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February 5, 2024

Dominic Sims
Chief Executive Officer
International Code Council
200 Massachusetts Avenue, N.W.
Suite 250
Washington, D.C. 20001

Re: Letter in Support of American Gas Association Appeal of 2024 IECC

Dear Mr. Sims:

Atmos Energy Corporation (“Atmos Energy”) appreciates the opportunity to express its support for the American Gas Association’s (“AGA’s”) appeal of certain provisions of the 2024 International Energy Conservation Code (“IECC”).

Headquartered in Dallas, Texas, Atmos Energy is the nation’s largest natural-gas-only distributor, serving more than three million natural gas distribution customers in over 1,400 communities in eight states, from the Blue Ridge Mountains in the East to the Rocky Mountains in the West. Atmos Energy strives to be the safest provider of natural gas services and continues to modernize its system through investments that benefit the environment and the communities served. Atmos Energy also supports a robust set of initiatives and programs for improved consumer energy efficiency within our service territories.

Atmos Energy shares AGA’s concerns regarding significant irregularities in the 2024 IECC development process and agrees that such irregularities, including the extra-procedural “Consensus Building Forum” and resulting “omnibus proposal,” are inconsistent with the Code Development Principles of openness, transparency, balance of interest, due process, and consensus¹ and undermine the credibility of the resulting code provisions. These principles are intended to be the foundation for IECC development.²

The Code Development Principles are *more* than aspirational benchmarks; the Code Council Policies are replete with language that ensures a standardized, open, transparent process

¹ Code Development Principles, <https://www.iccsafe.org/products-and-services/i-codes/code-development/code-development-procedures/> (last visited Jan. 29, 2024).

² International Code Council, CP#28-05 – Code Development, 1.4 (“The manner in which Codes are developed embodies core principles of the organization.”).

for code development and adoption. Straying outside the confines of the Code Council Policies and underlying principles is a “material and significant irregularity of process or procedure” and therefore the AGA’s appeal should be sustained.³

Skirting the public-facing Code Development Process risks eroding the public trust and reliance put upon this, and future, versions of the IECC.⁴ To maintain confidence in the Code Council, the following process departures should be acknowledged and addressed:

- First, the “Consensus Building Forum” and the resulting “omnibus proposal” were not completed in accordance with the Code Council Policies, in clear violation of CP#28-05 2.1. “The code development cycle *shall* consist of the complete consideration of code change proposals *in accordance with* the procedures herein specified.”⁵
- Second, the informal setting in which the Consensus Building Forum took place was neither an open discussion nor was it available to all parties desiring to participate. The Code Development Process has a stated objective of ensuring “[t]he open discussion of code change proposals by *all* parties desiring to participate.”⁶
- Third, while the ICC Board is given the authority to determine the general purpose and scope of the IECC, this authority must be exercised at the outset of the code development cycle, not midway through.⁷ Every single process, policy, and procedure in place to encourage an open, transparent, and fair development cycle is thwarted if the ICC Board can redefine the scope and intent of the IECC after the cycle has begun. Each provision of the 2024 IECC is within the confines of its scope and intent. In other words, an alteration to the scope and intent of the 2024 IECC is a de facto alteration to every single provision previously proposed, discussed, and negotiated.

If left uncorrected, these departures may result in states and municipalities adopting the codes more slowly due to concerns regarding the impartiality and robustness of the code development process.

The appropriate time to remedy these irregularities, and lessen the burdens of government, is prior to the finalization of the 2024 IECC—not after it escapes the confines of the IECC appeals process and enters, in varying forms, dozens if not hundreds of individual codes. The International Code Council’s codes are designed to be accepted upon publication.⁸ In fact, a foundational

³ See International Code Council, CP#1-03 – Code Development, 6.3.8.

⁴ Such a risk is directly contrary to the stated mission of the ICC: “To provide the information, tools, and resources that members rely on, building safety professional turn to, and the public trusts.” International Code Council, *Who We Are*, <https://www.iccsafe.org/about/who-we-are/> (last visited Jan. 30, 2024).

⁵ International Code Council, CP#28-05 – Code Development, 2.1 (emphasis added).

⁶ International Code Council, CP#28-05 – Code Development, 1.2.2 (emphasis added).

