

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

Proceeding on Motion of the Commission )  
Regarding Electric Vehicle Supply )  
Equipment and Infrastructure )

Case 18-E-0138

**JOINT UTILITIES’ PETITION REQUESTING CHANGES TO MAKE-READY ORDER  
REQUIREMENTS REGARDING EQUIPMENT COMMUNICATIONS STANDARDS  
AND MEDIUM- AND HEAVY-DUTY PILOT ELIGIBILITY**

The Joint Utilities (“JU”)<sup>1</sup> petition the New York Public Service Commission (“Commission”) to modify two requirements in the November 2023 *Order Approving Midpoint Review Whitepaper’s Recommendations with Modifications* (“Order”):<sup>2</sup>

- (1) The new communication standards requirements for electric vehicle supply equipment (EVSE) hardware and software used in the light-duty Make-Ready Program, and
- (2) The eligibility criteria for incentives for customer-side costs for the Medium- and Heavy-Duty (MHD) Pilot.

The JU propose these modifications to enable near-term program progress towards New York State clean transportation policy goals. The JU remain committed to the success of the Make-Ready Program and MHD Pilot, and thus request these modifications to avoid disruptions to electric vehicle (EV) charging infrastructure deployment, aligned with the stated goals of the Commission.

*EVSE Communication Standards Requirements*

The Order established new hardware and software requirements for EVSE that were not included in the 2020 *Order Establishing Electric Vehicle Infrastructure Make-Ready Program*

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<sup>1</sup> The Joint Utilities are Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc. (“Con Edison”), Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

<sup>2</sup> Case 18-E-0138, Proceeding on Motion of the Commission Regarding Electric Vehicle Supply Equipment and Infrastructure (“EVSE & I Proceeding”), *Order Approving Midpoint Review Whitepaper’s Recommendations with Modifications* (November 16, 2023) (“Order” or “2023 Order”).

*and Other Programs*.<sup>3</sup> Industry research, developer feedback, and technology provider interviews (see Section I.a., below) revealed that these new communication standard requirements set an implementation timeframe that the EVSE market cannot meet, potentially slowing project development and causing viable projects already in development to lose incentives.

The Order requires that EVSE used in projects receiving Make-Ready incentives must conform<sup>4</sup> with the following standards: 1) the Open Charge Point Protocol (OCPP) 2.0.1 standard and 2) International Organization for Standardization's (ISO) 15118-2 and 15118-20 standards. EVSE *hardware* must conform with ISO 15118-2 and -20 for projects committed<sup>5</sup> on or after December 16, 2023, as well as any projects installed<sup>6</sup> on or after November 16, 2024, regardless of when committed; requirements for *hardware* conformance with OCPP 2.0.1 and for *software* conformance with ISO 15118-2 and -20 apply to projects installed on or after November 16, 2024.

Based on the state of the market (see Section I.a.), the *software* standards present barriers for implementation across both Level 2 (L2) and Direct Current Fast Charging (DCFC) EVSE, and the *hardware* standards present barriers for implementation for L2 EVSE. In particular, conformance testing protocols for ISO 15118-20 are still under development, and charger manufacturers and station developers cannot source compliant chargers for purchase. The new requirements mean that new incentive applications may stall and that already-committed projects under development may lose Make-Ready incentive eligibility if they cannot obtain compliant EVSE. Requiring that charger equipment and software comply with EVSE communication standards in the timeframe set in the Order will significantly disrupt EV charger deployments in New York State, contrary to the overall objective of the Make-Ready Program and the Order.

For these reasons, this petition requests the following modifications to the EVSE communication standards:

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<sup>3</sup> EVSE & I Proceeding, *Order Establishing Electric Vehicle Infrastructure Make-Ready Program and Other Programs* (July 16, 2020) ("2020 Order").

<sup>4</sup> Order, pp. 60-61, and Ordering Clause 23, p. 118.

<sup>5</sup> A project is committed when it receives a Program Agreement, a contract in the Make-Ready Program where the Participant agrees to the service connection layout, the initial incentive offering, and other terms provided by the Utility, before the Participant can start construction.

<sup>6</sup> An installed project has completed construction and is in service, whereas a committed project has agreed to the incentives offered through the program and may be presently under construction.

