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Appeals Board
International Code Council

Submitted online: https://icc.qualtrics.com/jfe/form/SV_5hzAqSrkJc8OnY

Re: **SWTCH comments in OPPOSITION to appeals filed to the 2024 IECC**

Dear Chair Spencer and Members of the Appeals Board:

SWTCH respectfully submits these comments in opposition to the following appeals to the 2024 International Energy Conservation Code (IECC):

- 2024 IECC Appeal 23-03-BOMANMHC | Electric Vehicle Charging Infrastructure
- 2024 IECC Appeal 23-05-RegionVI | Technical Appeal
- 2024 IECC Appeal 23-06-RegionVI | General Appeal
- 2024 IECC Appeal 23-07-AGA
- 2024 IECC Appeal 23-08-APGA

About SWTCH

SWTCH is a leading provider of electric vehicle (EV) charging and energy management solutions for multifamily, commercial, and workplace properties across North America. SWTCH's end-to-end solution optimizes EV charging usage and manages load to benefit drivers, property owners, and the grid. SWTCH has deployed more than 10,000 charging stations, with a particular focus on ensuring equitable access to EV charging. SWTCH's charging management platform is built upon a foundation of open communication standards and interoperability to ensure future flexibility, scalability, and innovation even after purchase and installation.

Comments

General Rebuttal

SWTCH, through its staff and consultants, participated in the 2024 IECC code development process. SWTCH's participation spanned many months, involved many meetings, and contributed many revisions and iterations of proposed language. Throughout the lengthy and intensive process, participants thoughtfully considered a range of diverse stakeholder perspectives, including those offered by the appellants, and ultimately succeeded in achieving consensus. In short, the consensus-driven process worked as intended.

SWTCH rebuts the premise of these appeals which, in SWTCH's view, are an attempt to relitigate substantive, consensus decisions achieved in accordance with all applicable policies and procedures. The appellants are asking the ICC to selectively accept only those elements of the code the appellants agree with and to throw out those elements the appellants object to.

There is no valid process or procedural issue to appeal on. The only way for the ICC to uphold these appeals would be if it found the entire consensus-based code development process to be fundamentally flawed, in which case the ICC should throw out the whole 2024 draft code and begin the process anew.

Scope and Intent

The appeals largely rely on claims that the EV provisions are in conflict with the scope and intent of the IECC, and that due process was violated during the code development process. These claims are inaccurate, lack merit, and do not meet the requirements laid out by the ICC in its own ICC Code Development Principles to be considered in the appeals process. The issues related to scope and intent have already been decided on several occasions by the ICC consensus committees and ICC staff, following ICC's mandated procedures to develop the 2024 IECC.

In the aftermath of the 2021 code cycle, the ICC Board released a new energy framework, Leading the Way to Energy Efficiency: A Path Forward on Energy and Sustainability to Confront Climate Change, committing to develop and support the tools needed to achieve the energy priorities of communities and the building industry. This document revised the scope and intent of the IECC, as well as procedures for the IECC development committees, opening the door for EV readiness to be reintroduced in the 2024 code cycle.

Consensus Building Approaches

Each and every change that was part of the 2024 IECC was reviewed by the working groups which provided several opportunities for comment, input, and amendments by committees and the public. The committee had ample opportunity throughout this process to determine if a proposed rule belonged in the appendix rather than the body of the code.

The ICC's Consensus Procedures state that "the burden of proof to show adverse effects shall be on the appellant." The appellants have failed to do so.

Subject Specific Issues

In these comments, SWTCH could offer substantive support for the timely, cost-effective, and needed EV-related provisions in the 2024 IECC, but SWTCH and many other stakeholders have already addressed the substance of those and other provisions during the code revision process. To relitigate the substance of the proposed changes here would be a disservice to the process, and indeed, would be disrespectful to the immense investment of time that participants have already devoted to this code revision process.

The substance of the proposed 2024 IECC code changes stands on its own merits.

In Closing

What is at stake before the Appeals Board is bigger than the specific code provisions being targeted by the appellants. The integrity of the code revision process and the

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credibility of the ICC itself are at stake. SWTCH respectfully urges the Appeals Board to reject these meritless appeals and support the integrity of its own process.

If you have questions or if I can provide more information, please contact me at josh.cohen@swtchenergy.com or 202.998.7758.

Respectfully,



Josh Cohen
Head of Policy