



January 11, 2021

Board of Directors
International Code Council

Subject:

In Support of Converting the IECC and Ch. 11 of the IRC to Code Council Consensus Procedures

Members of the ICC Board of Directors:

Thank you for the opportunity to submit comments regarding ICC's consideration of converting the IECC to a Code Council Standard. The Solar Energy Industries Association (SEIA) strongly supports the change to a standards development process for the IECC, and therefore strongly recommends the ICC BOD accept and act on the recommendations of the Long Term Code Development Process (LTCDP) Committee and the Blue Ribbon Committee.

We would like to commend the leadership of the LTCDP Committee for conducting a thorough and transparent process of thoughtful consideration of the unfortunate circumstances leading to this decision, as well as presenting well-prepared notes of the proceedings.

FINDINGS AND TAKE-AWAYS FROM THE APPEALS PROCESS

The LTCDP Committee and Blue Ribbon Committee have laid out their findings. We would like to offer our perspective on why we urge the ICC BOD to follow their recommendations.

During the course of the proceedings, it became clear that there are multiple shortcomings of the Governmental Consensus Process and specifically the Online Governmental Consensus Voting Process when it is applied to the IECC.

Qualification of Governmental Consensus Voting Members in the ICC bylaws was created as a direct response to uncontrolled voting on the floor of the assembly in the hearing rooms. Legend has it, that the process could be overwhelmed by bussing in people to vote on the floor. The solution was to qualify OGCV members according to criteria in the bylaws. This worked well until a group of IECC stakeholders figured out how to do mass recruitment of voting members that would follow their voting guide.

Online Governmental Consensus voting – and the process that has come with it – has enhanced the ability of those engaged in development, implementation, and enforcement of the I-codes. This was a needed solution after the previous economic downturn and recession beginning in 2008, with staff layoffs and reduced travel budgets. This worked well until a group of IECC stakeholders figured out how to overwhelm the system in their favor.

Throughout the LTCDP Committee process, there was focus on several key issues, including:

- Qualification of Online Governmental Consensus Voting Members (in the bylaws)
- Mass recruitment of OGCV members
- Use of voter guides to influence the outcomes
- Proposals with double disapprovals at code hearings overturned by OGCV members by large majorities exceeding 2/3 threshold

Through the LTCDP Committee process, we learned the stakeholders that overwhelmed the system did so without breaking the rules. When the outcomes of the system can be overwhelmed by one stakeholder group without breaking the rules, it is the rules themselves that are broken.

We will provide our concise perspective on each of these topics, and will articulate some of the negative outcomes from this abuse of the system.

QUALIFICATION OF GOVERNMENTAL MEMBER VOTING REPRESENTATIVES (GMVRs)

In the LTCDP Committee process, there was a lot of discussion about the criteria found in Section 2.1.1.1 of the Bylaws for the ICC, Inc.

“Governmental Member Voting Representatives shall be designated in writing, by the Governmental Member, and shall be employees or officials of the Governmental Member or departments of the Governmental Member, provided that each of the designated voting representatives shall be an employee or a public official actively engaged either full or part time, in the administration, formulation, implementation or enforcement of laws, ordinances, rules or regulations relating to the public health, safety and welfare.”

In our opinion, these qualifying rules for qualifying GMVRs is far too broad, and is in need of revision. We strongly urge the ICC to reconsider the qualifying criteria in the Bylaws. We also understand this issue is complex and will not fix the problems with IECC development.

Through the LTCDP Committee process, ICC staff clarified that the bylaws can only be changed with a vote of the GMVR members. This means the same members who were recruited for the purpose of following one stakeholder group’s voting guide could also be the same members who vote on whether the criteria is modified to be more specific about development, adoption, implementation, and enforcement of the codes on which these members will cast their votes.

MASS RECRUITMENT OF GMVR MEMBERS

In the records of the LTCDP Committee and public testimony, you can find data on the huge number of GMVR members that were recruited and qualified in-between the date of the Public Comment Hearings and the online vote. You can also find data on the number of votes cast after the Public Comment Hearings for comparison with the number of votes cast after the Committee Action Hearings. This is evidence of the mass recruitment efforts used to overwhelm the system and change the outcomes.

As evidenced by the large number of proposals for which both Committee Action and Public Hearing votes were overturned, it is apparent that not all of the recruited GMVRs were informed voters.