- (A) Revising the enforcement date for L2 chargers, across ISO 15118 hardware requirements and software requirements plus OCPP 2.0.1 hardware requirements;
- (B) Application of all new communications standards to only newly committed, and not under construction or installed, projects;
- (C) Clarification that software conformance should apply to ISO 15118-2 *or* ISO 15118-20 (not both ISO 15118-2 *and* ISO 15118-20); and
- (D) Clarification that hardware conformance should apply to ISO 15118-2 *or* ISO 15118-20 (not both ISO 15118-2 *and* ISO 15118-20).

Section I. describes in depth: (a) the state of the market in adopting these communication standards; (b) the proposed modifications; (c) the program impact of the communication standards requirements without modification; and (d) the state of the communication standards, including their history and their application in other EV infrastructure programs.

#### *MHD Pilot Customer-Side Eligibility*

The Order took an important step to expand the scope of the MHD Pilot to include incentives for customer-side make-ready infrastructure for eligible sites. However, the treatment of the geographic requirements at the borders of Disadvantaged Communities (DACs) to qualify for these incentives may have negative, unintended consequences for the development of EV charging infrastructure for MHD vehicles in New York. The Order authorized the MHD Pilot to provide incentives for customer-side costs if the charging site is publicly accessible or located within a DAC.<sup>7</sup> Based on customer feedback, the JU propose to enhance the customer-side cost eligibility to include: (a) projects in parcels that are *partially within* a DAC; and (b) projects in parcels that are *adjacent to* a DAC, as described in Sections II.a. and II.b., respectively.

### **I. Communications Standards**

The JU acknowledge the benefits of technology standardization as EV charging infrastructure buildout scales, and also support the Commission's intent to keep New York on the leading edge of technology adoption, in alignment with leading federal and peer state programs. However, implementing the Order's communication standards requirements and deadlines puts the achievement of the Order's objectives at risk. Furthermore, the

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<sup>7</sup> Order, p. 98.

communication standards requirements and deadlines put completion of as many as 2,814 L2 plugs and 153 DCFC plugs already in the Make-Ready Program pipeline at risk.

The OCPP 2.0.1<sup>8</sup> and the ISO 15118-2<sup>9</sup> and 15118-20 Standards are new, and conformance testing for ISO 15118-20 is still under development. Charger manufacturers and station developers are in early stages of manufacturing and deploying L2 chargers that support hardware and software that conform with ISO 15118-2 or ISO 15118-20 and OCPP 2.0.1. Thus, compliant equipment that can meet the requirements of the State's Make-Ready Program will not be available in the Order's mandated timeframes. Indeed, the JU have been informed by developers that they cannot submit new applications or sign program agreements<sup>10</sup> for existing applications until additional compliant chargers are available through the supply chain. Additionally, the Order's requirements mean that some in-flight projects will lose Make-Ready Program funds despite previous approval.

Deploying EV charging technology that supports sophisticated message exchange and interoperability can enable a positive EV driver experience, as envisioned by the Order. Yet, there is a significant tradeoff between leading the market and deploying new EV charging infrastructure if the market is unprepared. The Make-Ready Program can maximize plug deployment only when the market has sufficient time to prepare to deliver conforming equipment ahead of new requirements going into effect.

Industry stakeholders consistently have told the JU that the EVSE market is not prepared to comply with these new communication standards, especially for L2 chargers. Thus, to avoid a slowdown and maintain market momentum in plug deployment, the Commission should adopt the proposed modifications to align requirements with a realistic, market-ready timeline.

#### **a. State of the Market**

Through conversations with several industry experts, nine EVSE manufacturers, and eight developers, the JU learned that the EV charger market is working to meet the various

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<sup>8</sup> Established in 2009 by the Open Charge Alliance, OCPP is designed to be a free, open-source protocol that enables participants to speak the same digital language. It is considered a global benchmark for interoperability throughout the EV charging industry (<https://evbox.com/us-en/understanding-ocpp>). Version 2.0.1 was released in 2020. ([https://openchargealliance.org/wp-content/uploads/2023/07/new\\_in\\_ocpp\\_201-v10.pdf](https://openchargealliance.org/wp-content/uploads/2023/07/new_in_ocpp_201-v10.pdf)).