⁷ See International Code Council, CP#28-05 – Code Development, 1.3.

⁸ See Benefits of Participating in the ICC Code Development Process, https://www.iccsafe.org/wp-content/uploads/17-13724_CORP_2017_Brochure_Benefits_of_Participating_CDP_FINAL_HIRES.pdf (last visited Jan. 29, 2024) (“The cycle culminates with the publishing of a new edition of the International Codes *ready to be adopted* throughout the U.S. and by the global community”) (emphasis added).

objective of the ICC is “the lessening of burdens of government through the development, maintenance and publication of model statutes and standards for the use by federal, state and local governments in connection with the administration of building laws and regulations.”⁹ The codes cannot fulfill this purpose if regulators lose confidence in the ICC process and feel that they must closely scrutinize the codes before adoption. Forty-eight states, including the eight served by Atmos Energy, have in effect some edition of the IECC.¹⁰

In addition to the significant procedural issues associated with the 2024 IECC, Atmos Energy is concerned about the real-world effects of the challenged code provisions on homeowners and businesses if the provisions are included in the final 2024 IECC and are implemented by states or local governments. The challenged code provisions could eliminate the use of affordable and efficient gas appliances and products—as well as undermine successful energy efficiency rebate programs—and increase costs for consumers.

Natural gas appliances are efficient and affordable, and natural gas itself is a cost-effective fuel.¹¹ Highly efficient natural gas appliances not only offer significant greenhouse gas emissions reductions but can achieve these reductions at a fraction of the cost of electrification.¹² Atmos Energy offers energy efficiency rebate programs with a proven record of success. Atmos’s SmartChoice rebates incentivize customers to update to new, high-efficiency natural gas appliances. In 2022, nearly 60,000 residential and commercial customers participated in Atmos Energy’s energy efficiency programs, resulting in almost 2 million therms of natural gas conserved and 11,625 tons of carbon dioxide emissions avoided annually.¹³ These programs help keep energy costs affordable—a vital consideration for ensuring low-income consumers are not left behind as Atmos Energy and others work toward a more energy efficient future.

The Council must carefully consider that requiring all-electric or electric-ready buildings would likely increase the fuel cost burden to consumers while potentially increasing the overall cost of housing and commercial buildings. Conversely, allowing for cutting-edge natural gas appliances, like those in Atmos’s SmartChoice program, aligns with President Biden’s goal of realizing a future “in which every person has safe, clean, and affordable options for housing.”¹⁴

⁹ Bylaws for the International Code Council, Inc.: A Delaware Nonprofit Nonstock Corporation, Dec. 10, 2021, 1.2, <https://www.iccsafe.org/wp-content/uploads/ICC-Bylaws-December-10-2021-Certified.pdf> (last visited Jan. 30, 2024).

¹⁰ Code Adoptions By State, I-Code or Country, <https://www.iccsafe.org/adoptions/code-adoption-map/IECC> (last visited Jan. 29, 2024).

¹¹ See Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy, 88 Fed. Reg. 58,575, 58,576 (Aug. 28, 2023) (determining that the representative average unit cost of energy for natural gas was \$13.97 per million Btu compared to \$46.19 per million Btu for electricity).

¹² See Am. Gas Found., *Opportunities for Reducing Greenhouse Gas Emissions Through Emerging Natural Gas Direct-Use Technologies*, Dec. 2019, <https://www.gasfoundation.org/wp-content/uploads/2019/12/AGF-2019-Direct-Use-Study-Full-Report-Final-12-18-19-V2.pdf> (last visited Jan. 29, 2024).

¹³ Atmos Energy, Corporate Responsibility and Sustainability Report 2022: Environmental and Operational Sustainability, <https://www.atmosenergy.com/sustainability/environmental-and-operational-sustainability/> (last visited Jan. 29, 2024).

¹⁴ Executive Order 14096: Revitalizing Our Nation’s Commitment to Environmental Justice for All, Apr. 21, 2023.

Atmos Energy sincerely appreciates the International Code Council Appeals Board's consideration of this letter and urges the Appeals Board to sustain AGA's appeal and withdraw the challenged provisions.

Sincerely,

/s/ Eric Tate

Atmos Energy

Manager of Public Affairs