UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
CORPORATION FINANCE

March 10, 2025

Xuehui Cassie Zhang
Tesla, Inc.

Re: Tesla, Inc. (the "Company")
Incoming letter dated March 5, 2025

Dear Xuehui Cassie Zhang:

This letter is in regard to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by Green Century Capital Management, Inc. (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. Your letter indicates that the Proponent has withdrawn the Proposal and that the Company therefore withdraws its January 14, 2025 request for a no-action letter from the Division. Because the matter is now moot, we will have no further comment.

Copies of all of the correspondence related to this matter will be made available on our website at https://www.sec.gov/corpfin/2024-2025-shareholder-proposals-no-action.

Sincerely,

Rule 14a-8 Review Team

cc: Annie Sanders
Green Century Capital Management, Inc.

TESLA

1Tesla Road, Austin, Texas 78725
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January 14, 2025

VIA STAFF ONLINE FORM

United States Securities and Exchange Commission
Division of Corporation Finance
100 F Street, N.E.
Washington, D.C. 20549-7010

RE: Stockholder Proposal Submitted by Green Century Capital Management, Inc.

Ladies and Gentlemen:

Tesla, Inc. (the "Company" or "Tesla") is submitting this letter to notify the staff of the Division of Corporation Finance (the "Staff") of the U.S. Securities and Exchange Commission (the "Commission") of the Company's intention to exclude a stockholder proposal (the "Proposal") from its proxy materials to be distributed in connection with its 2025 annual meeting of stockholders (the "Proxy Materials"). Green Century Capital Management, Inc., on behalf of the Green Century Equity Fund (the "Proponent"), submitted the Proposal.

The Company respectfully requests that the Staff advise the Company that it will not recommend any enforcement action to the Commission if the Company excludes the Proposal from its Proxy Materials for the reasons discussed below. In accordance with relevant Staff guidance, the Company is submitting this letter and its attachments to the Staff through the Staff's online Shareholder Proposal Form. Pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Company is simultaneously sending a copy of this letter and its attachments to the Proponent as notice of the Company's intent to omit the Proposal for its Proxy Materials.

Rule 14a-8(k) and Section E of Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB 14D") provide that stockholder proponents are required to send companies a copy of any correspondence that the stockholder proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to remind the Proponent that if it submits correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to the Company.

The Proposal

The Proposal sets forth the following:

> Resolved: Shareholders request that Tesla, at reasonable expense and omitting proprietary information, issue a report describing if and how it plans to mitigate supply chain GHG emissions and associated risks in line with its net zero ambition.

A copy of the Proposal is attached hereto as Exhibit A.

Basis for Exclusion

The Company respectfully requests that the Staff concur in our view that the Proposal may be excluded from the Proxy Materials pursuant to Rule 14a-8(i)(7) of the Exchange Act, as the Proposal deals with matters relating to the Company's ordinary business operations.

Rule and Analysis

Rule 14a-8(i)(7) allows the omission of a stockholder proposal from a registrant's proxy statement if the proposal "deals with a matter relating to the company's ordinary business operations." As set out in Securities Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"), there are two "central considerations" underlying the ordinary business exclusion. One is that certain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight. The other relates to the degree that a proposal seeks to "micro-manage" the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.

Explaining the standard for micromanagement, the Commission noted in the 1998 Release that consideration of complex matters upon which shareholders could not make an informed judgment "may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex

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policies" (footnote omitted). In Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L"), the Staff explained that a proposal can be excluded on the basis of micromanagement based "on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management."

In this case, the Proposal implicates precisely these issues— it seeks to impose specific methods for implementing complex policies and also requests overly granular detail. In this regard, the Proposal requests that the Company "issue a report…describing if and how it plans to mitigate supply chain GHG emissions and associated risks in line with its net zero ambition." The Proposal's supporting statement further recommends that the Company should, in developing the disclosure, "[address] the pros and cons of participating in global value chain emissions reduction initiatives, such as ResponsibleSteel and SteelZero," and "[analyze] the financial and climate-related impacts on the Company's business of a range of low-carbon steel and aluminum adoption scenarios."

The Staff has consistently permitted exclusion on the basis of micromanagement of stockholder proposals urging the adoption of policies that impose specific methods for reducing greenhouse gas ("GHG") emissions. For example, in *Amazon.com, Inc.* (Apr. 7, 2023, *recon. denied* Apr. 20, 2023), the Staff permitted exclusion of a proposal by the Proponent that requested the Company measure and disclose scope 3 greenhouse gas emissions from its "full value chain" inclusive of its physical stores and e-commerce operations and all products that it sells directly and those sold by third party vendors. Among other things, the company argued that "implementation of the [p]roposal would involve replacing management's judgments on complex reporting principles and decisions that are intimately tied to the [c]ompany's business goals and operations with a broad and extreme reporting scope favored by the [p]roponent." In its response, the Staff noted that "the [p]roposal seeks to micromanage the [c]ompany by imposing a specific method for implementing a complex policy disclosure without affording discretion to management." Similarly, in *Valero Energy Corporation* (Mar. 22, 2024), the Staff found that a proposal asking the company to adopt a "1.5° C-aligned, near-term emissions reduction target that does not include the use of carbon offsets and avoided emissions" micromanaged the company. The company argued, among other things, that the proposal micromanaged the company because it not only requested the setting of GHG emissions reduction targets, but also imposed a specific method for doing so by requiring the exclusion of carbon offsets and avoided emissions. See also *JPMorgan Chase & Co.* (Mar. 29, 2024) (permitting exclusion on the basis of micromanagement of a proposal requesting the company disclose "the proportion of sector emissions attributable to clients that are not aligned with a credible Net Zero pathway, whether this proportion of unaligned clients will prevent the Company from meeting its 2030 targets, and the actions it proposes to address any such emissions reduction shortfalls"); *The Goldman Sachs Group, Inc.* (Mar. 4, 2024) (same); *Bank of America Corporation* (Feb. 29, 2024, *recon. denied* Apr. 15, 2024) (same); *Morgan Stanley* (Mar. 29, 2024) (same); *Chubb Ltd*. (Mar. 27, 2023) (permitting exclusion on the basis of micromanagement of a proposal requesting the adoption and disclosure of a policy for the timebound phase out of the company's underwriting risks associated with new fossil fuel exploration and development projects aligned with limiting global temperature rise to 1.5°C); *JPMorgan Chase & Co.* (Mar. 30, 2018) (permitting exclusion on the basis of micromanagement of a proposal requesting a report on the reputational, financial and climate risks associated with project and corporate lending, underwriting, advising and investing for tar sands production and transportation, noting that the proposal sought to "impose specific methods for implementing complex policies").

Like in the matters described above, the Proposal attempts to prescribe a specific method for reducing GHG emissions in the Company's supply chain – by seeking to promote participation in particular organizations and initiatives relating to the Company's supply chain. While the Proposal frames itself as a request for "[e]nhanced disclosure of Tesla's plans to mitigate supply chain GHG emissions," it actually attempts to direct Tesla's supply chain relationships. In this regard, the Proposal notes that its "essential purpose" is for Tesla to "produce forward-looking disclosures demonstrating whether its existing policies and actions are aligned with its net zero ambition," which it describes as "[a]ddressing the pros and cons of participating in global value chain emissions reduction initiatives such as ResponsibleSteel and SteelZero" and "[a]nalyzing the financial and climate-related impacts on Tesla's business of a range of low-carbon steel and aluminum adoption scenarios."

In this manner, the Proposal operates from a fundamentally unsound premise. The Proposal notes that "[s]teel and aluminum are responsible for approximately 10% of global GHG emissions" and states that the auto industry is one of the largest consumers of steel and aluminum, implying that therefore Tesla – as an automotive company – must be similarly responsible. The Proposal then explains that despite Tesla's robust reporting on its net-zero strategy – which includes voluntary reporting of Scope 1, 2 and 3 emissions – Tesla nevertheless "lags peers in mitigating supply chain GHG emissions through low carbon commodity procurement." The Proposal then cites a number of traditional, non-electric, automotive companies and notes their membership in and associations with particular supply chain initiatives such as "ResponsibleSteel," "First Movers Coalition" and "SteelZero." Thus, the Proposal appears to be seeking for Tesla to take similar actions as traditional automotive companies, ignoring the fact that these companies have completely different business models, component parts, and supply chains.