<sup>9</sup> ISO 15118-2 was released in 2014. (<https://www.iso.org/standard/55366.html>)

<sup>10</sup> A program agreement is a contract in the Make-Ready Program where the Participant agrees to the service connection layout, the initial incentive offering, and other terms provided by the Utility, before the Approved Contractor can start construction.

communication standards regulations that differ by state and at the federal level. The majority of the market participants expect to comply by mid-2025 with the proposed communication standards requirements in Table 1 in Section I.b. Because of supply chain, technical design, and customer experience factors, interviewed EVSE manufacturers report that they – and in turn, developers – are focusing on compliance for DCFC chargers before L2 chargers for the following reasons.

First, because of supply chain constraints, EVSE manufacturers are prioritizing DCFC over L2 chargers for ISO 151180-2 hardware conformance as they grapple with limited availability of hardware-conforming communication chips. Since the same chips are needed for L2 and DCFC equipment, EVSE manufacturers have explained that they are prioritizing the use of these chips to increase production of DCFC equipment. Manufacturers are also redesigning their L2 chargers to be ISO 15118 hardware- and software-ready, with leading manufacturers aiming to deliver L2 hardware and software conformance throughout 2025. Furthermore, since L2 chargers outnumber DCFCs,<sup>11</sup> the introduction of the next generation of L2 EVSE will continue to put significant pressure on demand for these commonly used chips.

Second, it is rare that L2 EVSE can become ISO 15118-2 or -20 hardware conforming through refurbishment due to technical constraints. Manufacturers report that, to change L2 hardware to accommodate chips that run -2 or -20 software, the body of the EVSE must be redesigned because of the additional space needed to house the chip. For most L2 EVSE models, ISO 15118-2 capabilities will only be available through the release of the next generation of product design. Based on conversation between the JU and equipment manufacturers, industry estimates for release range from early to mid-2025, depending on individual OEMs' product design, production, and release cycles. Manufacturers report they are mapping OCPP 2.0.1 hardware conformance timelines to ISO-15118 conformance for DCFC and L2 models, respectively, thereby streamlining product design changes and new releases.

Third, from a customer experience perspective, EVSE manufacturers recognize that the “plug-and-charge” feature<sup>12</sup> is more important for drivers using DCFC stations than L2 charging stations. Plug-and-charge technology most benefits a public DCFC station use case in which

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<sup>11</sup> For example, the L2 plug target in the Make-Ready program is over 6 times the size of the DCFC target (38,356 L2 vs. 6,302 DCFC). Order, p. 20.

<sup>12</sup> Plug-and-charge is a feature when a recognized vehicle, which must also be enabled with plug-and-charge, can charge and be billed for the charging session without the drivers paying by credit card or proprietary mobile app.

customers demand a seamless and quick charging experience, such as a highway rest stop. In contrast, EV drivers expect longer dwell times at L2 stations and can better tolerate a multi-step transaction process. Furthermore, some L2 charging stations at multi-unit dwellings and workspaces may be offered as a free amenity, in which case the benefits of plug-and-charge capabilities are marginal.

## **b. Proposed Modifications**

The JU propose modifying the communication standards requirements as laid out below and in Table 1.

- A. Postpone the effective date for L2 charger hardware and software conformance from December 16, 2023, and November 16, 2024, respectively, to June 1, 2025, subject to any further market supply constraints or considerations.<sup>13</sup>
- B. Base software and hardware compliance on the date of project commitment,<sup>14</sup> not installation.
- C. Revise the ISO 15118 *software requirements* to read as “Parts 2 or 20” instead of “Parts 2 and 20”. This revised software requirement would apply to DCFC projects *committed* on or after November 16, 2024 and for L2 projects *committed* on or after June 1, 2025.
- D. Revise the ISO 15118 *hardware requirements* to read as “Parts 2 or 20” instead of “Parts 2 and 20” for DCFC projects *committed* on or after December 16, 2023, and for L2 projects *committed* on or after June 1, 2025.<sup>15</sup>

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<sup>13</sup> Stakeholders have informed the JU that June 1, 2025 reflects a realistic timeframe for next generation L2 EVSE to be widely available to the market.

<sup>14</sup> A commitment refers to project signing the Program Agreement, a contract in the Make-Ready Program where the Participant agrees to the service connection layout, the initial incentive offering, and other terms provided by the Utility, before the Participant can start construction.

