

DOCKETED

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| Document Title: | Charles Hanson Comments - on CEC Issues Cease and Desist Notice to RESNET & CalCERTS HERS Index in California - Part 2 of 2 |
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Comment Received From: Charles Hanson
Submitted On: 8/25/2023
Docket Number: 23-HERS-02

**on CEC Issues Cease and Desist Notice to RESNET & CaCERTS
HERS Index in California - Part 2 of 2**

Additional submitted attachment is included below.



**CALIFORNIA
ENERGY COMMISSION**



August 4, 2023

Steve Baden
Executive Director
RESNET
P.O. Box 4561
Oceanside, California 92052

Charlie Bachand
Chief Executive Officer
CalCERTS, Inc.
31 Natoma Street, Suite 120
Folsom, California 95630

RESNET HERS Index Rating use in California

Dear Steve Baden and Charlie Bachand:

The California Energy Commission (CEC) has recently been made aware that RESNET and CalCERTS, Inc. have been providing false and misleading information to the California building industry, consumers, and other stakeholders. Recent communications from RESNET and CalCERTS, Inc. have been publicly stating that the RESNET HERS Index Rating System Program and associated labeling in California has been certified by the CEC. In fact, there is no record indicating this program has followed the proper procedural processes provided by California Code. As described in more detail below, operation of such an unapproved system and labeling practice is in violation of California law, and any current practices in violation of the Code must be discontinued immediately.

Section 25942(c) of the California Public Resources Code provides that it is unlawful to perform home energy rating services in California without CEC certification. In the interest of transparency, the CEC may only approve an entity to perform home energy rating services pursuant to the application and review process established in Title 20, sections 1670 through 1675 of the California Code of Regulations. Pursuant to these regulations, certification of a home energy rating system program requires a vote of the Commission at a duly noticed business meeting.

As of the date of this letter, the CEC has not received a compliant application from RESNET to be certified as a provider lawfully permitted to facilitate home

energy rating services pursuant to section 1674, and therefore the CEC could not have certified its program. Therefore, any home energy rating services conducted pursuant to RESNET's HERS Index Rating System Program is in violation of California law.

To the extent RESNET is purporting to operate its program under CalCERTS' certification as a HERS provider, please be advised that CalCERTS' certification as a HERS provider does not include RESNET's HERS Index Rating System Program. Accordingly, if this is the case, both RESNET and CalCERTS would be operating in violation of California law.

To operate RESNET's program pursuant to CalCERTS' certification, CalCERTS must submit an application to amend its certification. Please note that RESNET cannot operate pursuant to CalCERTS' certification until after CalCERTS' amendment is approved by the Commission at a duly noticed business meeting.

It is my understanding that you may be basing your advertisements on an earlier email from me, in which I expressed interest and support for a RESNET *pilot program* in California. However, as stated above and as you should be aware, certification of home energy rating services may only be accomplished through a vote of the Commission at a duly noticed business meeting. Any expression of support by me, or anyone else, for your efforts outside of a Commission vote does not constitute approval.

The CEC is happy to work with both of your organizations as you work to certify RESNET's HERS Index Rating System Program in California if you choose to pursue such certification. Additionally, as I have stated previously, the CEC looks forward to working with you when we initiate our pre-rulemaking to update the California HERS Program focused on whole house ratings as required by California Public Resource Code section 25942 and Title 20. The initial stage of this proceeding is anticipated to begin prior to the end of 2023. In the meantime, any representation, advertising, or marketing of the RESNET HERS Index Rating Program and associated labeling as approved or authorized by the CEC is in violation of these laws.

As a result, the CEC hereby directs RESNET, CalCERTS, and its officers to immediately cease and desist any home energy rating services under RESNET's HERS Index Rating System Program or associated labeling in California on any new or existing residential dwelling. Furthermore, the CEC directs RESNET, CalCERTS, and its officers to immediately cease and desist any advertising of services pursuant to RESNET's HERS Index Rating System Program or of any CEC agreements or approvals purporting to authorize RESNET to operate a

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RESNET HERS Index Rating Program in California. Please confirm in writing that you have ceased and desisted these activities, including removing and withdrawing any and all false advertisements, no later than August 11.

If you have any questions, please feel free to email me at drew.bohan@energy.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Drew Bohan', with a long horizontal stroke extending to the right.

Drew Bohan
Executive Director

cc: Commissioner Andrew McAllister