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In prescribing its own specific judgments with respect to the Company's supply chain and related emissions, the Proposal seeks to substitute the judgment of the Company's management – which is a world-wide leader in sustainability and carbon emissions reduction – with the Proponent's. As described in Tesla's 2023 Impact Report (the "Impact Report")[1], Tesla already has a robust GHG emissions reduction program in place that takes into account supply chain emissions. Indeed, as discussed on page 106 of the Impact Report, the Company already has identified several raw materials, including steel and aluminum, for its responsible sourcing efforts and established decarbonization as a priority engagement area, which it reports to investors and the public on. Similarly, the Company has a sustainable sourcing framework that differs from traditional automotive companies. Pages 103 through 131 of the Impact Report describe Tesla's approach to supply chain sustainability, including an explanation of how Tesla's EV supply chain is more sustainable than a traditional ICE supply chain. With respect to the Proposal's specific concerns, pages 127 and 128 of the Impact Report describe in detail Tesla's approach to supply chain management for steel and aluminum. This includes direct sourcing and supply chain mapping and supplier certification to the Aluminum Stewardship Initiative's (ASI) Performance Standard as well as initiatives to understand and reduce the carbon footprint of suppliers within the Company's global value chain. As described on pages 38 and 39 of the Impact Report, the Company has been measuring GHG emissions from its full value chain in accordance with the GHG Protocol for several years. Moreover, acknowledging that database estimates do not accurately reflect its GHG emissions, the Company is committed to constantly improving its data collection across all Scope 3 categories in particular.

Despite this comprehensive supply chain emissions reporting system, the Proposal seeks to micromanage the Company by prescribing a specific method for addressing this complex policy. This would supplant the expert and nuanced reporting approach developed over years by the Company's management and Board. The Proposal requests that the Company "provide additional strategies, metrics and milestones necessary for mitigating supply chain GHG emissions" and "addressing the pros and cons of participating in global value chain emissions reduction initiatives such as ResponsibleSteel and SteelZero." In this regard, the Proposal fundamentally misunderstands the differences between the Company's operations and other, traditional automotive manufacturers in the matter it seeks to address. Requesting that the Company address "pros and cons" of various supply chain programs when the Company has already spent countless hours and corporate resources into devising its own unique supply chain emissions reduction program is the definition of micromanagement.

In addition, the Proposal seeks excessive and overly granular detail. The report requested by the Proposal would necessitate quantifying hundreds of data points and providing specific reporting on wide-ranging and highly variable hypothetical scenarios. For example, in "analyzing the financial and climate-related impacts on [its] business of a range of low-carbon steel and aluminum adoption scenarios," the Company would have to consider and report on a vast and granular data set, spanning several business lines and industries. In this regard, the Company would be required to make projections, which are inherently speculative. This means that despite extensive effort and disclosure, there is no guarantee that the Company's analysis would adequately address the impact of these scenarios. Certification by "ResponsibleSteel" requires compliance with its "13 Principles containing over 500 requirements for the responsible sourcing and production of steel."[2] To properly assess the "pros and cons" of participating in such an initiative, Tesla would need to evaluate its unique and complex business in light of each individual requirement. In that way, the Proposal would not only require painstaking effort, but it would also result in an excessively detailed and overly granular report.

The Staff has routinely concurred in the exclusion of proposals on the basis of micromanagement where the proposals request overly granular detail. See *Air Products and Chemicals, Inc.* (Nov. 29, 2024) (permitting exclusion on the basis of micromanagement of a proposal requesting a report disclosing the company's policies and procedures governing lobbying and grassroots lobbying communications, among other things); *Delta Air Lines, Inc.* (Apr. 24, 2024) (permitting exclusion on the basis of micromanagement of a proposal requesting a report on "union suppression expenditures," including internal and external expenses); *Paramount Global* (Apr. 19, 2024) (permitting exclusion on the basis of micromanagement of a proposal requesting disclosure of the recipients of corporate charitable contributions of $5,000 or more); *Walmart Inc.* (Apr. 18, 2024) (permitting exclusion on the basis of micromanagement of a proposal requesting a breakdown of greenhouse gas emissions for different categories of products in a manner inconsistent with existing reporting frameworks); *Phillips 66* (Mar. 20, 2023) (permitting exclusion on the basis of micromanagement of a proposal requesting an audited report describing the undiscounted expected value to settle obligations for the company's asset retirement obligations with indeterminate settlement dates); *Valero Energy Corporation* (Mar. 20, 2023) (same).

The Proposal requests that the Company develop and disclose a report addressing "whether its existing policies and actions are aligned with its net zero ambition, and, if not, provid[ing] additional strategies, metrics, and milestones necessary for

[1] Available at https://www.tesla.com/ns_videos/2023-tesla-impact-report.pdf
[2] https://www.responsiblesteel.org/standards

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mitigating supply chain GHG emissions accordingly." The Proposal also asserts that this disclosure "would help the Company appropriately manage competitive risks and opportunities and mitigate climate risk." As noted above, the Company already has a robust reporting system of Scope 1, 2 and 3 greenhouse gas emissions in addition to a comprehensive supply chain management and sourcing program. The Proposal seeks to replace this with an approach that is not tailored to Tesla's unique business model. This would result in an overly granular and wholly unnecessary report that would be a waste of corporate resources.

Framing a stockholder proposal as a request for a report does not change the nature of the proposal. The Commission has stated that a proposal requesting the dissemination of a report may be excludable under Rule 14a-8(i)(7) if the subject matter of the report is within the ordinary business of the issuer. See Exchange Act Release No. 20091 (Aug. 16, 1983) (the "1983 Release"); see also *Johnson Controls, Inc.* (Oct. 26, 1999) ("[Where] the subject matter of the additional disclosure sought in a particular proposal involves a matter of ordinary business… it may be excluded under [R]ule 14a-8(i)(7)") and *Netflix, Inc.* (Mar. 14, 2016). The Staff also has consistently found that proposals calling for a study or report may be excluded on micromanagement grounds. See, e.g., *PayPal Holdings, Inc.* (Mar. 6, 2018) (permitting exclusion on the basis of micromanagement of a proposal asking the company to prepare a report on the feasibility of achieving net-zero emissions by 2030); *Devon Energy Corporation* (Mar. 4, 2019) (permitting exclusion on the basis of micromanagement of a proposal requesting the board provide disclosure of short-, medium- and long-term greenhouse gas targets aligned with the Paris Climate Agreement). Moreover, it is well established that a proposal that seeks to micromanage a company's business operations is excludable under Rule 14a-8(i)(7) regardless of whether the proposal raises a "significant social policy issue." See Staff Legal Bulletin No. 14E (Oct. 27, 2009) at note 8, citing the 1998 Release for the premise that "a proposal [that raises a significant policy issue] could be excluded under Rule 14a-8(i)(7), however, if it seeks to micro-manage the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment."

The Company agrees that addressing climate change is important. Indeed, the Company's mission is to accelerate the world's transition to sustainable energy and few companies have done more than Tesla to promote this transition. Nevertheless, the Proposal is overly prescriptive in its request and seeks to interfere with the Company's policies relating to its global value chain. Decisions concerning the Company's supply chain management, net-zero strategy and GHG emissions reduction plans require complex business judgments and assessments by the Company's teams across various functions regarding what the Company considers to be reasonable and achievable and will serve the best interest of its business and its clients. Further, in pursuing its goal of a transition to a low-carbon economy, the Company must consider other factors both within and outside of its control, including, among other things, the pace of technological advancements, the evolution of consumer behavior and demand, and the potential impact of legal and regulatory obligations. How the Company addresses this complex issue, after considering numerous factors described above, involves exactly the type of day-to-day operational decisions that the 1998 Release and SLB 14L recognized as appropriate for exclusion under Rule 14a-8(i)(7). By mandating that the Company focus on one aspect of its climate-related efforts and provide related disclosure, the Proposal seeks to impose specific methods for implementing complex policies and, therefore, probes too deeply into matters of a complex nature upon which shareholders, as a group, are not in a position to make an informed judgment.