<sup>15</sup> ISO 15118-3 may also be applicable. See Footnote 29.

**Table 1: Current and Proposed Communication Standard Compliance Requirements  
(modifications in red text)**

	<u>Order requirement – all plug types</u>	<u>Proposal for L2 chargers</u>	<u>Proposal for DCFC chargers</u>
ISO hardware conformance	<i>Part –2 and –20, for projects committed on or after Dec 16, 2023, and any installed on or after Nov 16, 2024</i>	<i>Part –2 <b>or</b> –20,<sup>16</sup> for projects <b>committed</b> on or after <b>June 1, 2025</b></i>	<i>Part –2 <b>or</b> –20 for projects committed on or after Dec 16, 2023</i>
ISO software conformance, OCPP hardware conformance	<i>Part –2 and –20 and OCPP effective for projects installed on or after Nov 16, 2024</i>	<i>Part –2 <b>or</b> –20 and OCPP, effective for projects <b>committed</b> on or after <b>June 1, 2025</b></i>	<i>Part –2 <b>or</b> –20 and OCPP, effective for <b>committed</b> projects on or after Nov 16, 2024</i>

**c. Program Impact**

The Order’s timeline for mandating this progress outpaces EVSE manufacturers’ and developers’ ability to comply, risking disruptions and delays in progress toward the Make-Ready Programs’ targets. Regarding ISO 15118-2 and -20 *hardware* conformance, the JU publish an eligible equipment list<sup>17</sup> of conforming DCFC and L2 hardware<sup>18</sup> to help participants identify equipment that complies with standards that went into effect December 16, 2023. DCFC developers and manufacturers largely report being ready to meet hardware requirements already in effect. On the other hand, L2 developers report limited hardware-conforming inventory and some manufacturers report that they are still working on product redesign to provide ISO 15118-2 hardware-conforming EVSE. Furthermore, because the L2 charger lifetime spans five to seven years, L2 charging stations require less EVSE future proofing for subsequent software updates, minimizing the risk that vehicle adoption of ISO 15118-2 will outpace charger hardware readiness. Regarding *software*, none of the nine manufacturers interviewed by the JU report plans to meet ISO 15118-20 software conformance by November 16, 2024 for L2 or DCFC chargers.

<sup>16</sup> ISO 15118-3 may also be applicable for L2 and DCFC. See Footnote 29.

<sup>17</sup> Joint Utilities of New York. “EV Make-Ready Program.” Accessed March 6, 2024. (<https://jointutilitiesofny.org/sites/default/files/JU%20EVs/January%202024%20update/Approved%20Charger%20List%203-1-24.pdf>).

<sup>18</sup> EVSE manufacturers seeking to be listed by the JU must disclose that their equipment conforms to the applicable standards.

L2 developers report that, because of cost and availability of conforming chargers, they anticipate projects comprising thousands of new plugs in the Make-Ready Program application pipeline will be canceled, both in the pre-application and the pre-commitment phases.<sup>19</sup> For example, in the Con Edison service area, about 2,600 L2 non-conformant plugs without program agreements, representing potentially \$33.750 million in incentives, have been greenlit by customers. Of those, roughly 1,400 non-compliant L2 plugs were selected as part of a municipal Request-for-Proposal (RFP) process to provide public charging; the RFP was completed prior to the 2023 Order, and the development of these municipal projects will be delayed until conforming equipment is available.<sup>20</sup>

An additional category of projects will face cancellation or delay while equipment is exchanged: those plugs committed before December 16, 2023, that both cannot complete installation before November 16, 2024 and cannot source conforming equipment. The L2 plug projects are at the greatest risk of cancellation, though well-established DCFC projects are also at risk. The JU report that, across JU service territories the following committed plugs are likely to be at risk<sup>21</sup> because they were committed before December 16, 2023, and remain in the construction phase at present; if developers do not find compliant equipment, utilities must renege on the associated Program Agreements:

- Up to 153 DCFC plugs at risk of non-conformance with ISO 15118-2 and –20 software requirement.
- Up to 2,814 L2 plugs<sup>22</sup> at risk of non-conformance with ISO 15118-2 and –20 software requirements and at risk of inventory shortages.

