

February 5, 2024

**Dominic Sims,**  
Chief Executive Officer  
ICC Board of Directors  
International Code Council  
500 New Jersey Avenue,  
N.W. 6th Floor Washington, D.C. 20001

Subject: Viewpoint Submittal opposing 2024 IECC Appeals 23-06, -07 and -08.

Dear Dominic Sims and ICC Appeals Board:

The California investor-owned utilities (CA IOUs) comprise some of the largest utility companies in the nation, serving over 32 million customers in California. The CA IOUs are committed to helping customers reduce energy costs and actively support building codes and appliance standards to achieve these goals.

The CA IOUs participated in various ways in the 2024 IECC development process and offers these viewpoints as a reflection of our participation on the IECC Commercial Consensus committee, IECC Commercial HVAC and Water Heating Subcommittee, IECC Residential Consensus committee, IECC Residential HVAC and Water Heating Subcommittee and IECC Residential Economics, Modeling and Whole-building metrics Subcommittee.

**1. The ICC Appeals Board should dismiss appeals that reference technical matters, as review by the Appeals Board are “limited to process and procedure.”**

Under CP#1-03<sup>1</sup> 6.3.7, the review of the ICC Appeals Board is limited to matters of process and procedure. However, the ICC Appeals Board indicates<sup>2</sup> that it intends to also hear technical, subject-specific issues raised in Appeals 23-06, -07 and -08, such as concerns about the cost-effectiveness or construction costs for specific measures. If the board finds that the action being appealed is regarding a committee action rather than a procedural issue, they should recommend processing through Sections 4.2 and 4.3 instead of Section 4.1 of CP#1-03:

*4.2 If the appeal is in regard to a committee action, the CEO or a designee shall submit the appeal to the appropriate committee within 30 days of receipt of the appeal. No appeal to the Appeals Board shall lie until the committee has reconsidered the matter being appealed. The committee may reconsider substantive and/or procedural matters. The committee shall have full discretion to determine how it conducts the reconsideration, and to determine the information that it deems appropriate for purposes of the reconsideration. The appellant shall have the right to address the committee, under terms and conditions established by the committee, if so requested in writing prior to committee reconsideration.*

*4.3 The committee shall, within 30 days of its receipt of the appeal, revise its action in accordance with the appeal, sustain its action, or request the appellant to meet with the committee for the purpose of discussion and possible resolution. If the committee revises its action in accordance with the appeal, further action on the appeal is*

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<sup>1</sup> <https://www.iccsafe.org/wp-content/uploads/CP01-03.pdf>

<sup>2</sup> <https://www.iccsafe.org/wp-content/uploads/2024-IECC-Appeals-Notice-of-Appeals-Hearings.pdf>.

*terminated and all parties are so advised. If the committee does not revise its action in accordance with the appeal, the appellant may appeal to the Appeals Board. Such request shall be submitted in writing to the ICC CEO who shall, within 30 days of receipt, place the appeal before the Appeals Board.*

**2. Provisions that support building decarbonization and greenhouse gas reductions are within IECC's scope and intent.**

The 2024 IECC includes measures that address decarbonization of buildings and greenhouse gas reductions, consistent with the IECC's scope and intent. The Residential and Commercial Consensus Committees addressed and voted on these provisions, which were in scope as noted in the Section R101.3 of 2024 IECC Residential PC Draft #2<sup>3</sup> itself:

*The code may include non-mandatory appendices incorporating additional energy efficiency and greenhouse gas reduction resources developed by the Code Council and others. Requirements contained in the code will include, but not be limited to, prescriptive- and performance-based pathways.*

In using permissive language like “may” to refer to what may be included in non-mandatory appendices, the IECC scope does not also imply that inclusion of greenhouse gas reduction resources is prohibited in the mandatory provisions as well. Rather, the language confirms what the IECC Consensus Committees believed to be the case — that decarbonization and greenhouse gas reduction measures are within the scope and intent of the IECC.