Conclusion

The Company respectfully requests that the Staff concur that it will take no action if the Company excludes the Proposal from the Proxy Materials. If the Staff has any questions with respect to the foregoing, or if for any reason the Staff does not agree that the Company may exclude the Proposal from its Proxy Materials, please do not hesitate to contact me at cassie.zhang@tesla.com. In addition, should the Proponents choose to submit any response or other correspondence to the Commission, we request that the Proponents concurrently submit that response or other correspondence to the Company, as required pursuant to Rule 14a-8(k) and SLB 14D, and copy the undersigned.

Sincerely,

Xuehui Zhang

Xuehui Cassie Zhang
Associate General Counsel

cc: Annie Sanders
Green Century Capital Management, Inc.

EXHIBIT A

Whereas: The Intergovernmental Panel on Climate Change advises that greenhouse gas (GHG) emissions must be halved by 2030 and reach net zero by 2050 to limit global warming to 1.5°C.[1] Every incremental increase in temperature above 1.5°C will entail increasingly severe physical and systemic risks for companies and investors.

Steel and aluminum are responsible for approximately 10% of global GHG emissions.[2,3] The auto industry is the second-largest consumer of steel, procuring 12% of global supply,[4] and is the largest aluminum buyer in the world.[5]

In its 2024 Impact Report, Tesla articulates an ambition to reach net zero emissions as soon as possible and to accelerate the world's transition to sustainable energy not only through its products and operations, but also through its supply chain. Supply chain emissions from sources such as batteries, steel, and aluminum account for the majority of Tesla's GHG emissions, with steel and aluminum representing approximately 18% of supply chain emissions.[6]

Tesla has enhanced transparency by disclosing disaggregated supply chain emissions from sources such as steel, aluminum, and battery production, and engages with some suppliers on decarbonization strategies.[7] However, Tesla lags peers in mitigating supply chain GHG emissions through low carbon commodity procurement:

- Through the First Movers Coalition, Ford and General Motors have committed to procure at least 10% of primary steel and aluminum as low carbon by 2030.[8, 9]
- Nissan will transition to low-carbon aluminum by 2030.[10]
- Volvo and Mercedes-Benz are improving steel supply chain sustainability by participating in the ResponsibleSteel initiative.[11]

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1 https://www.un.org/en/climatechange/net-zero-coalition
2 https://www.sciencedirect.com/science/article/abs/pii/S2214629622000706
3 https://www.globalefficiencyintel.com/aluminum-climate-impact-international-benchmarking-energy-co2-intensities
4 https://theicct.org/publication/green-steel-automakers-us-europe-sep-24/
5 https://leadthecharge.org/the-problem/aluminum/
6 https://www.tesla.com/ns_videos/2023-tesla-impact-report.pdf
7 https://www.tesla.com/ns_videos/2023-tesla-impact-report.pdf
8 https://media.ford.com/content/fordmedia/fna/us/en/news/2022/05/25/ford-joins-first-movers-coalition.html
9 https://www.gm.com/content/dam/company/docs/us/en/gmcom/company/GM_2023_SR.pdf
10 https://global.nissannews.com/en/releases/nissan-to-transition-to-low-co2-emission-aluminum-by-2030
11 https://www.responsiblesteel.org/members-and-associates

- Volvo has joined SteelZero, pledging to procure 50% net zero steel by 2030 and 100% by 2050.[12]
- BMW, Mercedes-Benz, Volvo, Porsche, and other automakers have signed offtake agreements for low carbon steel produced by Stegra's green hydrogen mill.[13]

Enhanced disclosure of Tesla's plans to mitigate supply chain GHG emissions, including steps to increase procurement of low carbon steel and aluminum, would help the Company appropriately manage competitive risks and opportunities, and mitigate climate risk.

Resolved: Shareholders request that Tesla, at reasonable expense and omitting proprietary information, issue a report describing if and how it plans to mitigate supply chain GHG emissions and associated risks in line with its net zero ambition.

Supporting statement: The essential purpose of this proposal is for Tesla to produce forward-looking disclosures demonstrating whether its existing policies and actions are aligned with its net zero ambition, and if not, to provide additional strategies, metrics, and milestones necessary for mitigating supply chain GHG emissions accordingly. In developing the disclosures, proponents recommend, at management discretion:

- Addressing the pros and cons of participating in global value chain emissions reduction initiatives such as ResponsibleSteel and SteelZero; and
- Analyzing the financial and climate-related impacts on Tesla's business of a range of low-carbon steel and aluminum adoption scenarios.

[12] https://www.theclimategroup.org/steelzero-members
[13] https://stegra.com/

Sanford Lewis & Associates

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January 30, 2025

Via SEC online submission platform

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Shareholder Proposal submitted to Tesla, Inc. by
Green Century Capital Management, Inc.

Ladies and Gentlemen:

Green Century Capital Management, Inc., (the "Proponent") is the beneficial owner of common stock of Tesla, Inc. ("Tesla" or "the Company") and has submitted a shareholder proposal (the "Proposal") to the Company.

I have been asked by the Proponent to respond to the letter dated January 14, 2025 ("Company Letter") sent to the Securities and Exchange Commission by Xuehui Cassie Zhang, Associate General Counsel acting on behalf of the Company. In that letter, the Company requests that the Staff concur that it will take no action if the Company excludes the proposal from the proxy materials.

A response on behalf of the Proponent is enclosed demonstrating that the Company has provided no basis for concluding that the Proposal is excludable from the 2025 proxy statement pursuant to Rule 14a-8. As such, we respectfully request that the Staff inform the Company that it is denying the no action letter request.

We have redacted personal information consistent with the Staff's guidance. A copy of this letter is being emailed concurrently to Xuehui Cassie Zhang. If you have any questions, please contact Sanford Lewis at 413 549-7333 or sanfordlewis @strategiccounsel.net.

Sincerely,

Sanford Lewis

Cc: Xuehui Cassie Zhang

SUMMARY

The Company has stated that it intends to attain net zero GHG emissions, including for its supply chain, "as soon as possible." Based on the reporting from the Company in its 2023 Impact Report, **the vast majority of the Company's GHG emissions come from its supply chain.** The Company is measuring GHG emissions in parts of the supply chain and engaging with certain supply chain sectors on GHG reduction. However, the reported sector engagements appear to relate to substantially less than half of the GHG emissions from the Company's supply chain, and the Company discloses no clear pathway, milestones, or timeline to reach its "as soon as possible" goal.

The proposal requests that the Company, at reasonable expense and omitting proprietary information, issue a report describing *if and how it plans to mitigate supply chain GHG emissions and associated risks in line with its net zero ambition*. The supporting statement clarifies that a Report should include *forward-looking disclosures* demonstrating *whether its existing policies and actions are aligned with its net zero ambition*, and if not, to provide additional strategies, metrics, and milestones necessary for mitigating supply chain GHG emissions accordingly.

The Company asserts that the Proposal is excludable under Rule 14a-8(i)(7) as the Proposal deals with matters relating to the Company's ordinary business operations by micromanaging the Company. Since the proposal is a broadly principled request to report "*if and how it plans to mitigate supply chain GHG emissions and associated risks in line with its net zero ambition*", the Proposal neither "prescribes specific methods" nor is overly granular in its nature. As such, it does not seek to micromanage. The proposal provides vast flexibility for the Company to disclose whether it has a complete strategy for attaining its net zero ambition, or whether "as soon as possible" is likely to be more of an ever-evasive goal.

The Proposal leaves the Company enormous flexibility as to both reporting and action as to IF and HOW and WHEN it would plan to reach net zero. The Proposal leaves broad latitude and discretion to the Company. Thus, the Proposal does not micromanage.