To support market certainty and to honor the effort and investments already made by developers, municipalities, and their suppliers on in-flight projects slated to receive incentives,

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<sup>19</sup> Developers must submit EVSE specification sheets and finalize service determination by the pre-construction phase.

<sup>20</sup> The other 1,200 L2 plugs constituting the 2,600 total are in the pipeline in the pre-construction phase.

<sup>21</sup> It is challenging to predict how much attrition to expect from this category of projects in the pipeline, but the JU expect that all projects will experience some impact as a result of the new communication standards requirements. Plug counts represent plugs with program agreement dates before December 16, 2023 that are unlikely to be completed by Nov 16, 2024. Pipeline data includes Make-Ready Program participants, which are subject to the communication standards, and not participants of other programs authorized in the Order (e.g., Micromobility and MHD Pilot), which are not subject to the communication standards authorized in Ordering Clause 23 of the Order.

<sup>22</sup> The 2,814 L2 plugs statewide that are already committed are in addition to the roughly 2,600 L2 plugs in the Con Edison service area that are pre-commitment.



the JU recommend instituting communication standards requirements only for projects *committed* (versus *installed*) after the proposed effective dates above. This approach ensures that a JU customer can move forward with its original project, as outlined in a program agreement between the customer and utility, without being subject to changes in equipment requirements.

#### **d. State of the Standards**

The ISO 15118 Standard governs communication between an EV's communication controller and a charging station's communication controller.<sup>23</sup> ISO 15118-2 or -20 also enables plug-and-charge technology where a recognized vehicle, which must also be enabled with plug-and-charge, can charge and be billed for the charging session without the drivers paying by credit card or proprietary mobile app.<sup>24</sup> Instead, the charging station recognizes the vehicle and charges the account associated with the vehicle. Eight documents or “parts” comprise ISO 15118.<sup>25</sup> The development and management of these standards are outside of the purview and influence of the JU.

The Order specifies conformance with ISO 15118-2 and -20. ISO 15118-2 defines requirements for digital message exchange<sup>26</sup> between vehicle and charger during a charging session, including requirements for plug-and-charge, error messages, and vehicle-to-grid communication.<sup>27</sup> ISO 15118-20 includes requirements for digital message exchange but addresses requirements for newer technology, such as wireless charging, enhanced security, and bi-directional energy transfer (i.e., exporting energy from the vehicle back to the grid).<sup>28</sup> However, ISO 15118-20 and ISO 15118-2 are not backwards compatible, meaning a -2 compliant charging station cannot communicate with a -20 compliant vehicle, and vice versa.<sup>29</sup> **Importantly, ISO has not yet released a conformance test for ISO 15118-20** and therefore

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<sup>23</sup> International Standards Organization. "Road vehicles — Vehicle to grid communication interface — Part 4: Network and application protocol conformance test," Available at: <https://www.iso.org/obp/ui/en/#iso:std:iso:15118:-4:ed-1:v1:en>

<sup>24</sup> Capital One Auto Navigator. "What is Plug-and-Charge," October 31, 2023. Available at: <https://www.capitalone.com/cars/learn/finding-the-right-car/what-is-plug-charge/2734>

<sup>25</sup> Multin, Marc. October 11, 2021. "What is ISO 15118?" Available at: <https://www.switch-ev.com/blog/what-is-iso-15118#secure-communications-powered-by-plug-amp-charge>

<sup>26</sup> As opposed to analogue message exchanges, which are more common today.

<sup>27</sup> Halliwell, John, EPRI. Interview. Conducted by Con Edison staff. January 25, 2024.

<sup>28</sup> Multin, Marc. May 28, 2020. "The new features and timeline for ISO 15118-20." Available at: <https://www.switch-ev.com/blog/new-features-and-timeline-for-iso15118-20>

<sup>29</sup> *Ibid.*

widespread manufacturer adoption of ISO 15118-20 standard is not currently under way.<sup>30</sup> Charging equipment manufacturers report, however, that they are focused on ISO 15118-2, which some vehicle manufacturers have adopted or are prepared to adopt.

