1 Tesla Road, Austin, TX 78725
www.tesla.com/contact

Testimony Regarding the Transportation Provisions of Governor Hochul's Executive Budget Proposal for SFY 2023-2024

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Introduction

Thank you to Senator Liz Krueger, Chair of the Committee on Finance and Assemblymember Helene Weinstein, Chair of the Ways and Means Committee, for holding the 2023 Joint Legislative Budget Hearing on Transportation.

My name is Zachary Kahn, Senior Policy Manager, East Region of Tesla and I write to express disappointment in the Governor's Executive Budget proposal and the lack of meaningful policy to support the expansion of electric vehicles and charging infrastructure in New York. While New York has set the lofty goal of 3.4 million light duty zero-emission vehicles (ZEVs) on New York roads by 2030, this budget proposal does little to help make that goal a reality. Our number one request is that the legislature pushes to enact many of the Climate Action Council's (CAC's) recommendations related to electric vehicles in the final budget.

We strongly support several policy recommendations within the CAC's Final Scoping Plan and urge the legislature to include these recommendations in their One-House Budget proposals. We commend the legislature on completing the herculean task of passing the Climate Leadership and Community Protection Act (the CLCPA), however, to effectively enforce the climate laws and ensure we meet and exceed these goals, the Scoping Plan needs aggressive implementation.

Tesla is dedicated to accelerating the world's transition to sustainable energy and applauds New York for taking monumental steps forward in addressing climate change. Specifically, we strongly support the CAC's recommendation to enact legislation to allow for the direct sale of zero-emission vehicles by manufacturers to increase availability and sales of electric vehicles in the state, reduce emissions in the transportation sector, and improve air quality for current and future generations.

We also support the policy recommendations related to the Clean Fuel Standard, a Cap-and-Invest Program, and streamlining and expanding charging infrastructure across the state and urge the Legislature to include these policies in their One-House Budget proposals.

Direct Sales

The Final Scoping Plan delivers a clear and sobering message about the need for an all-hands-on-deck approach to meeting the historic greenhouse gas (GHG) emission reductions and clean energy requirements codified when the CLCPA first took effect. Passenger vehicles are one of the single biggest contributors to GHG emissions and to address this the Final Plan sets a goal of 3.4 million light duty zero-emission vehicles on New York roads by 2030. In order to achieve this, the Plan identified clear regulatory and legislative actions that the State must undertake. At the core of these recommendations, the Plan urges the State to enhance ZEV awareness and reduce sales barriers which currently hinder ZEV adoption. The Council states unambiguously, "New York should enact legislation to expand direct-to-consumer sales of ZEVs by manufacturers, which can serve to increase the availability and sales of ZEVs in the State."

In making this recommendation, the Council is supported by nationwide data showing that direct sales strongly correlates with higher rates of adoption of electric vehicles. On average, states that have allowed customers to buy electric vehicles directly from manufacturers without restrictions—a list that includes California, Florida,

Massachusetts, Arizona, and nearly twenty others—have, as of 2022, 76% higher EV registrations per capita than states like New York that have passed laws to limit direct sales. Indeed, the impact of direct sales on the disparity in rates of EV adoption between New York and a state like Florida has eclipsed any impact from other factors like New York's adoption of a ZEV mandate and tens of millions of dollars in spending to incentivize purchases of electric vehicles and charging equipment, neither of which have been present in Florida. As of 2021, Florida had the second highest EV registrations in the U.S. at 96,640 compared to New York's 51,870.[1]

Tesla opened its first store in New York in 2009 and by 2014 had opened a total of five stores fully licensed to operate as motor vehicle dealerships. At this time, direct-to-consumer sales by an automobile manufacturer with no franchised dealers in New York was allowed under the law without any limit on the number of licenses that could be issued. This was clearly affirmed by the New York Supreme Court in 2013 in its dismissal of a lawsuit by the Greater New York Automobile Dealers Association against the New York Department Motor Vehicles (DMV) regarding Tesla's licenses. The following year, the law was changed to prohibit DMV from issuing any new licenses to Tesla but allowed the DMV to renew the five that had already been issued. In the seven and a half years since then, Tesla has sold more than 70% of the zero emission vehicles registered in New York through just those five stores.

Tesla chose to sell its vehicles directly to consumers for several reasons, many of which make our model incompatible with the franchised dealer model. To begin with, we offer uniform, transparent pricing and we do not derive profit from our service and repair operations. By contrast, about 50% of an average franchised dealership's gross profit comes from the service department.[2]

However, the primary reason is that direct sales provided the best pathway to success in building this business and effectively popularizing electric vehicles in the United States. Over a decade ago, Tesla set out to build and sell a compelling electric vehicle that could effectively compete with gas cars. The biggest challenge in doing that, beyond the engineering, was overcoming the many barriers to adoption of electric vehicles that still exist, including concerns about price, safety, performance, charging availability, and general unfamiliarity with the technology. All of these impacted adoption at the point of sale and the company needed to apply the same principles to that challenge as it did to the engineering challenge.