Moreover, energy use in buildings, which is clearly within the purview of the IECC, is inextricably linked with greenhouse gas emissions resulting from that energy use and with decarbonization measures which would change the building's energy use both in terms of fuel source and measurement. The ICC Appeals Board should affirm the provisions to include decarbonization and greenhouse gas emission reduction measures as within the Scope and Intent of the IECC.

**3. The Consensus Building Forum held in the summer of 2022 do not represent a “material and significant irregularity of process or procedure” and should be affirmed.**

Under CP#1-03 6.3.8, to sustain an appeal, the Appeals Board must find that there was a material and significant irregularity of process or procedure. As there was no irregularity in the process or procedure, and as the development of the 2024 IECC Residential provisions were conducted in accordance with applicable due process, the ICC Appeals Board should affirm this process.

The development of the 2024 IECC Residential PC Draft #2 was undertaken in accordance with the ICC Consensus Procedures,<sup>4</sup> which adhere to the consensus procedures of the American National Standards Institute (ANSI) as described in “ANSI Essential Requirements.”<sup>5</sup> We found the code development process to be transparent and deliberative, reflecting collaboration and consensus building among a diverse group of

<sup>3</sup> <https://www.iccsafe.org/wp-content/uploads/IECC-RE-PCD2.pdf>

<sup>4</sup> [https://www.iccsafe.org/wp-content/uploads/Revision-of-ICC-Consensus-Procedures\\_2-of-2-\\_revised-12.6.18B.pdf](https://www.iccsafe.org/wp-content/uploads/Revision-of-ICC-Consensus-Procedures_2-of-2-_revised-12.6.18B.pdf)

<sup>5</sup> ANSI, January 2024, ANSI Essential Requirements: Due process requirements for American National Standards, available at [https://share.ansi.org/Shared%20Documents/About%20ANSI/Current\\_Versions\\_Proc\\_Docs\\_for\\_Website/ER\\_Pro\\_current.pdf](https://share.ansi.org/Shared%20Documents/About%20ANSI/Current_Versions_Proc_Docs_for_Website/ER_Pro_current.pdf)

stakeholders. It is our understanding that IECC procedures do not prevent committee members from having discussions outside of committee meetings to resolve their concerns. An IECC Residential Consensus Committee member initiated the Consensus Building Forum to resolve concerns on proposals that failed to reach super majority during the first balloting period (i.e., before the first public comment draft was released). No committee action was taken in these forums. Any actions on items discussed during the Consensus Building Forums were taken in an IECC committee meeting with opportunity for further committee discussion. In addition, following the publication of the Public Comment Draft #1, committees were provided with further opportunity to comment and deliberate on the proposed code changes. It is imperative that the IECC is recognized as following the ANSI standards development process<sup>6</sup>, and the CA IOUs feel it was followed here.

In sum, in our experience in the 2024 IECC proceedings, we found that the process allowed many opportunities to provide input and be heard, whether a committee member or a member of the public, and any actions were taken in public hearings with further opportunities to present arguments and concerns. If these appeals are sustained, they will undermine the work of the Residential Consensus Committee and call into question the basis for following the ANSI standards process. We recommend that the ICC Appeals Board dismiss appeals on subject-specific technical matters, affirm the inclusion of decarbonization and greenhouse gas reduction measures as within the scope of the IECC, and affirm the 2024 IECC code development process as consistent with the ICC's consensus procedures.

Sincerely,

A handwritten signature in black ink that reads 'Shilpa Surana' in a cursive script.

Shilpa Surana  
Associate Director, Codes and Standards  
2050 Partners on behalf of the California investor-owned utilities (CA IOUs)  
IECC Residential Economics, Modeling and Whole-building Metrics Subcommittee Voting Member

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<sup>6</sup> ICC, August 2021, ICC Consensus Procedures, Page 6, available at [https://www.iccsafe.org/wp-content/uploads/Revision-of-ICC-Consensus-Procedures\\_2-of-2\\_revised-12.6.18B.pdf](https://www.iccsafe.org/wp-content/uploads/Revision-of-ICC-Consensus-Procedures_2-of-2_revised-12.6.18B.pdf)