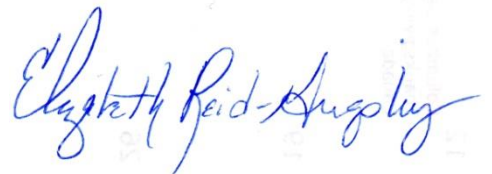
Kent Odell  
CER\*\*00548

**TRANSCRIBER'S CERTIFICATE**

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of June, 2015.



---

Elizabeth Reid-Grigsby  
Certified Transcriber  
AAERT No. CET\*\*D-145