THE PROPOSAL

Whereas: The Intergovernmental Panel on Climate Change advises that greenhouse gas (GHG) emissions must be halved by 2030 and reach net zero by 2050 to limit global warming to 1.5°C.[1] Every incremental increase in temperature above 1.5°C will entail increasingly severe physical and systemic risks for companies and investors.

Steel and aluminum are responsible for approximately 10% of global GHG emissions.[2,3] The auto industry is the second-largest consumer of steel, procuring 12% of global supply,[4] and is the largest aluminum buyer in the world.[5]

In its 2024 Impact Report, Tesla articulates an ambition to reach net zero emissions as soon as possible and to accelerate the world's transition to sustainable energy not only through its products and operations, but also through its supply chain. Supply chain emissions from sources such as batteries, steel, and aluminum account for the majority of Tesla's GHG emissions, with steel and aluminum representing approximately 18% of supply chain emissions.[6]

Tesla has enhanced transparency by disclosing disaggregated supply chain emissions from sources such as steel, aluminum, and battery production, and engages with some suppliers on decarbonization strategies.[7] However, Tesla lags peers in mitigating supply chain GHG emissions through low carbon commodity procurement:

- Through the First Movers Coalition, Ford and General Motors have committed to procure at least 10% of primary steel and aluminum as low carbon by 2030.[8, 9]
- Nissan will transition to low-carbon aluminum by 2030.[10]
- Volvo and Mercedes-Benz are improving steel supply chain sustainability by participating in the ResponsibleSteel initiative.[11]
- Volvo has joined SteelZero, pledging to procure 50% net zero steel by 2030 and 100% by 2050.[12]

[1] https://www.un.org/en/climatechange/net-zero-coalition
[2] https://www.sciencedirect.com/science/article/abs/pii/S2214629622000706
[3] https://www.globalefficiencyintel.com/aluminum-climate-impact-international-benchmarking-energy-co2-intensities
[4] https://theicct.org/publication/green-steel-automakers-us-europe-sep-24/
[5] https://leadthecharge.org/the-problem/aluminum/
[6] https://www.tesla.com/ns_videos/2023-tesla-impact-report.pdf
[7] https://www.tesla.com/ns_videos/2023-tesla-impact-report.pdf
[8] https://media.ford.com/content/fordmedia/fna/us/en/news/2022/05/25/ford-joins-first-movers-coalition.html
[9] https://www.gm.com/content/dam/company/docs/us/en/gmcom/company/GM_2023_SR.pdf
[10] https://global.nissannews.com/en/releases/nissan-to-transition-to-low-co2-emission-aluminum-by-2030
[11] https://www.responsiblesteel.org/members-and-associates
[12] https://www.theclimategroup.org/steelzero-members

- BMW, Mercedes-Benz, Volvo, Porsche, and other automakers have signed offtake agreements for low carbon steel produced by Stegra's green hydrogen mill.[13]

Enhanced disclosure of Tesla's plans to mitigate supply chain GHG emissions, including steps to increase procurement of low carbon steel and aluminum, would help the Company appropriately manage competitive risks and opportunities, and mitigate climate risk.

Resolved: Shareholders request that Tesla, at reasonable expense and omitting proprietary information, issue a report describing if and how it plans to mitigate supply chain GHG emissions and associated risks in line with its net zero ambition.

Supporting statement: The essential purpose of this proposal is for Tesla to produce forward-looking disclosures demonstrating whether its existing policies and actions are aligned with its net zero ambition, and if not, to provide additional strategies, metrics, and milestones necessary for mitigating supply chain GHG emissions accordingly. In developing the disclosures, proponents recommend, at management discretion:

- Addressing the pros and cons of participating in global value chain emissions reduction initiatives such as ResponsibleSteel and SteelZero; and
- Analyzing the financial and climate-related impacts on Tesla's business of a range of low-carbon steel and aluminum adoption scenarios

[13] https://stegra.com/

BACKGROUND

Climate change is an investment risk

To many investors, especially those whose fiduciary duties extend to long-term sustainable value creation, the need for responsive adaptation to the risk environment created by the climate crisis has become an integral element of investing strategy. Principal among the various implications of this strategy is to ensure that investee companies are prepared for the physical and transition risks this crisis portends, and to address related enterprise and systemic risk. As the Task Force on Climate-related Financial Disclosure (TCFD) has noted:

> One of the essential functions of financial markets is to price risk to support informed, efficient capital-allocation decisions. To carry out this function, financial markets need accurate and timely disclosure from companies. Without the right information, investors and others may incorrectly price or value assets, leading to a misallocation of capital.[14]

The Proponent, Green Century Capital Management, integrates climate change-related risks and opportunities into portfolio analysis and decision-making processes to ensure that investments contribute positively to environmental sustainability.

The Proponent has emphasized the importance of transparency in addressing material climate-related risks. Specifically, the Proponent has stated that it values disclosures that enable it to assess the alignment of particular companies' emissions profiles with Proponent's desire to achieve portfolio-wide net-zero emissions by 2050. The investment by the Proponent, and other investors, in Tesla in particular, is grounded in the positive contribution to sustainability that the investee company presents, including its public commitment to achieve net zero GHG emissions. Yet, **the Company's statement that it intends to achieve net zero GHG emissions including in its supply chain "as soon as possible" is unaccompanied by transparency needed to understand whether, how, and when that goal is likely to be achieved.**

The Proposal represents an opportunity for investors to signal to the Company that more disclosure is needed. The report requested would provide the market with more complete and credible data and analysis to demonstrate that Company efforts will scale action to its own net zero aspiration.

GHG Emissions and Tesla's Supply Chain

As a Company that is producing electric vehicles, Tesla as a business is part of the solution to economy wide decarbonization. Its stated goal to achieve net zero GHG emissions including in

[14] See: https://www.fsb-tcfd.org/about/#

<u>its supply chain as soon as possible</u> is an important element of its "green" value proposition for many investors. The request for a clearer description of the practical pathway for the Company to achieve its stated net zero aspiration is appropriate and prudent because significant evidence in the Company's own filings raises concerns about the realism and timeline for net zero "as soon as possible."

<u>Tesla's emissions data shows largest sources of GHG emissions are from supply chain</u>

• Review of the Company's reported data reveals that Scope 3 emissions constitute the vast majority of emissions reductions needed to reach its net zero goal. Scope 1 emissions (emissions from the Company's operations) and Scope 2 emissions (energy supply for company operations) are quantified in this chart from page 146 of the Company's 2023 impact report.

2023

GHG Emissions ($mtCO_2e$)	Scope 1	Scope 2 (Location Based)
Manufacturing + Support	151,000	331,000
SSD	29,000	98,000
Other	31,000	37,000
Totals	*211,000	*466,000

Note the total emissions from these two scopes of 677,000 mtCO2e. Also, comparing these emissions with prior reported emissions in 2021, these emissions have increased rather than decreased. Although the efficiency (amount of GHG's per vehicle produced) has increased, the absolute emissions have also increased, presumably because of growth in production and sales. (This raises a legitimate question as to whether the company's net zero aspirations may be overrun by growth in sales.)

2021

GHG Emissions ($mtCO_2e$)	Scope 1	Scope 2 (Location Based)	
Manufacturing + Support	124,000	342,000	
SSD	31,000	35,000	
Other	30,000	26,000	
Totals	185,000	403,000	588,000

However, the increase in these Scope 1 and 2 emissions is minuscule compared with the Company's Scope 3 emissions. Just the Scope 3 Category 1 emissions, *<u>from the supply chain</u>*, are over 65 times greater than the combined Scope 1 and 2 emissions.

Scope 3 GHG Emissions ($mtCO_2e$)

Scope 3 Categories	2023 GHG Emissions ($mtCO_2e$)	2022 GHG Emissions ($mtCO_2e$)
Category 1 <---Supply Chain	39,020,000	30,701,000*
Category 2	4,490,000	4,267,000
Category 3	247,000	227,000
Category 4	558,000	557,000
Category 5	255,000	478,000
Category 6	53,000	37,000
Category 7	369,000	608,000
Category 8	75,000	77,000
Category 9	314,000	389,000*
Category 11	3,207,000	3,409,000
Category 12	766,000	421,000

*Restated 2022 values are due to increase in data accuracy capability.