Federal and state programs have taken different approaches to communications standards. The California Energy Commission (CEC) recognizes that state incentive programs must accommodate a much wider range of use cases than federally funded projects and recognizes that the sheer volume of L2 chargers installed in California far exceeds the volume expected to be installed through National Electric Vehicle Infrastructure (NEVI) program. Therefore, the CEC requires equipment “capable of communicating using ISO 15118-2 *and/or* ISO 15118-20,” and, unlike the NEVI program,<sup>31</sup> the CEC mandates that L2 charging equipment should “be capable of communicating using ISO 15118-2 *and/or* ISO 15118-20 [...] DC chargers should support DIN 70121 and be capable of communicating using ISO 15118-2 *and/or* ISO 15118-20.”<sup>32</sup> The L2 equipment requirements are effective as of May 2023 and the DCFC requirements are effective as of October 2022.<sup>33</sup> Considering the wide range of use cases in New York State outside of highway charging and considering the Make-Ready Program plug goals, the JU recommend that the Make-Ready Programs harmonize with the CEC mandates and require EV charging hardware be capable of communicating using ISO 15118-2 *or* ISO 15118-20 and that the equipment run software that conforms to ISO 15118-Part 2 *or* -20.

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<sup>30</sup> EV manufacturers have only recently started to announce their support of ISO 15118-2, released as an international standard back in 2014. Porsche was the first to announce support for Plug & Charge for its series production cars in August 2020. Available at: <https://www.electrive.com/2020/08/19/my21-porsche-taycan-comes-with-plug-and-charge-plus-fod/>

<sup>31</sup> The Federal Highway Administration (FHWA) published in its NEVI Standards and Requirements that charging stations receiving NEVI incentives must support software that conforms to ISO 15118-2 only by February 28, 2024. The NEVI regulations stipulate hardware be capable of implementing ISO 15118-2, ISO 15118-3, and ISO 15118-20. The NEVI program is focused on highway fast charging along the alternative fuel corridors (AFC), so the NEVI requirements disproportionately affect DCFC chargers, compared to the relatively few L2 chargers funded through NEVI outside of AFCs. Available at: <https://www.regulations.gov/document/FHWA-2022-0008-0399>.

<sup>32</sup> CEC and FHWA also define hardware ready EVSE as meeting ISO 15118-3 in addition to being capable of enabling ISO 15118-2 and -20. According to industry experts, ISO 15118-3 governs the physical layer (i.e., EVSE must contain a physical chip to enable power line carrier (PLC) data transfer) following the ISO 15118-5 conformance test. ISO 15118-3 may be a more precise and accurate requirement for hardware ready EVSE than ISO 15118-2 and -20.

<sup>33</sup> Docket 19-AB-2127, *Implementation of AB 2127 Electric Vehicle Charging Infrastructure Assessments*, CEC Recommendation for Deployment of ISO 15118-Ready Chargers. February 24, 2022. Available at [https://efiling.energy.ca.gov/GetDocument.aspx?tn=241955#:~:text=ISO%2015118%20is%20an%20industry,Charging%20System%20\(CCS\)%20connector.](https://efiling.energy.ca.gov/GetDocument.aspx?tn=241955#:~:text=ISO%2015118%20is%20an%20industry,Charging%20System%20(CCS)%20connector.)

## **II. MHD Pilot Customer Side Cost Eligibility**

The JU propose to expand the MHD Pilot customer-side cost eligibility to 1) projects that are partially within a DAC and 2) project parcels adjacent to a DAC. Electrification of MHD vehicles that charge in or just outside DACs, at public or non-public stations, will often provide benefits to DACs such as reducing disproportionately high air and noise pollution and greenhouse gas (GHG) emissions. Without customer-side cost incentives before the 2023 Order, prospective MHD Pilot participants cited lack of funding as a leading barrier to electrification which can render an otherwise viable project economically infeasible. As a demonstration of this barrier, before the revisions to the MHD Pilot to include customer-side cost incentives, there was only one MHD Pilot participant across the JU. While the DAC benefits of all use cases should be considered in designing a future full-scale MHD Program,<sup>34</sup> the two project scenarios named above merit expanding the MHD Pilot’s customer-side cost incentive eligibility to benefit DACs and support the success of the MHD Pilot. Enhanced DAC eligibility in the MHD Pilot would enable greater access to clean transportation in DACs, provide subsequent local health benefits, and support the Climate Leadership and Community Protection Act’s (CLCPA) goals.<sup>35</sup>