VOTING GUIDES

Through the LTCDP Committee process, staff made clear that ICC cannot ban voter guides, and cannot regulate voter guides. The group of stakeholders that overwhelmed the system by mass recruitment provided training on how to vote on all proposals in the IECC “in about an hour.”

When stakeholders are encouraging GMVRs to vote through all proposals in the IECC in “about an hour,” those stakeholders are not encouraging those GMVRs to read the proposals, to attend the hearings, or to watch video recordings of Committee discussion and public testimony. They are only asking them to use their vote to follow a voter guide.

SEIA understands many AHJs and other entities have only select people who participate with full engagement in the development process, and there is value in having other members of their organization vote as a block for the IBC, IFC, and other codes. We are unaware of major issues with these other codes, but it is evident that this is an undue influence on the IECC.

NEGATIVE CONSEQUENCES OF DOUBLE-DISAPPROVED “ZOMBIE” PROPOSALS

During LTCDP Committee process, there was much discussion of 20 (twenty) proposals that were disapproved (D) at the Committee Action Hearings, and then disapproved (D) at the Public Comment Hearings, and then approved As Submitted (AS) after the online vote.

The purpose of the Public Comment Hearing process includes an opportunity for proponents and other stakeholders to improve proposals before they become part of the codes. We can learn from Committee discussion and public testimony how to resolve conflicts, fill gaps, and eliminate unintended consequences.

Zombie proposals do not have this benefit. When they are so bad that they fail at both hearings, the only option left in the online voting is As Submitted (AS). When mass recruitment

and voter guides bring back twenty faulty proposals, there will be conflicts in the IECC that will become problems with implementation and enforcement. It will happen.

TWO EXAMPLES OF NEGATIVE IMPACT ON THE 2021 IECC AND THE SOLAR INDUSTRY

Four of the “zombie proposals” have direct negative impact on one residential compliance path – the Energy Rating Index (ERI) method.

- RE192-19 reduces ERI target scores to 2015 values (more stringent)
- RE209-19 further reduces ERI target scores by an additional 5 percent (more stringent)
- RE182-19 increases envelope backstop to 2018 IECC (more stringent; less flexibility)
- RE184-19 constrains contribution of PV systems to no greater than 5% of total ERI score

Historically, the ERI method has been a target of this one stakeholder group, as it has been the most solar-friendly method. With the 2021 IECC, the ERI method is not only no longer solar-friendly; it is not even useful.

One issue yet to be seen: Proposal RE223-19 creates a new Appendix Chapter RC in the 2021 IECC. This newly created appendix chapter – optional for adoption -- includes a method for achieving Zero Net Energy for new residential buildings. The conflict is that it is dependent on the ERI method, which will have the faults described above.

Another example of a negative outcome in the 2021 IECC is that Proposal CE262-19 adds a new subsection for “storage ready” requirements to the commercial solar ready roof requirements in Appendix CB. If you review my (Joe Cain, SEIA) video testimony from both hearings, I describe in detail how the language for a space requirement is in deep conflict with space requirements in both the IFC and the National Electrical Code.

THE SOLUTION – A CODE COUNCIL STANDARD

All of these issues and negative impacts can be resolved quickly if the ICC Board of Directors accepts the recommendations of the LTCDP Committee and the Blue Ribbon Committee.

As evidenced by the standards development process for ICC 700 National Green Building Standard (NGBS), a balanced committee with task groups can respond to concerns with thorough consideration and debate, to arrive at a comprehensive standard that cannot be dominated by one stakeholder group, and is consistent in approach within itself.

The most-important feature of this process is seating a balanced committee.

CONCLUSION

ICC's web site includes a simple statement about the I-codes.

The International Codes:

- Cannot be influenced by vested financial interests.

<https://www.iccsafe.org/products-and-services/i-codes/the-i-codes/>

Please make this true again.

SEIA remains very grateful and supportive of efforts by ICC and the LTCDP Committee to get it right.

Many states have now passed very aggressive carbon reduction goals, including renewable portfolio standards. SEIA maintains that our overall solution to a clean energy economy is best served by energy and green codes that fully integrate energy efficiency, renewable energy, energy storage, and EV charging.

Thank you for consideration of our comments.

Sincerely,

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