Table source: Tesla 2023 Impact Report (Supply chain annotation added)

From this data we can also see that supply chain related emissions have increased nearly 20%, from 2021. So in a time in which the company says it intends to attain net zero GHG emissions "as soon as possible", the reported emissions are increasing rather than decreasing.

If and how might Tesla achieve net zero GHG emissions as soon as possible?

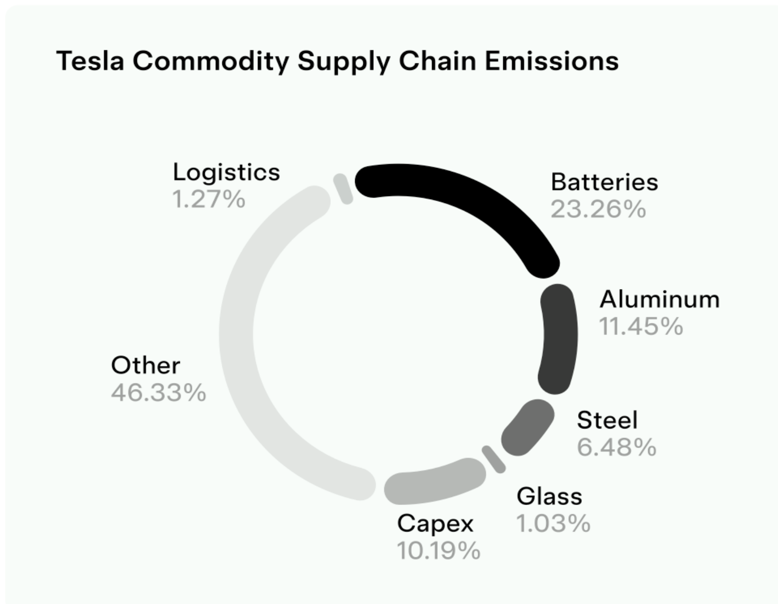
There are many possible pathways toward achievement of net zero GHG emissions by the Company, but so far the Company, in the opinion of the Proponent, has not described any credible pathway toward the achievement on any reasonable timeline.

Tesla's reported supplier GHG reduction engagements appear to address less than half of its major emissions sources

Disclosure of current engagement efforts with suppliers provides an inadequate framework to understand when and how the Company would be able to achieve net zero GHG emissions, and in particular, whether achieving that goal is actually conditioned on an array of circumstances and suppliers outside of its current control (such as Tier 2 suppliers or suppliers that are outside of its current focus) and how the GHG reduction strategy aligns with a growth strategy.

The engagements with suppliers that the Company has described in its Impact Report represent a fraction of its identified supply chain emissions. While the Company appears to have rigorous decarbonization engagements with its battery supply chain, and with its Tier 1 aluminum suppliers (direct suppliers), the amount of GHG emissions attributable to the rest of its Scope 3 emissions, and projected timelines for engagement and reductions from the other parts of its supply chain, are unknown.

Viewing the Company's own schema of its supplier related emissions, shown below, the decarbonization engagements the Company describes in its Impact Report appear to describe emissions reduction engagements for, at most, half of its Scope 3 emissions. There are numerous unknowns which make it hard to even pin down the amount of emissions on which engagement is underway and the report certainly does not provide clarity as to the portion of the Company's emissions being addressed through engagement and timelines for GHG reduction. The sourcing of steel, aluminum, and batteries together account for approximately 41% of supply chain emissions as shown in this chart from the Company's Impact Report:



The Proponent agrees wholeheartedly with the sentiment that Tesla is a different kind of car company. Tesla's business model, supply chain structure, and focus on electric vehicle (EV) production differentiates it from many traditional automotive manufacturers. Its focus on sustainability is part of the investment proposition. However, this does not insulate the Company from reasonable requests from shareholders to better describe how it intends to attain its stated goal of "net zero GHG emissions as soon as possible."

Currently the company is only describing some engagements with some kinds of suppliers. While these engagements appear in many of the descriptions to be productive, they fall short of describing a set of activities calculated to arrive at net zero for the Company and its supply chain on any foreseeable timeline. The Company's net zero goal, on which investors choose to back the Company, could be evasive — or even deceptive — without further disclosures.

The simple request of the proposal to better describe *if and how* it plans to mitigate supply chain GHG emissions and associated risks in line with its net zero ambition. A simple graphic from the Company could satisfy the proposal, by showing a pathway that the Company is pursuing toward net zero for all of its emissions including the supply chain. Where will the reductions come from, including reasonable benchmarks and an approximate timeline to bring GHG down to net zero as promised?

ANALYSIS

The Proposal is not excludable under Rule 14a-8(i)(7) as the subject matter transcends ordinary business and the form of the Proposal does not micromanage the company.

The Company Letter asserts under Rule 14a-8(i)(7) that the Proposal deals with matters relating to the Company's ordinary business operations, asserting that it attempts to micromanage the company.

However, the subject matter of the Proposal, the Company's response to climate change, transcends ordinary business. Rather than touch on issues that are part of day-to-day management and routine operations of the Company, climate change is recognized as a significant policy issue.

Further, the language of the Proposal requesting the Company to issue a report describing "if and how it plans to mitigate supply chain GHG emissions and associated risks", provides ample flexibility for the Company to determine, on its own timeline, and with its own methods, the appropriate manner in which to demonstrate to investors whether the Company has an effective pathway for achieving the Company's stated GHG emissions reduction goals. Therefore, the Proposal does not micromanage.

Background on Ordinary Business and Micromanagement

The legal framework for Rule 14a-8(i)(7) developed by the Commission, Staff, and the courts, including under Staff Legal Bulletins, comprises a three-part test:

Question 1**. Ordinary Business.** Does the proposal touch on "ordinary business"? That is, does it touch on issues that are integral to the day-to-day management and operations of the company?

Question 2. **Significant Policy Issue.** If the answer to Question 1 is yes, is the subject matter nevertheless a significant policy issue? In those cases in which a proposal's underlying subject matter transcends the day-to-day business matters of the company by raising significant policy issues, it would be appropriate for a shareholder vote. Examples recognized by the Commission and the Staff include such topics as climate change, environmental impact, human rights, discrimination, as well as virtually all issues of corporate governance.

Question 3. **Micromanagement**. Even if the proposal's subject matter transcends ordinary business, the proposal still may be excludable if the granularity of the proposal micromanages the company's business.

Subject matter transcends ordinary business

Climate change as a subject matter is well understood by the Staff to transcend ordinary business. We note that the Staff has long held that proposals addressing climate change have also been found to raise significant policy issues for proposals on climate impacts, goals, and transitions at various types of companies that are engaged in similar energy-consuming and GHG-generating activities, for example in *TJX Companies Inc.* (Feb. 6, 2017), *Lowes Companies Inc.* (March 10, 2017) and *Kohl's* (January 28, 2014) and at financial services companies: *PNC Financial Services Group, Inc.* (February 13, 2013), *Goldman Sachs Group, Inc.* (February 7, 2011), *Franklin Resources, Inc.* (November 24, 2015). *See also Amazon.com, Inc. (Sackner)* (April 3, 2023) (Staff found the proposal to transcend the company's ordinary business matters where the proposal requested a report on actions the company was taking to protect retirement plan beneficiaries from climate risk).

These rulings, and many others, finding climate change proposals to transcend ordinary business, were consistent with the Commission's 2010 Climate Guidance which made it clear that a wide array of sectors may be materially affected by climate change. The Guidance cites numerous state and federal regulatory activities, including the California Global Warming Solutions Act, the Regional Greenhouse Gas Initiative, the Western Climate Initiative, the Clean Energy Jobs and American Power Act of 2009, and EPA's greenhouse gas reporting program.

