

**Docket Optical System - Comments on DOCKET # 08-HERS-2****DOCKET****08-HERS-2**DATE OCT 14 2008RECD. OCT 15 2008

**From:** "John Proctor" <john@proctoreng.com>  
**To:** <hlam@energy.state.ca.us>  
**Date:** 10/14/2008 4:50 PM  
**Subject:** Comments on DOCKET # 08-HERS-2  
**CC:** "Bill Pennington" <bpenning@energy.state.ca.us>

Dear Ms. Lam

I am in receipt of a notice of a hearing to receive public comments on the Express Terms (45-Day Language) of the proposed amendments on October 15, 2008.

I will not be able to attend this hearing in person or by phone, but I would like the following comments considered by the Commissioners and Staff of the Energy Efficiency Committee.

Proctor Engineering Group, Ltd. is a California Corporation that has provided energy efficiency expertise to the California Energy Commission, the California Investor Owned Utilities, various California Municipal Utilities, individuals and businesses in California. We are the originators of the refrigerant charge and airflow research and much of the duct leakage research that led to adoption of these measures in Title 24. We are the original verification service provider in California -- predating adoption of such entities within Title 24 and the HERS system.

We note the following in the 45-Day Language:

"Independent Entity means having no financial interest in, and not advocating or recommending the use of any product or service as a means of gaining increased business with, firms or persons specified in Section 1673(i). NOTE: The definitions of "independent entity" and "financial interest," together with Section 1673(i), prohibit conflicts of interest between providers and raters, or between providers/raters and builders/subcontractors."

We note that this language is not sufficient to eliminate conflict of interest between verification service providers (VSPs) and providers, raters, builders/subcontractors.

We therefore request that the language of all appropriate sections be changed to reduce the likelihood of conflict of interest by including the following:

"Independent Entity means having no financial interest in, no shared staff, no representation on boards of directors by principals or staff between: VSPs and Providers, VSPs and Raters, VSPs and Builders, VSPs and Subcontractors, Providers and Raters, Providers and Builders, Providers and Subcontractors, Raters and Builders, Raters and Subcontractors."

Furthermore we submit that the Verification Service Provider system is unworkable and produces results counter to the interest of the Commission, counter to the interests of the Citizens of California, and counter to the interests of reduced global climate change.

We therefore request that the VSP system be eliminated from the HERS system and that raters be responsible only to the close verification of Providers.

Thank you for your consideration of our requests.

John Proctor, P.E.

President

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