Tesla has succeeded in growing the market for electric vehicles in the United States over the last decade, largely because of the choice to sell directly through a network of retail stores geared around overcoming those barriers to adoption. A decade ago, Tesla had sold fewer than 2,500 cars total. In 2022, Tesla sold over 1.31 million EVs globally.[3]

Tesla is also deeply committed to ensuring the U.S. remains a leader in advanced manufacturing. All Tesla vehicles sold in North America are manufactured in the U.S. In 2022, the Tesla Model Y ranked as the most American-made car, based on overall contributions to the U.S. economy, and the Model 3 ranked just below as the second most American made car on the market.[4] NHTSA similarly confirms that 100% of the vehicle, engine,

[1] https://www.caranddriver.com/news/a39998609/electric-car-sales-usa/
[2] https://www.edmunds.com/car-buying/where-does-the-car-dealer-make-money.html
[3] https://ir.tesla.com/press-release/tesla-vehicle-production-deliveries-and-date-financial-results-webcast-fourth-quarter
[4] Cars.com, Cars.com's American-Made Index Adds Tesla to Exclusive List of Multiyear Chart-Toppers, Model Y Nabs No. 1 (June 21, 2022) *available at* https://www.cars.com/articles/cars-coms-american-made-index-adds-tesla-to-exclusive-list-of-multiyear-chart-toppers-model-y-nabs-no-1-451081/; See also, Cars.com, Tesla Model 3 Snags No. 1 Spot on Cars.com's 2021 American-Made Index®; First All-Electric Vehicle to Top the List in Its 16-Year History (June 23, 2021) *available at* https://www.multivu.com/players/English/8915151-cars-com-tesla-model-3-2021-american-made-index/; American University, Kogod School of Business, 2021 Made in America Index (Oct. 15, 2021) (Finding in 2021, each of

and transmission assembly in each Tesla vehicle sold in the U.S. occurs in the U.S.[5] In addition, Tesla's U.S. supply chain continues to expand and spans across more than 40 states, including Alabama, Georgia, Ohio, Indiana, and Michigan.[6]

In the U.S., Tesla conducts vehicle manufacturing and assembly operations of vehicles, its advanced 4680 lithium-ion battery cells, and battery packs at its factories in Fremont, CA, and Gigafactory Texas in Austin, TX. Tesla produces the Class 8 Semi, electric drive trains and advanced battery packs, as well as Tesla's energy storage products, at its Gigafactory Nevada in Sparks, NV. At Gigafactory New York in Buffalo NY, Tesla produces its DC-fast charging equipment for the Tesla Supercharger network, solar energy products, and supporting power electronics. Tesla also builds and services highly automated, high-volume manufacturing machinery at its facility in Brooklyn Park, MN, and operates a tool and die facility in Grand Rapids, MI.[7] Tesla recently announced that it would be investing over $3.6 billion more to continue growing Gigafactory Nevada, adding 3,000 new team members and two new factories: a 100 GWh 4680 cell factory (with capacity to produce enough batteries for 1.5 million light duty vehicles annually), as well as our first high-volume Semi factory.[8] The Semi is Tesla's fully electric combination truck, with 500 miles of range and energy consumption of less than 2 KWh per mile.

Collectively, these U.S. facilities support over 70,000 employees and are responsible for billions of dollars of U.S. investment and economic activity each year.

More specific to New York State, Tesla is manufacturing a full suite of products at Gigafactory New York in Buffalo that are integral to the deployment of electric vehicles. These include power electronics for superchargers and energy storage systems, Gen2 chargers, autopilot and FSD data annotation, as well as cabinets, posts, and cables for Superchargers installed around the world. Growing deployment of Tesla's electric vehicles in New York helps to support the continued growth of manufacturing jobs in Buffalo as demand for those critical components of the charging network is directly tied to vehicle deployment.

Direct sales is a proven driver of EV adoption across the country, it benefits consumers by giving them more choices – not only of EV models but in terms of business models – and increasing competition for their business as they consider electric vehicles in greater numbers, and it benefits New York State's economy by injecting more vitality and hiring demand in the auto retailing and parts manufacturing sector.

For those reasons, we ask the legislature to consider including direct sales in its one-house budget proposal or passing as either standalone legislation or as part of an EV package that will drive transportation electrification in New York.