This disclosure guidance was needed, according to the SEC, because "the regulatory, legislative and other developments described could have a significant effect on operating and financial decisions." **This guidance demonstrates that the SEC recognizes climate change as a significant public policy issue affecting many businesses.**

The Guidance describes various ways that registrants may be required to disclose climate related risks under existing reporting requirements. Among other things, the guidance notes that *financial risks may arise from physical risks to entities other than the registrants themselves*. Climate Guidance at 7. Thus, the Guidance embraced an understanding that assessments of financial risks by investors may well include consideration of the portfolio-wide impact of carbon emissions by an individual portfolio company.

Micromanagement

In the Company Letter, the Company highlights that under the Commission's 1998 Release, micromanagement may arise where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies. Similarly referencing Staff Legal Bulletin 14L, the Company Letter notes that a proposal can be excluded on the basis of micromanagement based on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management. Company Letter at 1-2.

The Company Letter then goes on to assert that the Proposal seeks to impose specific methods for reducing GHG emissions, which it asserts as micromanagement. Company Letter at 2.

This assertion in the Company Letter is fundamentally flawed. The Proposal does not involve intricate detail, nor does it seek to impose specific time-frames or methods for implementing complex policies. In addition, the Proposal explicitly defers to board or management discretion regarding the manner and method by which the Company would comply with the request to disclose if and how it intends to achieve its "net zero GHG emissions as soon as possible" goal.

<u>Articulating and applying the micromanagement standard</u>

The Commission's 1998 Release — the most recent and authoritative Commission-level statement regarding the application of micromanagement — specified that proposals could ask for a reasonable level of detail without being seen as micromanaging.

> … in the Proposing Release we explained that one of the considerations in making the ordinary business determination was the degree to which the proposal seeks to micromanage the company. We cited examples such as where the proposal seeks intricate detail, or seeks to impose specific timeframes or to impose specific methods for implementing complex policies. **Some commenters thought that the examples cited seemed to imply that all proposals seeking detail, or seeking to promote timeframes or methods, necessarily amount to ordinary business. . .**
> **We did not intend such an implication. Timing questions, for instance, could involve significant policy where large differences are at stake, and proposals may seek a reasonable level of detail without running afoul of these considerations.** (Emphasis added).

<u>The form of the proposal rather than the subject matter is determinative of whether the Proposal micromanages</u>

The Staff has long recognized that it is the form of a proposal, rather than the subject matter, that makes it proper or improper for shareholder consideration:

> It is important to note, however, that the staff's concurrence with a company's micromanagement argument does not necessarily mean that the subject matter raised by the proposal is improper for shareholder consideration. Rather, in that case, it is the manner in which a proposal seeks to address an issue that results in exclusion on micromanagement grounds.[15]

In addition, the Staff has recognized that the interplay in interpretation of the micromanagement and substantial implementation rules necessitates that, to the extent a proposal is addressing a significant policy issue on which shareholders have legitimate interest,

[15] Staff Legal Bulletin 14J (repealed by SLB 14L).

proponents face the challenge to write a proposal that is flexible enough to leave board and management discretion, but clear enough regarding the request that it is not, through its vagueness, easily viewed as substantially implemented. Thus, the Staff noted in SLB 14L that it sought to "help to avoid the dilemma many proponents faced when seeking to craft proposals with sufficient specificity and direction to avoid being excluded under rule 14a-8(i)(10), substantial implementation, while being general enough to avoid exclusion for 'micromanagement.'" (SLB 14L).

In this instance the Company has not and cannot assert that the Proposal is substantially implemented under Rule 14a-8(i)(10). Instead, the Company Letter asserts that the Proposal micromanages, implying that the Proposal requests more specific action or disclosure than shareholders are reasonably entitled to through the shareholder proposal process. This is a fundamentally flawed interpretation of the proposal as well as Rule, Commission and Staff guidance. In this instance the flexible proposal merely asks for a more forward looking explanation of "if and how" the company plans to mitigate supply chain emissions and associated risks in line with its GHG reduction ambitions – a reasonable request for shareholder input.

Examining the text of the Proposal for micromanagement concerns

An examination of the Proposal's text demonstrates substantial flexibility for board and management discretion. The Proposal's resolved clause reads as follows:

"Shareholders request that Tesla, at reasonable expense and omitting proprietary information, issue a report describing if and how it plans to mitigate supply chain GHG emissions and associated risks in line with its net zero ambition."

The Supporting Statement adds that "The essential purpose of this proposal is for Tesla to produce forward-looking disclosures demonstrating whether its existing policies and actions are aligned with its net zero ambition, and if not, to provide additional strategies, metrics, and milestones necessary for mitigating supply chain GHG emissions accordingly."

These requirements are not at all prescriptive or overly granular as suggested by the Company. The request included in the Proposal asks the Company to describe "*if and how*" it plans to mitigate supply chain GHG emissions in line with its own ambition.

In this sense, it is evident that the Proposal *does not even seek to prescribe whether the Company should reduce its emissions and does not prescribe how or when the company reduces GHG emissions*. In short, the Proposal allows the board and management to determine the best approach for encouraging effective supply chain action to fulfill the Company's GHG targets; the Proposal merely asks the Company to show credibly how, or more fundamentally *if*, it intends to arrive at its net zero goal.

The further suggestions of the supporting statement regarding potential steel sustainability organizations to participate in, or examining the financial or climate impact on Tesla's business of a range of low carbon steel and aluminum adoption scenarios are explicitly in *management* *discretion*. Thus, these added suggestions do not restrict the discretion of the management; they are added ideas to consider and reject as management deems appropriate.

In contrast to the clear language of the Proposal, the Company Letter exaggerates the prescriptiveness of the proposal stating that while the Proposal frames itself as a request for enhanced disclosure of Tesla's plans to mitigate supply chain GHG emissions, "it actually attempts to direct Tesla's supply chain relationships." Company Letter at 2. The Proposal does no such thing.

In the opinion of the proponent, the Company has indeed constructed a unique and excellent measurement system for GHGs in parts of its supply chain, due to its unusual control over measurement. However, contrary to the Company's assertion, the Proposal does not attempt to supplant existing programs. Rather, it seeks clarity on how the Company plans to fulfill its ambitious emissions reduction goal including any milestones necessary to achieve that commitment.

Proposal does not interfere with supply chain management

The Proposal does not interfere with or direct ongoing or future supply chain management efforts. While the Company highlights its involvement in responsible sourcing initiatives such as the Aluminum Stewardship Initiative (ASI) and its efforts to evaluate and reduce supplier carbon footprints, these efforts do not conflict with the Proposal's objectives. The Proposal merely references other well-established frameworks for consideration, leaving ample discretion for the board and management to determine the best course of action in alignment with their existing efforts.

Staff Legal Bulletin 14L notes that in assessing micromanagement claims, "The staff may also consider references to well-established national or international frameworks when assessing proposals related to disclosure, target setting, and timeframes as indicative of topics that shareholders are well-equipped to evaluate."

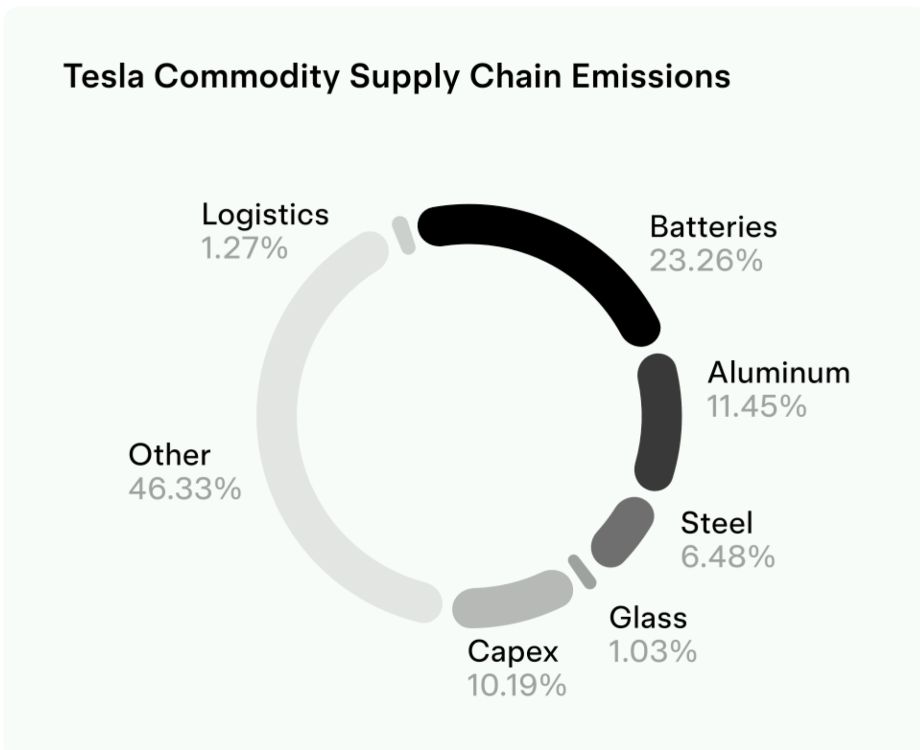
In line with this guidance, the Proposal's references to frameworks such as ResponsibleSteel and SteelZero are not intended to direct or replace management's judgment. Instead, these frameworks offer valuable alternatives that the Company's management may consider, at their discretion, to further enhance and strengthen their emissions reduction strategies. The Proposal respects the Company's autonomy while encouraging greater transparency and alignment with leading frameworks.

