BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue the Development of Rates and Infrastructure for Vehicle Electrification.	Rulemaking 18-12-006 (Filed Dec. 19, 2018)

JOINT MOTION TO STAY THE DRAFT TRANSPORTATION ELECTRICATION FRAMEWORK TO REVISE THE PROCEDURAL SCHEDULE AND PROVIDE FOR ALTERNATIVE PROPOSALS

I. INTRODUCTION

Pursuant to Rule 11.1(a) of the Commission's Rules of Practice and Procedure, the following parties:

- Natural Resources Defense Council
- Coalition of California Utility Employees
- Sierra Club
- Environmental Defense Fund
- Center for Community Action and Environmental Justice
- East Yard Communities for Environmental Justice
- Union of Concerned Scientists
- Center for Biological Diversity
- Alliance for Automotive Innovation
- Honda Motor Co. Inc
- San Diego Airport Parking Company
- Cruise LLC
- CALSTART
- Advanced Energy Economy
- Alliance for Transportation Electrification
- Enel X North America Inc.
- Vehicle-Grid Integration Council
- Siemens
- Greenlots
- Nuvve Corporation

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- ChargePoint[1]
- Southern California Edison Company
- San Diego Gas & Electric Company

respectfully request that the Commission stay the proposed Transportation Electrification Framework ("Draft TEF") to revise the schedule contained in Administrative Law Judge Doherty's February 10, 2020 ruling and February 14, 2020 email and adopt a new schedule that provides for the development and consideration of alternative proposals. While not yet parties, the following organizations also support this joint motion:

- Consumer Reports
- Plug in America
- Audi
- EVConnect
- Environment California
- Coalition for Clean Air

Specifically, this joint motion requests the Commission:

- Allow parties to propose alternative transportation electrification frameworks for consideration in this proceeding within 30 days from the date that a stay is granted;

- Convene an all-party meeting following the submission of alternative proposals to discuss both the Draft TEF and alternative proposals and seek a consensus regarding the objectives and scope for a framework that is consistent with state law and will help meet the state's policy goals; and

- Following the all-party meeting, establish a schedule for parties to submit comments regarding the alternative proposals, and a revised procedural schedule for workshops, further comments, and issuance of a proposed and final decision on the framework by no later than Q1 2021.

We greatly appreciate Energy Division Staff's extensive efforts developing the Draft TEF and the recognition that there are vital state environmental and health objectives that depend upon substantial acceleration of transportation electrification ("TE") in California. However, while the

[1] ChargePoint supports this joint motion for the reasons explained in § I through § II(A) and takes no position as to § II(B).

Draft TEF compiles a vast amount of valuable information and offers considerable guidance to inform Commission policy and utility program design, we believe a stay is necessary because the Draft TEF is inconsistent with state law and policy, would significantly hinder the electric vehicle ("EV") market, and would likely leave the state short of its TE goals of 250,000 electric charging stations by 2025 and five million EVs on the road by 2030. Missing those goals would likewise undermine the state's ability to meet its 2030 carbon reduction targets and comply with federal air quality standards.[2]

Most problematically, the Draft TEF would effectively freeze any new full-scale utility TE programs likely until at least 2025. Even after this initial delay, it would impose additional procedural and litigatory burdens on top of the existing regulatory process—encumbering rather than streamlining it and further inhibiting the rapid scale-up of TE investments that this rulemaking set out to achieve. Less than ten years remain before the state's 2030 deadline. California remains well short of reaching its 2025 and 2030 goals. The state simply cannot afford to lose half of this decade without a meaningful focus to advance and implement programs that accelerate widespread TE. The Commission is uniquely positioned to support this acceleration and should seize the opportunity to enact a framework that catalyzes the needed growth in TE programs to enable the state to meet its goals.

[2] *See* Executive Orders B-48-18 and B-55-18, Assembly Bill 32, Senate Bill 32, and Senate Bill 350. Public Utilities Code § 740.12 directs the Commission to order the utilities under its jurisdiction to "accelerate widespread transportation electrification to reduce dependence on petroleum, meet air quality standards, achieve the goals set forth in the Charge Ahead California Initiative, and reduce emissions of greenhouse gases to 40 percent below 1990 levels by 2030 and to 80 percent below 1990 levels by 2050."

II. A STAY AND CONSIDERATION OF ALTERNATIVE PROPOSALS IS NECESSARY BECAUSE THE DRAFT TEF WOULD EFFECTIVELY FREEZE SIGNIFICANT TRANSPORTATION ELECTRIFICATION INVESTMENTS FOR AT LEAST FIVE YEARS

The Draft TEF as currently structured is critically out of alignment with the rulemaking's goals of streamlining the regulatory process and supporting transportation electrification at the scale required to meet the state's policy goals, as well as with state law. The structure and timelines laid out by the Draft TEF would effectively freeze any significant new utility investments in TE that are not currently pending for a minimum of three years, and more likely at least five years—frustrating the achievement of California's transportation electrification, climate, air quality, and equity goals—and the existing procedural schedule does not provide an adequate opportunity for remedying this issue. Accordingly, we believe an immediate stay of the procedural schedule is necessary, in combination with an opportunity for parties to submit alternative proposals that are aligned with state goals and the intent of the rulemaking.