### **a. Projects that are partially within DAC**

In the MHD Pilot, the eligibility for customer-side cost incentives for non-public charging stations is limited to locations within DACs. The Order does not explicitly address projects where a contiguous parcel is partially in a DAC. For example, a large food and beverage commercial customer in the Con Edison service territory has a parcel fully surrounded by DAC areas, with the southern portion of the parcel within a DAC. However, the rest of the parcel is outside the DAC area. While this is the first instance of such a project, the JU anticipate this may occur in more cases in the future. For example, on the border of Westchester County and the Bronx, many parcels only partially within DAC zones would benefit from expanded eligibility, considering fleets have little flexibility to relocate their depot to be fully within a DAC to qualify for the MHD Pilot.

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<sup>34</sup> Case 23-E-0070, Proceeding on Motion of the Commission to Address Barriers to Medium-and Heavy-Duty Electric Vehicle Charging Infrastructure (“MHD Proceeding”), Order Instituting Proceeding and Soliciting Comments (April 20, 2023).

<sup>35</sup> The CLCPA Scoping Plan proposes goals of 50% ZEV sales of medium-duty vehicles by 2030, and 80% ZEV sales of heavy-duty by 2035. Available at: <https://climate.ny.gov/resources/scoping-plan/>

## **b. Projects that are adjacent to DACs**

In the Order, the Commission authorized the expansion of DAC eligibility to sites adjacent to DACs for both the Micromobility Pilot and the enhanced incentive tier for curbside L2 chargers in the light-duty Make-Ready Program. The Order defines adjacent sites as “an area is adjacent to a DAC where the DAC border stops short of the street (i.e., if one side of the street is in a designated DAC, the opposite side of the street would be adjacent).”<sup>36</sup> While this definition is used in reference to the Micromobility Pilot, the JU recommend extending use of this definition to the site eligibility criteria for the MHD Pilot.

Ultimately, expanding the MHD Pilot customer-side cost incentive criteria in DACs to include adjacent parcels would help the Commission target health and well-being benefits to residents of DACs since MHD vehicles parked in adjacent parcels still operate in those communities. This avoids adverse impacts to the DACs such as increased congestion due to charging infrastructure siting and helps alleviate emissions in DACs. For example, a school bus depot in the National Grid service territory serves a school district that has a significant population within a DAC, where air pollution rates are in the 80-90<sup>th</sup> percentile of PM<sub>2.5</sub> emissions,<sup>37</sup> but the depot itself is located outside the DAC in an adjacent parcel and therefore would be unable to receive customer-side support. With similar air pollution impacts, highway fast-charging hubs on major travel corridors would also benefit from this expanded definition of DAC eligibility.

The JU seek Commission authorization to provide customer-side cost incentives to sites adjacent to DACs – in parcels directly bordering the DAC line – rather than strictly limiting enhanced incentives to fleets domiciled within a DAC census tract, as the benefits of MHD electrification accrue beyond just where infrastructure is sited.

## **III. Conclusion**

For the reasons set forth Section I, the JU request that the Commission revise the EVSE communications standards adopted in the 2023 Order as described above. The recommended

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<sup>36</sup> Order, p. 40.

<sup>37</sup> PM<sub>2.5</sub> emissions percentile data taken from the EPA's Environmental Justice Screening and Mapping Tool (Version 2.2). Available at: <https://ejscreen.epa.gov/mapper/>

changes would avoid inhibiting the Make-Ready Program’s progress in L2 and DCFC commitments and installations at a critical juncture of upward momentum when participants would otherwise be responding to increased incentives made possible by the Order. With the current rules on communications standards, the Make-Ready Programs cannot accelerate growth toward expanded targets by building on learnings from the first half of the program, as the Midpoint Review process intended. Therefore, the JU request that the Public Service Commission consider the changes reflected in this petition.

Regarding the MHD Pilot Program, the JU request that the Commission expand customer-side cost eligibility to benefit DACs in two scenarios: (1) projects in parcels that are *partially within* a DAC, and (2) projects in parcels that are *adjacent to* a DAC. Expanded customer-side incentive eligibility will remove barriers to participation in the MHD Pilot and increase the benefits to more DACs served by MHD fleets in the Pilot.

Dated: March 15, 2024

Respectfully submitted,

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