Distorted interpretations of the Proposal and Proponent intent by the Company

The Company letter contains a number of attempts to distort the beliefs or intent of the proponent. For example, the Company Letter asserts that the Proposal "operates from a fundamentally wrong premise in mentioning that steel and aluminum are responsible for approximately 10% of global emissions and states that the auto industry is one of the largest consumers of steel and aluminum implying that therefore Tesla -as an automotive company -

must be similar responsible."[16]

Quite to the contrary, the Proposal does not simplistically equate Tesla's emissions profile to that of the steel and aluminum industries or traditional automotive companies. However, the company does acknowledge that steel and aluminum are significant contributors to its own Scope 3 GHG emissions. In fact, the sourcing of steel, aluminum, and batteries together account for approximately 41% of supply chain emissions as shown in this chart from the Company's 2023 Impact Report, and as noted in the background section of this letter, total supply chain emissions constitute the majority of the Company's GHG emissions that it has declared an intent for net zero as soon as possible.



The Proposal recognizes the need for a nuanced approach to supply chain management developed by and at the discretion of the management, tailored to Tesla's unique business model. The proposal leaves room for management discretion in designing a bespoke framework.

The Proposal does not presume that Tesla must take actions identical to traditional

[16] The Company's micromanagement argument asserts that the proposal is trying to ask the company to "take similar actions as traditional automotive companies, ignoring the fact that these companies have completely different business models, component parts, and supply chains". Company Letter at 2.

automakers. Instead, the Proposal recognizes Tesla's distinctive business model and sector positioning, while at the same time highlighting the existence of shared industry challenges.

Currently, Scope 3 emissions disclosed by Tesla were on the order of 50 million metric tons and represent the vast proportion of the Company's overall emissions.[17] In line with this, the essential request of the Proposal is to obtain information that allows shareholders and investors to understand whether and how the Company's plans to reduce emissions align with the Company's stated net zero commitment.

The Proposal does not seek excessive and overly granular detail

The Company's assertion that the report requested by the Proposal would require quantifying hundreds of data points and analyzing broad, highly variable hypothetical scenarios, *see* Company Letter at 3, mischaracterizes the Proposal's scope and intent. The Proposal does not prescribe a specific method for conducting the analysis or require the Company to report on all potential scenarios. Instead, it allows significant discretion for the board and management to determine the appropriate methodology and level of detail.

As stated previously, the essential purpose of the Proposal is to enhance transparency by requesting a forward-looking disclosure that outlines *if and how* the Company plans to mitigate supply chain GHG emissions in line with its net zero ambition. This flexible approach respects the Company's expertise in choosing the best strategies for its unique operations.

The Proposal also explicitly calls for the report to be issued "at reasonable expense," signaling that the requested disclosure requires a level of effort and diligence appropriate to the Company's resources and capacity. This language does not imply an overly burdensome or exhaustive process. It allows the Company discretion to determine the scope and depth of its analysis while providing stakeholders with meaningful insights.

Far from being prescriptive or onerous, the Proposal aligns with best practices for sustainability reporting and responsible governance, which emphasize clear pathways and measurable milestones rather than exhaustive scenario modeling.

Staff precedent does not support exclusion as micromanagement

Beyond textual analysis of the Proposal, the argument that the current Proposal micromanages is inapposite to prior Staff precedent and the broad discretion afforded to the board and management in the proposal. Contrary to the Company Letter, numerous prior Staff decisions have concluded that proposals seeking increased company disclosures and commitments surrounding climate transition plans and emissions reduction strategies are not excludable on the basis of micromanagement under Rule 14a-8(i)(7).

Most recently, the Staff issued two rulings disallowing exclusion at Starbucks that are analogous to the current proposal, rejecting the company's micromanagement arguments. The

[17] Tesla (2023) op. cit. at 146-147

first of these proposals requested that the company issue "an annual report analyzing the congruency of (1) the Company's carbon emissions, including those generated by in-house personnel travel-related policies, during the preceding year, and (2) the Company's publicly stated environmental commitments." *Starbucks Corporation* (NCPPR) (January 17, 2025). In this instance, the company had touted a "decades-long commitment to find solutions to mitigate the impacts of climate change," and goals to halve its GHG emissions by 2030 and to reach net zero by 2050. The company had acknowledged the challenges of this goal and yet had notoriously allowed its new CEO to commute weekly from his California home via private jet. Although the resolved clause merely asked for such an analysis of congruency, the supporting statement went even further (and notably, *much* further than the suggestions included in the current Proposal). It pondered whether the real issue is the over-ambition of the company's environmental goals and emissions reduction efforts, noting that "In order to comply with its fiduciary duties, the board should also determine whether (1) the commitments are unrealistic or (2) the emissions too much or (3) both. For example, the Company has published a goal of '50% absolute reduction in scope 1, 2 and 3 greenhouse (GHG) emissions representing all of Starbucks direct operations and value chain by 2030,' and yet FY22 and FY23 results showed an increase in emissions from the FY19 baseline. Furthermore, the recent issue involving CEO travel warrants updating any related assessments previously conducted." [Footnote omitted] Starbucks had asserted that the Proposal engaged in micromanagement, but the Staff found that the proposal was not overly prescriptive. As with the current Proposal, the proposal was framed around encouraging clarity from the company as to whether its currently stated goals were realistic given current company activities.

Similarly, in *Starbucks Corporation* (Humane Society) (January 17, 2025), the proposal requested the company to disclose details of its implementation plans and timelines for reaching its cage-free egg commitment in China and Japan. There had been ongoing questions as to whether the company could meet its commitment to produce cage free eggs, and the company's plans and commitment for the region were closely held and not publicly disclosed. This proposal was thus a request to show investors how Starbucks planned to meet its own commitment, consistent with the current proposal.

This request is akin to *J.B. Hunt Transport Services, Inc.* (February 7, 2020), where Staff were unable to concur Rule 14a-8(i)(7) provided a basis to exclude shareholders' request for a report describing "if, and how, [the company] plans to reduce its total contribution to climate change", among other things. *See also Comcast Corporation* (April 13, 2022) (proposal requested a report on the alignment between the board's assessment of current retirement plan options with climate action goals with the current retirement plan options).

Many other proposals analogous to the current one have also been found not to micromanage because, as in these recent examples, the proposals did not require specific detailed disclosures but simply asked the given company to provide investors with better transparency regarding how it intended to reach stated commitments. As an example, Staff have long declined to exclude other proposals that sought detailed information on environmental activities. *See Exelon Corporation* (March 12, 2019) (proposal requested ongoing annual reports of incurred company costs and benefits accruing to shareholders, public health, and the environment from the company's related voluntary activities that exceeded applicable U.S. legal requirements);

Chevron Corporation (March 28, 2018) (proposal requested report describing how the company could adapt its business to align with a decarbonizing economy by altering energy sources to reduce reliance on fossil fuels).

