

July 1, 2022

NYSERDA
17 Columbia Circle
Albany, NY 12203

Re: Draft Scoping Plan Comments in Support of Direct-to-Consumer Zero Emission Vehicle Sales

Dear Climate Action Council Members,

The undersigned write to thank the Climate Action Council for including direct-to-consumer zero-emission vehicle (ZEV) sales in its Draft Scoping Plan to reduce New York's transportation emissions as required by the Climate Leadership and Community Protection Act (CLCPA). While the Council included many significant policies its draft plan that will advance New York's efforts to address climate change, the authorization of direct-to-consumer ZEV sales is a particularly important transportation emissions policy that unites free-market, consumer, and environmental interests at no cost to the taxpayer.

Each year, motor vehicles contribute approximately 11% of local fine particulate matter and 28% of nitrogen oxide (NOx) emissions in New York. These particular emissions are known to cause a variety of serious health problems such as asthma, reduced lung capacity, and increased susceptibility to upper respiratory infections. To meaningfully reduce these harmful emissions and create a healthier, more resilient future first requires tackling transportation emissions—which account for 1/3 of total emissions in New York—and increasing the number of ZEVs on our roads.

Moreover, direct-to-consumer sales are not only critical to getting more passenger ZEVs on New York roads, but this policy is also essential for increasing the availability of commercial ZEVs across the state. Medium and heavy-duty trucks and buses, which are still powered primarily by diesel fuel, account for approximately 46% of these NOx emissions, despite making up only a small percentage of total vehicles on the road. These diesel vehicles tend to operate in marginalized and frontline communities that have long borne the brunt of the public health consequences of diesel pollution.

New York's ambitious climate goals cannot be achieved without a significant and rapid increase in the adoption of ZEVs. Yet, auto dealer associations have made it their top priority to block electric vehicle (EV) manufacturers from selling directly to consumers in New York while using their protected position as a guaranteed middleman to generate historic profits. In order for New York to meet its climate and clean air goals, it is imperative that support for direct-to-consumer sales is included in the Council's Final Scoping Plan.

Governor Kathy Hochul signed legislation last year requiring that all new passenger cars and trucks sold in New York State be zero-emission by 2035, in addition to pledging to electrify the state's commercial fleet. However, New York State law prohibits EV manufacturers from selling their vehicles directly to consumers, with the exception of five Tesla sales centers that were grandfathered in before the policy took effect in 2014, in favor of an outdated franchised sales model that prioritizes conventional vehicles. Not only do these restrictions on direct sales violate the fundamental principles of a free-market economy, this policy undoubtedly delays the electrified future New York aims to achieve.

While car dealers claim that they are the key to bringing EVs to New York, only 0.2% of vehicles sold from the state's 848 car dealerships in 2020 were EVs — an average of 2 EVs sold per dealer. By comparison, Tesla alone sold 10,220 vehicles — more than five times the total from all franchised auto dealers combined, from just five locations. This data makes it clear that New Yorkers want to buy EVs, but EV manufacturers are unable to meet rising demand due to policies that restrict direct sales. Notably, not only

do direct sales restrictions preclude Tesla from expanding its sales locations to reach more New York consumers, but they also prohibit emerging EV manufacturers like Rivian, Lucid, Arrival and VinFast from entering the New York market.

This protectionist policy comes at a cost, both for consumers and the near-term deployment of electric vehicles. Auto dealers lack financial incentives to sell EVs because they earn the majority of their revenue through servicing and repairs that EVs are less likely to require by design. As a result, dealerships impose higher price markups on EVs than conventional vehicles. Consumers who purchased an EV from a franchised dealership in 2020 paid an average 2.6% price markup for their vehicle, compared to a 1.6% average markup for conventional vehicles that same year. This trend has only gotten worse in the last eighteen months.

Consumers' inability to purchase EVs from EV-only manufacturers that offer uniform pricing, zero-profit service, and zero-profit financing has caused New York's EV penetration rates to fall behind those of states that do not restrict direct sales, despite aggressive investments in charging and incentive programs. Florida, for instance, is a comparably populated state that offers no purchasing incentives but allows EV-only manufacturers to sell their vehicles directly to consumers, resulting in 60% greater EV sales over the last three years.

If New York wants to be a true leader in the fight against climate change, we need to increase ZEV awareness and reduce sales barriers in order to dramatically increase the number of ZEVs on our roads. This simply cannot be accomplished if we continue to restrict direct-to-consumer sales ZEV sales in New York State.

The undersigned urge the Climate Action Council to keep support for direct-to-consumer sales in the Final Scoping Plan to ensure that New York has a ZEV market that can facilitate an electrified future with fewer transportation emissions.

Thank you for your consideration.

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