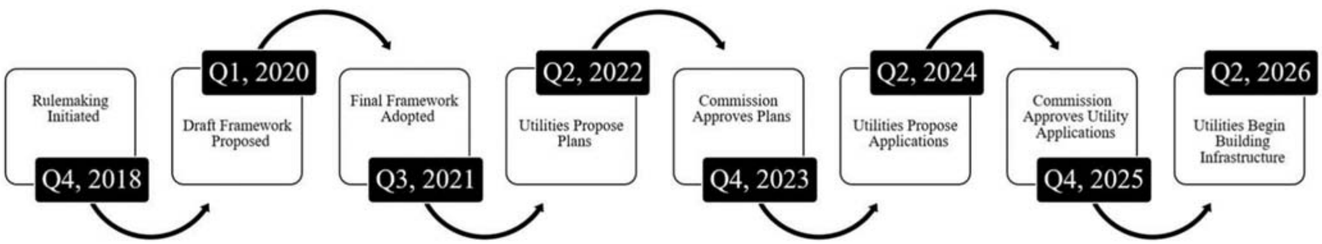
A. The Draft TEF's Process Creates a Five-Year Freeze on Significant Utility Investment and Fails to Streamline or Expedite the Process Thereafter

The effective five-year freeze on new proposals for utility investment results from a combination of the process established by the Draft TEF and the significant limitations on utility applications imposed until that process is complete. The Draft TEF proposes the following timeline:

- Q4 2020: The Commission adopts the final Transportation Electrification Framework ("Final TEF");
- 2021: Utilities propose Transportation Electrification Plans ("TEPs");
- Q4 2022: The Commission approves utility TEPs;

- Q1 2023: Utilities file applications under their TEPs.[3]

Even assuming that this proposed schedule holds, utility applications submitted in 2023 would likely not be approved and finalized until sometime in 2024, with new infrastructure resulting from these applications not being built until 2025. A more realistic timeline, based on historical approval timelines and the amount of time likely necessary to design TEPs and applications compliant with the extensive requirements proposed in draft TEF, would result in applications being approved in late 2025 with infrastructure being built in 2026 or later:[4]



This more realistic schedule assumes the Commission relaxes the Draft TEF's requirement that the utilities file applications only in the first quarter of odd-numbered years. If adopted as is, the utilities would need to wait until the first quarter of 2025 to file their first applications, resulting in an additional nine months of delay. Simultaneously, the Draft TEF strictly circumscribes the scope and scale of applications that can be filed before a utility TEP is approved. Specifically, the Draft TEF limits any pre-TEP utility application to:

- One to two years in duration;
- Less than $4 million, with a total cap of $20 million per utility; and

[3] R.18-12-006, Transportation Electrification Framework Energy Division Staff Proposal (Draft TEF) at page 26.
[4] This still-optimistic timeline assumes the historical approval timeline of 18 months and only 9 months for utilities to develop TEPs.

- One of four near-term priority categories prescribed by Commission staff.[5]

In sum, in addition to freezing full-scale applications, the Draft TEF restricts all "pre-TEP" programs to small-scale pilots relative to the scope of TE growth needed in the state. These pre-TEP programs as outlined in the Draft TEF are not an effective bridge for funding before the final TEF is adopted. The Draft TEF does not provide any empirical support for why these limitations are warranted, how they conform with state policy goals, or why only the enumerated categories are appropriate for utility support. For example, the Draft TEF apparently excludes projects involving workplace charging,[6] despite the fact that the state supports and requires a significant expansion of workplace charging.[7] The Draft TEF does not clearly justify, or even acknowledge, the effect of this delay and these limitations on the achievement of state goals.

Rather than streamlining the regulatory process to alleviate the impediment resulting from repetitive and protracted litigation of individual utility applications, the Draft TEF stacks additional procedural and litigatory burdens on top of the existing process—which will likely further inhibit the rapid scale-up of TE investments even after the effective minimum five-year freeze. The process envisioned by the Draft TEF would require extended litigation of the TEF, TEF updates, TEPs, and TEP updates *in addition to* utility applications.[8] While we understand, align with, and respect the Commission's attempt to protect the interest of ratepayers and the competitive charging market, California cannot afford to spend the next five years designing and

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[5] *Id.* at pp. 43-44.
[6] *See id.* at 44. Although the Draft TEF states that Energy Division Staff is not "pre-judging" IOU applications involving residential or workplace charging, it also states that "IOUs should not propose new investment programs" in these areas. *Id.* at 44 & n.81.
[7] *See, e.g.*, 2018 ZEV Action Plan Priorities Update at pp. 35, 47. Workplace infrastructure would maximize charging while solar power is plentiful, and workplace TE would provide charging opportunities for those living in multi-unit dwellings.
[8] Draft TEF at page 7. *See also* Order Instituting Rulemaking To Continue The Development Of Rates And Infrastructure For Vehicle Electrification And Closing Rulemaking 13-11-007, at page 7.

debating plans that do not actually approve any new investment, only to then recommence down the same litigation-intensive application process with additional encumbrances.

