

MASCO HOME SERVICES, INC.

<b>DOCKET</b>	
<b>08-HERS-2</b>	
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December 16, 2008

Helen Lam  
California Energy Commission  
Buildings and Appliances Office  
1516 Ninth Street  
Sacramento, CA 95814-5512

Re: Docket No. 08-HERS-2 California Home Energy Rating System (HERS)  
Program Regulations 15-Day Language

Dear Ms. Lam:

Masco Home Services, Inc. ("MHS") appreciates the opportunity to provide comments on the proposed 15-day language issued recently by the Commission in the Phase II Home Energy Rating System ("HERS") rulemaking proceeding.

MHS, through its Environments For Living® program, offers home builders a comprehensive range of energy-efficiency services and tools, including plan reviews, training, field testing, certification and marketing. Based upon the principles of building science, the Environments For Living® program provides builders with clearly defined requirements to promote whole-house energy efficiency, along with the tools and assistance they need to increase customer satisfaction and reduce claims and callbacks. Over 100,000 homes have been built under MHS' Environments For Living® program since its introduction in 2001, and MHS stands behind the merits of its program by providing a limited guarantee of comfort and energy savings to homeowners whose builders participate in the program.

MHS strongly supports the overall objectives of the Phase II HERS rulemaking proceeding to promote and provide greater quality assurance in the provision of whole-house energy efficiency assessments and improvements. By strengthening builder and homeowner confidence in the assessments and recommendations they receive from providers of such services, the Commission has an opportunity to stimulate demand for home energy efficiency improvements in the new construction and retrofit markets.

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As currently drafted, the 15-day language for the proposed Phase II HERS regulations contains many elements that are consistent with the objective of promoting expanded use and implementation of whole-house energy efficiency principles. However, recent changes to the provisions in the draft regulations relating to Building Performance Contractors appear likely to undermine the purpose and effectiveness of the whole-house energy efficiency regulations.

Notably, MHS agrees with the Commission's recognition of the valuable roles that can be played by Building Performance Contractors under the Phase II regulations. Such contractors already possess significant expertise in building science and in the design and delivery of comprehensive, turn-key energy efficiency solutions that meet builder and homeowner demands for quality and effectiveness. MHS believes that the value provided by Building Performance Contractors to builders and other customers through the provision of such integrated solutions warrants an exception to the conflict of interest provisions in the HERS regulations.

Like the Commission, MHS recognizes that Building Performance Contractors can effectively perform dual roles as both an installer and rater of energy efficient home improvements and that HERS providers (such as CHEERS, CalCERTS and CBPCA), augmented by the market discipline imposed on Building Performance Contractors by builders, homeowners and competitor contractors, can effectively control the conflict of interest risk through enhanced transparency, monitoring and training.

However, MHS questions the purpose and efficacy of the language added to Section 1673(j) in the most recent version of the draft regulations that prohibits Building Performance Contractors from performing field verification and diagnostic testing of Title 24 energy efficiency improvements that they install. At a very fundamental level, that prohibition is inconsistent with the underlying rationale for the conflict of interest exception for Building Performance Contractors described in Section 8.3 of the Initial Statement of Reasons issued by the Commission at the outset of the Phase II rulemaking proceeding.

The Commission has stated that Building Performance Contractors possess the skill and sophistication to perform in-depth, accurate and reliable assessments and ratings of energy efficient home improvements and that the enhanced training and oversight received from HERS providers is sufficient to protect consumers against conflicts of interest. Inexplicably, though, the recently added prohibition against Building Performance Contractors rating Title 24 improvements contradicts the Commission's previously stated position.

In effect, the prohibition presumes that HERS providers are unable to provide adequate quality control oversight over Title 24 raters, contrary to the presumption of adequate provider oversight capability for whole-house ratings

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performed by Building Performance Contractors. On what basis has the Commission apparently concluded that ratings of Title 24 energy efficient improvements are inherently more unreliable than other types of ratings performed by HERS raters, or that conflict of interest risks associated with Title 24 ratings are not controllable by effective training and oversight by HERS providers?

The inconsistent treatment in the proposed conflict of interest provisions of whole-house ratings and Title 24 ratings performed by Building Performance Contractors renders the conflict of interest exception for Building Performance Contractors a relatively hollow one by imposing unnecessary costs on builders and homeowners that create a disincentive for the use of comprehensive whole-house services for which Building Performance Contractors are particularly well-qualified. It also ignores marketplace realities in which the quality of the assessment, recommendation, installation and rating of whole-house energy efficiency improvements (which can include Title 24 improvements) is often directly proportional to the size and sophistication of the entities performing those services.

Thus, the prohibition against Building Performance Contractors performing Title 24 HERS ratings appears to favor a cottage industry of small HERS raters at the expense of homeowners and builders who will be forced to shoulder higher costs for no improvement in service quality (and possibly a loss of service quality). Homeowners and builders should not have to hire multiple raters to satisfy the state's HERS requirements. A single rater, equipped with the proper skill-set and subject to adequate oversight by a HERS provider, can provide those services more cost-effectively and with greater quality assurance. Building Performance Contractors are well-suited to performing that function, while the HERS providers are well-equipped to protect the system against the risk that raters may fail to provide true and accurate ratings.

Finally, MHS suggests that the Commission consider the approach to conflicts of interest used successfully by the RESNET program across the country. In particular, the RESNET program does not require raters to be independent entities from the installers of energy efficient improvements, provided that there is full disclosure to customers about the relationship between the rater and the installer. The conflict of interest exception for Building Performance Contractors in the proposed Phase II regulations is philosophically akin to the RESNET approach, while the inconsistent conflict of interest prohibitions associated with Title 24 improvements appear out of step with the successful approach taken in many other parts of the country.

MHS appreciates the opportunity to participate in this rulemaking proceeding to assist the Commission in achieving its stated policy goals of expanding the use of energy efficient home improvements and ensuring their quality and cost-

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effectiveness for homeowners and builders. MHS offers the comments above in that spirit, and we thank you for your consideration of them.

Yours very truly,

A handwritten signature in black ink that reads "Rick Davenport". The signature is written in a cursive, flowing style.

Rick Davenport  
Vice President  
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