Clean Fuel Standard

Among a number of recommendations in the Plan that can advance electrification and reduce emissions is the inclusion of a Clean Fuel Standard (CFS). As demonstrated in other jurisdictions, a CFS can incentivize market participants to help New York build a clean fuels market, reduce emissions, and improve public health without

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Tesla's vehicles - the Model S, 3, X and Y - ranked in the top 10 and Tesla was the only manufacturers to have representation from its entire portfolio in the top 10.) *available at* https://kogod.american.edu/autoindex/2021

[5] NHTSA, Technical Support Document: Proposed Rulemaking for Model Years 2024-2026 Light Duty Vehicle Corporate Average Fuel Economy Standards (Aug. 2021) at 96, Table 2-6 *available at* https://www.nhtsa.gov/sites/nhtsa.gov/files/2021-08/CAFE-NHTSA-2127-AM34-TSD-Complete-web.pdf

[6] See e.g., AutoNews, Suppliers Starting to Set Stage for Tesla in Texas (Sept. 6, 2021) *available at* https://www.autonews.com/suppliers/tesla-suppliers-starting-set-stage-texas-gigafactory

[7] See Tesla, Manufacturing: Build a Sustainable Future *available at* https://www.tesla.com/manufacturing

[8] See Continuing Our Investment in Nevada *available at* https://www.tesla.com/blog/continuing-our-investment-nevada

additional State funding. Most importantly, a CFS will support transportation electrification across the board. A well-designed CFS will incentivize the build out of additional fast chargers for light duty vehicles, create a mechanism to provide additional incentives for the purchase of electric vehicles, and will dramatically reduce operating costs for fleets that transition to electric cars, buses, and trucks, thereby reducing the total cost of ownership and compel early fleet EV adoption.

A CFS can incentivize the reduction of petroleum and diesel fuel consumption and accelerate the transition to cleaner fuels and zero emission vehicles. This will be especially true for truck fleets which often place a disproportionate burden on disadvantaged communities. Making headway in reducing emissions in those communities is at the heart of the CLCPA and a CFS would help advance the CLCPA mandates.

Ultimately, it should be emphasized that a CFS would be at no-cost to the state's taxpayers. At the same time, it will raise funds that can be utilized to support other electrification tools recommended in the Plan such as EV charging build out. This dynamic makes a CFS one of the most practical solutions identified in the Plan and because of this the Legislature should strongly consider including a CFS in the One-House Budget.

Cap-and-Invest Program

Governor Hochul included a Cap-and-Invest proposal in her Executive Budget. We support this policy and urge the legislature to accept this provision.

As the CAC identified, there is a need for a comprehensive policy that supports the achievement of the requirements and goals of the CLCPA, including ensuring that emission limits are met. A well-designed Cap-and-Invest policy would support clean technology market development and send a consistent market signal across all sectors of the economy for individuals and businesses to make decisions that are economically prudent and reduce their emissions in commonsense ways. It would provide an additional source of funding, alongside federal programs and other funding sources, to implement policies identified in this Scoping Plan, particularly policies that require State investment or State funding of incentive programs, including investments to benefit Disadvantaged Communities.

Tesla supports a Cap-and-Invest program that would be designed to meet the Climate Act's requirements and goals because we believe it will help meet the economy-wide emission limits, promote climate justice, and mitigate leakage. Furthermore, the Cap-and-Invest program should be designed in a manner that will allow for the incorporation of supplemental policies such as a CFS.

Expand Charging Infrastructure

The Final Scoping Plan includes multiple recommendations related to accelerating the deployment of EV charging infrastructure. These recommendations should be implemented hand-in-hand with previous EV adoption strategies to ensure that New York has the necessary infrastructure in place to support its transition to ZEV technologies. As such, we would like to highlight the following most important actions that the Legislature can take to ensure that EV charging infrastructure is deployed in a timely, efficient and equitable manner.

Permitting for EV charging stations remains one of the biggest obstacles to infrastructure deployment. The State can and should act to fast-track and streamline the permitting process for ZEV charging infrastructure across the state. Potential actions could include, but are not limited to:

- Removing aesthetic requirements as the administrative review process should focus only on health and safety standards of the project;

- Regular process reviews to ensure accountability for permit review standards and timelines;
- Posting easy to use, comprehensive, and thorough documentation and checklists in an easy to access permitting website;
- Allowing for concurrent review processes if more than one agency or department is involved;
- Requiring only an electrical permit;
- Requiring electric vehicle charging stations be considered a permitted accessory use and permitted accessory structure in all zoning or use districts of a municipality and shall not require a variance; and
- Limiting burdensome parking requirements.

Additionally, the Plan identifies that rebates can help spark investment in charging infrastructure especially when targeted at high-priority locations. The Legislature should look to support and enhance existing State programs to bolster incentives for charging infrastructure. This is especially true for travel corridors such as the Thruway which is in desperate need for infrastructure and currently lacks in charging capacity to support EVs on the road today, much less the anticipated volume of EVs in the coming years. We believe it is imperative for the legislature to include comprehensive legislation related to charging infrastructure expansion in their One-House Budget proposals.

We appreciate the opportunity to offer written testimony in response to the Executive Budget Proposal.

Thank you,

Zachary Kahn
Public Policy & Business Development