Staff precedents finding excludable micromanagement are not applicable

In contrast, looking to the precedents cited by the Company, it's clear that they involved much more granular and detailed requests that led to characterization of the proposals as micromanaging, in contrast to the current proposal.

For example, the Company Letter notes that the Staff has treated as micromanagement certain proposals that "impose specific methods for reducing greenhouse gas emissions". The Company cites *Amazon Inc.* (April 7, 2023). In that instance, the Staff concurred with exclusion on a micromanagement basis for a proposal that asked Amazon to "measure and disclose scope 3 GHG emissions from its full value chain inclusive of its physical stores and e-commerce operations and all products that it sells directly and those sold by third party vendors." There were specifics in that instance that demonstrated clearly how the proposal was specifying action that was too granular and specific. Staff noted that the proposal imposed a specific method for implementing a disclosure, without affording discretion to management. The language requiring Amazon to measure GHG emissions from its "**full value chain**" stood out as a particularly problematic request as the company argued that the proposal defined the term "full value chain" in a manner that required it to take action different from the relevant international framework on this issue, the GHG protocol. Amazon asserted that the GHG protocol affords management discretion in determining what qualifies as scope 3 emissions, and that, by including products "sold by third party vendors" in the company's emissions inventory, shareholders were imposing a prescriptive standard that was not aligned with what Amazon thought was best suited to the nature of its operations or the GHG protocol. *See* Amazon Company Letter at 4-10. By contrast, the proposal here does not seek to define the Company's "full value chain" and thus does not impinge on management's discretion in the manner at issue in *Amazon*. Instead, it simply asks for transparency on implementation plans in line with the Company's own GHG reduction goals.

There were similar restrictive and specific requirements in the other precedents of micromanagement exclusion allowed by the Staff that are cited by the Company. For instance, in *Valero Energy Corporation* (Mar. 22, 2024), the proposal asked the company to set a "1.5° C-aligned, near-term emissions reduction target <u>that does not include the use of carbon offsets and avoided emissions</u>" (a specific method for setting its emissions reduction target). In *JPMorgan Chase & Co.* (Mar. 29, 2024), and a number of other staff precedents, the excluded proposals asked the companies to report a specific metric that would necessitate a very specific analysis: "the proportion of sector emissions attributable to clients that are not aligned with a credible Net Zero pathway, whether this proportion of unaligned clients will prevent the Company from meeting its 2030 targets." This was a very specific request, in contrast to the current proposal that merely asks the Company to better describe how it is going to fulfill its GHG goals.

In *Chubb Ltd*. (Mar. 27, 2023), the exclusion of the proposal as micromanagement asked for a timebound phase out of the company's <u>underwriting risks associated with new fossil fuel exploration and development projects and aligned with an external goal,</u> the goal of limiting global temperature rise to 1.5°C. Both elements of the proposal, targeting underwriting risk which is a core business decision for the company and alignment with an external rather than internal goal, made it more prescriptive than the current proposal.

Similarly the proposal cited by the company in *JPMorgan Chase & Co.* (Mar. 30, 2018) focused on requesting a report on the reputational, financial and climate risks associated with <u>project and corporate lending, underwriting, advising and investing</u> for tar sands production and transportation. It delved deeply into the range of day-to-day activities of the company, such that the Staff noted that the proposal sought to "impose specific methods for implementing complex policies." Unlike the present proposal where the scope of review is essentially defined by the company's existing commitments and aspirations, the *JPMorgan Chase* proposal asked for a complex and in depth analysis of an array of climate risks associated with its day-to-day decision-making. Moreover, recent Staff decisions contradict that precedent. For example, in *Citigroup Inc.* (March 7, 2022), the proposal requested that the company adopt, by the end of the year, a policy committing to proactive measures <u>to ensure the company's lending and underwriting activities did not contribute to new fossil fuel supplies that would be inconsistent with global frameworks for credible net zero commitments</u>. The proposal in *Citigroup*—which was not found excludable by the Staff—requested not only a policy, akin to the plan requested by this proposal, but essentially *established a standard (not contributing to new fossil fuel supplies)* that would apply to lending and underwriting activities under a policy that was to be adopted within a short timeline (end-of-the-year). In contrast, the current proposal asks only for greater transparency from the company regarding how its efforts will go forward toward accomplishing net zero, especially given the growth in emissions in recent years.

In sum, the Company's reliance on the cited cases is misplaced and they do not constitute valid precedent for exclusion. The current proposal appropriately balances specificity and discretion, consistent with the longstanding view of Staff, and does not unduly limit management's discretion.

Nor is the Proposal here directing Tesla's ambitions or specific actions with respect to climate change. Tesla's board and management are free to set whatever climate ambitions they deem appropriate (and have done so). All the proposal is requesting here is increased transparency and disclosure on these issues.

Tesla's stated goal of achieving net zero GHG emissions as soon as possible, including in its supply chain, is an important part of its value proposition as a sustainable investment. However, the company's reported emissions data raises concerns about the realism and timeline for achieving this goal, particularly regarding its substantial Scope 3 emissions from the supply chain. The Proposal is requesting a clearer description of Tesla's pathway to net zero, including a timeline and benchmarks for reducing GHG emissions, to ensure the company's efforts are credible and aligned with its stated ambition. The Proposal provides ample management discretion including on the Company's supply chain management and any emissions target setting. Because it is neither granular nor overly prescriptive, the Proposal is not excludable under Rule 14a-8(i)(7).

1Tesla Road, Austin, Texas 78725
P 650 681 5100 **F** 650 681 5101

March 5, 2025

VIA STAFF ONLINE FORM

United States Securities and Exchange Commission
Division of Corporation Finance
100 F Street, N.E.
Washington, D.C. 20549-7010

RE: Withdrawal of No-Action Request Regarding Stockholder Proposal Submitted by Green Century Capital Management, Inc.

Ladies and Gentlemen:

In a letter dated January 14, 2025 (the "No-Action Request"), Tesla, Inc. (the "Company" or "Tesla") requested that the Staff of the Division of Corporation Finance of the U.S. Securities and Exchange Commission could exclude a stockholder proposal and supporting statement (collectively, the "Proposal") submitted by Green Century Capital Management, Inc. (the "Proponent"), from the Company's proxy materials to be distributed in connection with its 2025 annual meeting of stockholders.

In reference to the No-Action Request, we submit this withdrawal request. Enclosed as Exhibit A is a withdrawal letter sent on February 28, 2025 to the Company by the Proponent, in which the Proponent voluntarily agreed to withdraw the Proposal. In reliance on this letter, we hereby withdraw the No-Action Request.

If the Staff has any questions with respect to the foregoing, please do not hesitate to contact me at cassie.zhang@tesla.com. Thank you for your attention to this matter.

Sincerely,

Xuehui Cassie Zhang
Associate General Counsel

cc:

Annie Sanders
Green Century Capital Management, Inc.

EXHIBIT A

GREEN CENTURY

February 28, 2025

Sent via email:

Cassie Zhang
Associate General Counsel
Tesla, Inc.
1 Tesla Road
Austin, TX 78725

Dear Ms. Zhang,

Green Century Capital Management, Inc. hereby withdraws its shareholder proposal for the 2025 Annual Shareholder Meeting of Tesla, Inc. The proposal asks that Tesla, at reasonable expense and omitting proprietary information, issue a report describing if and how it plans to mitigate supply chain GHG emissions and associated risks in line with its net zero ambition.

Given Tesla's ambition to reach net zero emissions as soon as possible and to accelerate the world's transition to sustainable energy, we remain of the opinion that enhanced disclosure of supply chain GHG emissions mitigation plans, including steps to increase procurement of low carbon steel and aluminum, would help the Company appropriately manage competitive risks and opportunities, and mitigate climate risk. We encourage the company to pursue such efforts and welcome the opportunity for continued dialogue with the company on these important issues.

Thank you for your engagement.

Sincerely,

Leslie Samuelrich

Leslie Samuelrich
President
Green Century Capital Management, Inc.

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