Over half the time left to meet the state's ambitious goals by the end of this decade (and the entire time left to ramp up to 250,000 chargers by 2025) would be spent with utilities making little new investments in TE infrastructure and not producing new capacity to significantly ramp up investment thereafter to make up for lost ground. California currently has around 700,000 EVs, meaning the state needs to expand EV adoption nearly eightfold in less than a decade to meet the 2030 goal.[9] Lack of charging infrastructure is one of the principal barriers to EV adoption, and California will be unlikely to meet those 2030 goals without the infrastructure to adequately support five million or more EVs.[10] This makes it imperative for the state to support building out TE infrastructure now to facilitate large-scale EV adoption. In addition to the public funding programs available and the private sector investments underway, if utilities cannot start implementing new large-scale TE infrastructure programs until the second half of this decade, it may be too late.

B. The Draft TEF's Five-Year Freeze Is Inconsistent with the State Policy Goals and Directives Codified by SB 350

The Draft TEF's proposed limitations on approving new full-scale utility applications until at least 2025 are inconsistent with the climate, air quality, and equity goals set out by Senate Bill 350, as well as its directives for achieving those goals. Public Utilities Code § 740.12

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[9] *See* Veloz Sales dashboard, available at https://www.veloz.org/sales-dashboard/ (as of February 28, 2019).

[10] *See, e.g.*, Electric Vehicle Ownership: Cost, Attitudes and Behaviors, AAA, available at https://newsroom.aaa.com/2020/01/aaa-owning-an-electric-vehicle-is-the-cure-for-most-consumer-concerns/ ("Previous AAA research has found that the top two reasons why Americans shy away from electric vehicles are not enough places to charge (58%) and the fear that they will run out of charge while driving (57%)").

directs the Commission, in consultation with the State Air Resources Board and the Energy Commission, to direct the utilities to "accelerate widespread transportation electrification to reduce dependence on petroleum, meet air quality standards, achieve the goals set forth in the Charge Ahead California Initiative . . . and reduce emissions of greenhouse gases to 40 percent below 1990 levels by 2030 and to 80 percent below 1990 levels by 2050."[11] To support this goal, the provision directs that the Commission "***shall*** approve, or modify and approve, programs and investments in transportation electrification, including those that deploy charging infrastructure . . . if they are consistent with this section, do not unfairly compete with nonutility enterprises as required under Section 740.3, include performance accountability measures, and are in the interests of ratepayers as defined in Section 740.8."[12] Section 740.8 defines benefits to ratepayers broadly, to include at least one of three system benefits ("safer, more reliable, or less costly electrical service,") and at least one of five defined societal benefits ("(1) improvements in energy efficiency of travel; (2) reduction of health and environmental impacts from air pollution; (3) reduction of greenhouse gas emissions; (4) increased use of alternative fuels; or (5) creating high quality jobs or other benefits, including in disadvantaged communities.)"[13]

Pursuant to Commission direction under Section 740.12, utilities are given discretion to propose programs that facilitate the legislation's goals and "minimize overall costs and maximize overall benefits."[14] The Commission is directed to approve or modify and approve applications that meet these goals, if they are consistent with Section 740.12, Section 740.3, include performance accountability measures , and are in the interests of ratepayers as defined in Section

[11] Cal. Pub. Util. Code § 740.12(b).
[12] *Id.* (emphasis added).
[13] *Id.* at 740.8(b).
[14] *Id.* at 740.12(b).

740.8.[15] It would be inconsistent with this statutory mandate for the Commission to effectively implement a five-year freeze on full-scale utility programs, preventing utilities from assisting with “accelerat[ing] widespread transportation electrification.”[16] Merely commenting on the Draft TEF within the proposed schedule is insufficient to remedy its fundamental inconsistency with state law, state goals, and the intent of the rulemaking. Accordingly, the Commission should stay the current Draft TEF process and provide an opportunity for parties to develop alternative solutions that are more consistent with the goals and directives set out by Senate Bill 350. In addition, to ensure continuing progress towards state policy goals and consistent with the Assigned Commissioner’s Scoping Memo providing that “[a]ll IOU TE-related applications filed before the Commission approves a TEF in this proceeding shall be governed by existing Commission directives and policies regarding TE,” any new TE applications filed during this process and before a final framework is adopted should continue to be reviewed under the existing statutory and regulatory guidance.[17]

III. CONCLUSION

For the foregoing reasons, we respectfully request that a stay of the Draft TEF be granted to revise the proposed procedural schedule and develop a new schedule that includes an all-party meeting and allows for the consideration of alternative proposals.

Dated: March 6, 2020 Respectfully submitted,

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[15] *Id.*
[16] *Id.*
[17] *See* R.18-12-006, Assigned Commission Scoping Memo and Ruling, filed May 2, 2019 at 7.

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